

# **Citizens Advice response to Ofgem's call for input on the future of domestic price protection**

Citizens Advice welcomes Ofgem's timely review of the future of price protection. This is an opportunity to consider how this will need to change in future to accommodate market reforms, and also apply lessons from the current approach to setting the price cap.

We support changes like Marketwide Half Hourly Settlement (MHHS) which reward flexible electricity usage, lowering bills for those who are able to use electricity at less expensive times, and minimising costs associated with electricity generation and grid infrastructure for all consumers.

However, these changes will also give rise to some new risks for consumers who are on default tariffs facing higher prices. This could arise if:

- consumers who can benefit from ToU products without changing their behaviour disproportionately switch away from single rate default tariffs
- some consumers who use a large amount of energy at peak times (eg EV drivers charging at peak times) actively choose to stay on single rate defaults to avoid paying higher costs

This could push up the cost for individual suppliers of providing these products, and require the price cap to be set at a higher level, to ensure suppliers whose customers on default tariffs who use most energy at peak times can recover their efficient costs.

The scale of these risks and the speed at which they could develop is not currently clear. Further modelling is needed to underpin an assessment of which policy approach is the best way forward in the near term. However, to help ensure that costs of net zero transition are being recovered fairly and that loyalty penalties are not re-emerging, **we think there is a need for ongoing protection for all consumers on default products, though the form of this protection is likely to change for some products.**

We recently responded to the recent DESNZ call for evidence on default products.<sup>1</sup> In that response we set out that:

- In general we consider that customers rolling off fixed term contracts should continue to move onto a product with similar time of use characteristics (e.g. single rate, static ToU and default ToU).

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<sup>1</sup>Citizens Advice (2024) [Citizens Advice response to DESNZ call for evidence on the future of default tariffs](#)

- An exception to this is for users with high peak energy usage who could be flexible, but choose not to be (e.g. EV drivers). In principle we support moving these customers to a static ToU default tariff. Further consideration is needed as to how this targeting can be done in practice.
- We recognise there may be additional benefits from a wider move of consumers on single rate default products onto static ToU tariffs. However, further assessment of consumer risks and how these could be mitigated is needed, including trials to understand consumer experience.

As well as these considerations for the future, we also have some concerns regarding the operation of the current price cap that inform our view on how price protection could evolve in future.

While the cap has delivered some significant benefits to consumers since it was introduced, more recently there have been numerous changes to the methodology, which have generally led to the cap level rising.

This asymmetry towards increasing the levels of the cap was in part driven by suppliers facing higher costs through the energy crisis, but the growing number and complexity of cap adjustments makes these changes harder for consumer advocates to engage with. **We're concerned the current price cap could become a 'lobbyists charter', that only suppliers can influence.**

Our views on the operation of the current cap, and the principles for future default product design, have informed how we think price protection needs to evolve in future around the 3 key features set out in Ofgem's Call for Input:

#### *Whether price protection is universally applied*

While we think there is a need for ongoing protection for all consumers on default products in the coming years, the form of this protection may vary in future. For single rate and static ToU default tariffs we think a price cap remains appropriate. However, a different approach to protection is likely to be needed for more complex products like dynamic ToU products.

This could be delivered through measures like a Ban on Acquisition Tariffs (which we think should be retained in the current market and is also likely to have benefits in future) and rules on fair pricing, as part of an FCA-style

Consumer Duty. The latter approach would also have benefits for consumers making active choices in the market, by preventing firms from offering complex products that represent poor value or targeting them at consumers who are unlikely to benefit.

#### *Whether the protection is flat rate or varies with time of use*

In the coming years we think flat rate price protection will remain necessary, especially any wider move to ToU protection will be limited by progress with the smart meter rollout . However, there is a good case for a price cap to be set at different levels for consumers with smart meters, and those without smart meters or who opt out of data sharing for MHHS, reflecting the different cost to serve these consumers. However, it will be important to maintain protection for those who can't have smart meters installed for technical reasons.

As more active consumers adopt ToU products, we expect more will roll onto default products with similar characteristics and the end of their contract. For maximum flexibility, Ofgem should explore developing a cap methodology that can be adapted to a range of different static ToU products. If this is not feasible it may need to develop a wider set 'standard' static ToU price caps, likely including Economy 7 and Economy 10 products that are used today. Customers rolling would then move onto the default product with characteristics that most closely matched their static tariff.

As set out above, we expect a different approach is likely to be needed for more complex and dynamic products.

#### *How stringent price protection is*

We don't consider that the current cap is 'stringent', as a result of various upward adjustments in recent years. However, we recognise that as the market develops it will come under pressure which could see it loosened further.

In the near term we support the ongoing use of a 'bottom up' approach, alongside steps that minimise the extent to which the cap needs to be loosened, including requiring static ToU defaults for certain customers and changes in how the cost of bad debt is allocated. It's also vital that the price cap is moved to a more sustainable footing, with fewer adjustments on an ongoing basis.

We think that relative price caps are less likely to deliver good consumer outcomes. This is due to risks of gaming by suppliers and the challenges of

setting an appropriate comparator product as energy tariffs become more complex. There are also risks that single rate tariffs offered by suppliers in the market rise significantly in price following MHHS and become a poor benchmark for a default single rate cap.

It's important to recognise that while price protection plays an important role in improving fairness, it can't ensure affordable energy. We continue to strongly make the case for better targeted energy bill support which can tackle the significant affordability challenges that exist in the current market, while also protecting those most at risk from the distributional impacts of future reforms. This type of support could also enable bolder reforms to default products and price protection by protecting who can least afford it if they lose out. We set out our views in more detail in [Shock Proof](#).

Default products also cannot deliver better outcomes than consumers making their own high quality choices over what energy products and services work for them. To maximise consumer engagement - and benefits - in a more flexible market it's therefore also vital to:

- upgrade protections through a new Consumer Duty, and provide high quality advice that gives consumers the confidence to engage
- ensure the market is inclusive and tackle barriers to engagement, including smart meter adoption
- enable more innovation and consumer choice in the market

We set out our wider view on the changes that are necessary in the coming years in our recent report, [Don't settle for second best](#).

Our detailed response to the consultation questions can be found below.

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

We agree with the majority of successes and challenges that you have identified.

We think the section on supplier failure only tells part of the story though, as it implies that without a price cap the sector may have seen fewer failures during the gas price crisis. That is not certain, and there are reasons to think that it may have faced as many, or perhaps even more, failures had the price cap not been in place.

Suppliers would still have faced acute volume risks even without the price cap, when faced with such volatile markets. Un-, or under-hedged suppliers, and those with limited cash reserves or dependent on consumer credit balances for cash flow, would have been in severe difficulty with or without a price cap.

The existence of the price cap, combined with other regulatory interventions like the Market Stabilisation Charge, allowed suppliers to tacitly suspend competition during the worst of the crisis. Had high levels of switching continued, it seems likely that further supplier failures would have followed. The price cap itself has allowed for the provision of regulatory certainty on the recovery of some costs associated with the crisis as new or amended allowances have been introduced reflecting those costs. That ability to recover costs would be less certain in a fully merchant market, although we acknowledge that the one-size-fits-all nature of the cap means there are risks that individual suppliers may over or under recover efficiently incurred costs.

None of the above is to argue that the price cap coped well, or is likely in future to cope well, against a backdrop of extremely volatile wholesale markets. But we think it should be acknowledged that the retail model more broadly - under-capitalised, under-hedged, and frequently pursuing unsustainable business models - was not suited to cope well against that backdrop. It seems unrealistic to assume that it would have rode through the crisis much better if there simply had not been a price cap in place.

We agree with the observation that customer satisfaction appears to be in slow, shallow decline. It is possible that this may have been influenced by cost cutting driven by the price cap. It is also possible that broader economic factors such as the cost of living crisis and increased consumer debt are having an impact.

Indeed, a combination of these factors is likely, and it is hard to apportion weight to each.

We note your observation that ‘most adjustments to the cap methodology have resulted in increases in the cap level, reflecting a succession of additional costs that suppliers have faced.’ While this asymmetry towards increasing the levels of the cap may have been driven by suppliers facing objectively higher costs, we have some concerns that if this trend of adjustments tending to favour suppliers continues that it could erode the protection that the cap offers consumers over time. The number and complexity of amendments to the cap has been high, and there is limited capacity among consumer advocates to engage with this. There is some risk to consumers if the cap becomes a ‘lobbyists charter’ that only suppliers can engage with.

We agree that the price cap is likely to become harder to apply in a market where there is much more diversity in business models, but note that there are difficulties in assessing how quickly that market might emerge. It is also hard to be certain that it is or will constrain the emergence of such models, noting both that the market was arguably not particularly innovative in the pre price cap world and that some tariff innovation is occurring alongside the cap.

**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?**

Electricity consumption patterns have always been diverse. Historically all residential consumers have been allocated to one of only two profile classes, when many have had lifestyle patterns that are likely to poorly fit those PCs.

What is new is the impending ability to allocate those costs more diversely (and accurately), through mandatory half hourly settlement, and the likely scale of household imports and exports. New technologies such as electric vehicles, heat pumps, renewables, and battery storage are likely to result in many households having peak demand levels that are much higher than was historically the case, and in bi-directional flows over the household boundary where previously there was import only.

The combination of automation and more complex time of use tariffs is likely to facilitate some household demand chasing periods with low prices. Those low price periods may differ from day to day depending on renewable generation patterns.

These factors in combination will make it harder to operate a flat price cap, with the extent of this difficulty driven by two main factors: the speed of adoption of new technologies and the extent to which staying on price capped tariffs is an option for those adopters.

We are not well placed to provide evidence on the likely speed of adoption of new technologies. We would simply note that there is significant uncertainty on the adoption rate of both individual technologies, and of these technologies in aggregate. It would therefore be prudent to build in flexibility into policy making assumptions that allow for fast adoption pathways, but that also work if adoption is much slower.

The extent to which staying on price capped tariffs is an option for adopters of high load flexible technologies is worth your detailed consideration when looking at the evolution of the price cap. The price cap only applies to default tariffs - those the consumer has not chosen. Historically, the majority of consumers have been somewhat, or largely disengaged from the retail energy market. If that behaviour persists, it is possible that a significant tranche of consumers could be in a position of having significant loads that are capable of time-shifting - such as EVs or heat pumps - but are inactive in the retail market.

That poses interesting duty of care questions for policy makers. For example, is it your responsibility to ensure that they are put on some form of time of use tariff to ensure that they can, or should, respond to within day price signals - or even simply to ensure that the prices they pay are broadly cost reflective?

While MHHS opens up major potential benefits for consumers, through more efficient power consumption, it also opens up new opportunities for cross subsidies and distortions where consumers have the ability to arbitrage between different product shapes (e.g. between flat rate and time of use products).

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

We have chosen not to answer this question as it is directed at suppliers.

**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?**

This will depend on the scale of benefits associated with taking up those tariffs, on consumer perceptions and understanding of those benefits and on levels of consumer engagement with the retail energy market. There are uncertainties in all of those areas that impede forecasting.

Prior to the gas price crisis, the GB retail market was characterised by one of the highest annual switching rates in the world, peaking around 20%. But the majority of consumers were somewhat, or highly disengaged. This was the case even where the financial benefits of switching were very high; hundreds of pounds per year at average consumption. Assuming that all consumers will maximise financial benefits through tariff choices is therefore unwise.

In principle, the savings that could be made by households with large flexible loads from switching to ToU could be very high, and large enough to encourage tariff switching in some households that historically have not shopped around.

Conversely, there may be new incentives that encourage consumers not to shop around - depending on how their lifestyle interacts with new tariff choices. For example, if an EV user's personal circumstances meant that they had to charge their vehicle at peak times, they might prefer to stay on a flat tariff rather than move to a ToU. When making these choices, consumers will need to understand their within day consumption profile in a way that historically few have needed to. Price comparison may become more difficult, along with the risk that consumers under or over-estimate the benefits of moving from flat rate to ToU tariffs (or vice versa).

**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?**

Consumer comprehension is a relevant factor when considering the likely uptake of more complicated tariff design - including in the design of the price cap itself - that you may wish to give more consideration to.

Many consumers do not really understand what the price cap is or how it works - even in an era where it is currently flat and universal.<sup>2</sup> Maintaining consumer understanding may become more difficult still if it becomes diversified or segmented. Lack of understanding could drive poor consumer choices and reduce public confidence in the cap.

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

Yes. We agree with Ofgem that, 'if price protection was removed completely, we would likely see a return to price exploitation of inactive customers, as existed before the cap.'

Despite GB often achieving one of the highest switching rates in the world prior to the gas crisis, it has always been the case that a majority of consumers have been somewhat, or wholly disengaged from the market. The cap was only introduced after a range of interventions and market studies by regulatory authorities had tried and failed to deliver majoritarian engagement.

The structure of the retail market makes it relatively easy for suppliers to distinguish between engaged and disengaged consumers, by the tariff they are on (although we note that this has become less true since the gas price crisis has hit, prompting most consumers, whether engaged or not, to end up on default tariffs).

This ease in the potential for price discrimination, combined with the number of disengaged customers in the market, makes it likely that we would see a return to price exploitation of inactive consumers if it were to be removed.

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<sup>2</sup> This was very apparent in the focus groups for our [Fairer, Warmer, Cheaper](#) project. [Summary of Labour-leaning focus groups.](#) [Summary of Conservative-leaning focus groups.](#)

**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?**

Flat

The flatness issue relates to whether or not there is significant take-up of time of use tariffs and whether the existence and design of the price cap encourages or hinders such take-up, and whether different suppliers' customer bases have divergent consumption profiles. At the moment, it is not clear that this is causing major issues. The price cap only applies to default tariffs - ones the consumer has not chosen - and the current niche of sophisticated ToUs on the market are targeted at, and appear to be used by, engaged consumers. It does not appear to be the case that the price cap is currently preventing engaged consumers from finding attractive ToUs. It also does not appear to be the case that many disengaged consumers are inadvertently finding themselves on sophisticated ToUs. In that regard, the perceived conflict between the price cap and the uptake of ToUs is currently more theoretical than real.

But we recognise that this may change as the mass rollout of large flexible domestic load items like EVs and heat pumps accelerates in the coming years. MHHS will make the provision of ToU tariffs easier and more prevalent, and mean that suppliers face more of the direct cost of serving their customers. There may be much more scope for disengaged consumers to end up on ToUs. Indeed, it is possible that some suppliers may choose to configure their default tariffs as ToU, rather than flat rate. Suppliers may also face more divergent costs based on the usage profiles of their customer base, which may require a looser cap to ensure they can recover their costs. The speed at which this may become a material problem is as yet unclear to us, but it appears reasonable and prudent for Ofgem to be thinking through the potential implications.

Further analysis of the potential scale of these risks and how quickly they might develop should be a priority for Ofgem, as well as DESNZ's work on default tariffs. This can support decision making on whether a wider move to static ToU default products could be appropriate in future, in order to enable more stringent price protection.

We recognise that such a change could also lead to risks for people who can't respond to time of use signals or need to use energy at peak times due to

vulnerable characteristics. In our response to DESNZ we suggested that trials of moving default consumers to ToU tariffs could understand the consumer experience of this process and identify risks and appropriate mitigations, like providing opportunities for some consumers to opt out.<sup>3</sup>

As part of any wider move of inactive customers onto ToU default products, suppliers would need to continue to offer single unit rate default products for consumers who don't have smart meters or who choose to opt-out of sharing data required for half hourly settlement. It is likely that in such a scenario single rate products would be more expensive, as a result of a less stringent price cap and potentially reflecting the higher cost to serve this cohort. This includes the risk that consumers with 'peaky' energy usage use these products to avoid paying a fair share of costs. Safeguards would be required to protect consumers who can't access smart meters for technical reasons, potentially similar to those which exist in the water sector.<sup>4</sup>

### Stringent

The price cap tries to set a cost of supply based on a bottom-up model of a notionally efficient supplier. Ofgem refers to this as 'stringent', but in practice we don't consider the current cap can be considered as such under the common understanding of the word, due to the various adjustments to the methodology which have been made in recent years (which we explore further in response to question 8).

It has always been recognised that this model may diverge from the actual costs of any given supplier, as they will differ both in their own levels of efficiency and in the characteristics of their customer bases, which will impact their costs. Despite its imperfections, this has always appeared to us to be a reasonable approach. Setting individual price caps for individual suppliers would appear unrealistically burdensome, and in any event is precluded by the enabling legislation.

We recognise that the less suppliers look like each other in their business models and characteristics, the harder it will be to create a single model that realistically fits all. This is already apparent in relation to recent increases in bad

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<sup>3</sup> Citizens Advice (2024) [Citizens Advice response to DESNZ call for evidence on the future of default tariffs](#)

<sup>4</sup> Citizens Advice (2024) [Changing to a water meter](#)

debt, which has impacted suppliers in relatively divergent ways. This could result in windfall gains and losses. That could reduce the protection that the cap provides eligible consumers. We will set out our views in more detail in response to Ofgem's call for input on debt and affordability.

It could also constrain the development of niche service offerings, e.g. if they can only be served at a loss due to the constraints of the price cap model. We highlighted in our recent report [Ripping off the band aids](#) that 'a market with more specialisation could deliver a broader range of services and increase engagement by providing products that better meet consumer needs', and identified a range of ways in which that specialisation could be delivered. It is important that the development of such specialisation is not impeded by price cap design.

### Universal

That all disengaged consumers should be subject to some form of price protection appears to us to be the least suitable characteristic for relaxation.

It is recognised that different consumers may suffer different levels of harm associated with price exploitation, and that there may be perceived to be a stronger case for protecting those who cannot act and who cannot afford to pay unfair prices over those who can act and who can afford them. But in practice there is no way to neatly separate these groups such that some are protected and some are not. To even try to do so would appear to be precluded by the current legislation, which bases eligibility solely on engagement (whether someone is on a default tariff or not).

The *form* of protection needed may differ according to which type of default product consumers are on. For example, consumers who were previously on a dynamic or complex ToU product could roll onto a default with the same characteristics, which may not be suited to the same type of price protection as single unit rate or static ToU products. Protections like the BAT could limit, but not eliminate, the risk of loyalty penalties for these customers. Introducing an FCA-style Consumer Duty - including a fair pricing principle - could ensure firms are required to deliver fair outcomes for default customers on complex default products.

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

### Static or dynamic ToU

We would question whether it is appropriate for disengaged consumers to ever be put on dynamic ToUs, except where they have rolled off a contract with similar characteristics. As unhedged, complex products, they do have a place in the market but that place is likely to be for engaged consumers with significant flexible load. If price caps were designed for dynamic ToUs, it would be important that they do not cut across any incentives on suppliers to protect consumers against extreme pricing events (eg such as a cap on the highest import price).

It is likely that Ofgem will need to adapt the price cap model to allow for a greater range of static ToU than the current single option of Economy 7. It will need to be mindful of the interaction between the caps it sets and the market design choices of suppliers, e.g. that the latter will build tariffs to reflect the design of the former. If possible, and it may not be, Ofgem should seek to develop a price cap model that can be applied to the design of any static ToU rather than only those with particular shapes, so that the onus on designing tariffs sits with the market, rather than inadvertently becoming the role of the regulator.

### Targeted cap based on vulnerability

We agree with the principle of providing enhanced support to vulnerable consumers, and investigated how this could better be provided through our recent [Fairer, Warmer, Cheaper](#) and [Shock Proof](#) reports.

But we do not believe that the price cap is the right means to provide targeted support based on vulnerability. As a regulator, Ofgem does not have tax and spend powers and is very limited in the extent to which it can provide any subsidy to vulnerable consumers. The price cap itself is simply intended to ensure that retail prices fairly reflect suppliers underlying costs - not that those costs are affordable.

It is clear that vulnerable consumers need significant financial help above and beyond the fair prices delivered by the cap. As such, while welcome, it is not a solution to their problems.

While we agree that an intervention of this kind could be combined with other support for vulnerable consumers, we have some concerns that the existence of a vulnerability cap could end up, ironically, discouraging the delivery of such other support mechanisms. The public finances are very difficult at the moment and it has proven challenging to generate political momentum for enhanced support for the vulnerable. The illusion that there is already targeted support there - that there is a vulnerability cap - could make those arguments harder, not easier, to make.

A targeted cap could also reduce the appetite of suppliers to serve consumers who are eligible, making it harder for them to engage in the market.

#### Bottom-Up Cap excluding customers with certain ToU or type of use products

We agree that there may be an emerging risk that consumers can abuse tariff choices to avoid their own costs, pushing them onto others. We agree that EV charging is potentially a prime example of this - that some drivers may find they are better off sticking with a flat rate price capped tariff than adopting a ToU, because their lifestyle or personal choices mean that they wish to charge at peak hours. Those avoided costs would be picked up by other consumers, and incentives to use the system efficiently would be dulled, ultimately resulting in a higher cost electricity system paid for by all.

It may therefore be appropriate to exclude consumers with significant flexible load from remaining on flat price capped tariffs, and be moved to a capped static ToU default instead. As set out in our response to the DESNZ call for evidence on default tariffs, there may be challenges with identifying relevant consumers based on specific types of energy usage, rather than overall volume and the time that it is used. It may be necessary to consider technology neutral approaches, like fair usage limits on peak energy usage which trigger further engagement with the consumer and potentially being moved to a ToU default.

If a Bottom-Up Cap is to be maintained as a more permanent part of the energy retail market then it will need considerable development over and above those required to accommodate MHHS. As we explained in our answer to Q1, we believe the current cap risks becoming a 'lobbyist's charter' with energy suppliers able to consistently seek and receive additional revenue, often with little evidence to support the request (or, on occasion, evidence supporting reduced revenue). This has led to profit margins being comparable to the period before

the cap was introduced and that the CMA had found excessive. This means the current cap is not 'stringent' under the common understanding of the word.

The importance of this goes beyond fairness and the impact on bills. Companies making excessive profits, especially as the direct result of regulatory decisions, will consumer trust and public confidence in the regulatory regime. Consumer trust is essential for delivering net zero especially as households will be required to make changes. Damaging public confidence risks the investments required to deliver the new energy system that is key to improving affordability.

As the price cap is coming to resemble a network price control, we believe there a number of key design price control elements that can be read across to a reformed price cap:

- Price controls assume ongoing productivity gains. The price cap needs to evolve to reflect efficiency gains. In the retail market, effective competition should be expected to reveal efficient costs and the price cap needs a method of automatically updating to reflect efficiency improvements.
- Price controls assume upper quartile efficiency as the benchmark. This is standard and should be maintained for the price cap.
- Price controls contain backstop protections for consumers (and companies) should the arrangements prove to be too generous (or too tight). Similar should be developed for a price cap.

### Market basket cap

Relative caps are often promoted as a 'simple approach' for price protection, but as your list of design considerations highlights, it is far from simple to work out how they could be applied in practice.

The more diversity there is in tariff design and in business models, the harder it will be to identify discrete markets in which like-for-like comparison is fair.

Even if all the many design challenges can be overcome, there is a question mark over whether a relative cap can deliver the right outcomes anyway. To explain this, it is informative to consider the circumstances that resulted in the CMA introducing a price cap for customers on the worst served payment method, prepayment meters (PPM). There was very weak competition in the PPM market: 'the savings available to customers on prepayment meters were,

on average, substantially lower than those available to other customers, reflecting the more restricted range of tariffs available to them.<sup>5</sup>

In essence, PPM customers were presented with a very tight spread of tariffs. But that was not a good outcome, because they had very little they could shop around for. If a relative cap had been introduced for them, would it have helped? The answer logically appears to be no, because price spreads across that market basket were already very tight. If anything, the application of a relative cap may have simply embedded a lack of choice, by precluding anyone from offering cheaper deals.

Following MHHS, we could see similar trends for other product types. For example, single rate tariffs may be less widely offered by suppliers than they are currently, given the additional risk that suppliers will face.

#### Within Supplier Relative Cap

We largely agree with your characterisation of this option. In addition, it is also worth highlighting that it may give consumers a false sense of security - just because a supplier was complying with the regulated price spread would not mean it was offering good value for money or operating efficiently.

#### Ban on acquisition tariffs (BAT)

We are supportive of the retention of the BAT as a permanent measure. We do not see it as a replacement for, or alternative to, a price cap and think that the two mechanisms can exist side-by-side.

We perceive there to be a mismatch between the advantages and rationale that we would see for the BAT and those that Ofgem sees.

Ofgem appears to view the BAT solely as an intervention to discourage unsustainable acquisition tariffs, and therefore to bolster the financial stability of the supply sector. With other mechanisms now in place to enhance supplier financial resilience, it appears to see the case for the BAT as weakened.

We think there is a wider role for the BAT in encouraging consumer confidence in the sector. Energy supply has a trust problem, and allowing suppliers to offer new customers preferential treatment over existing ones does not help with

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<sup>5</sup> CMA (2016) [Energy market investigation: summary of final report](#)

this. Private polling we have seen on this issue suggests widespread public unhappiness with the notion that suppliers could discriminate between the deals offered to new and to existing customers.

Some consumers are anxious about the prospect of changing suppliers, and many may have been scarred by the process of undergoing a SoLR from a failed supplier in recent years. A growing cohort of customers who are in debt to their supplier may be blocked from switching until they repay what they owe. Preventing those consumers from accessing their own suppliers' best deals is unlikely to be in their best interests.

### Margins cap

The CMA found that energy retail consumers were suffering detriment as a result of inefficiency, as well as higher than justifiable profits. A margin cap could have a more limited impact on the former, by solely focusing on the latter. Given that the majority of consumers are somewhat or highly disengaged, there is a risk that efficiency incentives on suppliers would be significantly dulled, particularly if they can push those inefficiency costs on to sticky customers.

In our view, the biggest single driver for the introduction of the price cap was public unhappiness with the level of price discrimination between engaged and disengaged consumers. It is not clear how a margins cap would address this. We also agree with Ofgem that it could be challenging to implement, given the difficulty in isolating retail energy profits within large and complex firms.

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

There may be some more risks to some individual vulnerable consumers from the emergence of more ToU products, though others will also stand to gain. Previous analysis has indicated that there is likely to be more variation *within* demographic groups than between them.<sup>6</sup>

Nonetheless, identifying and supporting vulnerable consumers who may lose out from any changes to exclude some consumers from flat rate default tariffs will be important. Any wider move of consumers to ToU tariffs in future would also need to build in appropriate safeguards.

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<sup>6</sup> Ofgem (2021) [MHHS Final Impact Assessment](#)

In general, the main intention of price protection is to ensure that disengaged consumers pay prices that fairly reflect the underlying costs of consumers. It is there to deliver fair prices, not affordable ones.

It is not a substitute for targeted support for vulnerable consumers who need enhanced support. It is unlikely that it ever could be, given that Ofgem has no tax and spend powers and is very limited in its ability to cross subsidise those that most need support. We set out our views on better targeted bill support in our report [Shock Proof](#).

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

There may be an emerging risk that consumers with large flexible loads can abuse tariff choices to avoid their own costs, pushing them onto others. EV charging is potentially a prime example of this - that some drivers may find they are better off sticking with a flat rate price capped tariff than adopting a ToU, because their lifestyle or personal choices mean that they wish to charge at peak hours.

Those avoided costs would be picked up by other consumers, and incentives to use the system efficiently would be dulled, ultimately resulting in a higher cost electricity system paid for by all. It may therefore be appropriate to exclude consumers with significant flexible load from remaining on flat rate price capped tariffs, and instead require them to move to a static ToU default product.

We are also concerned that possible changes to reduce standing charges within the price cap (or more generally) could lead to gains for consumers who have lower usage due to solar panels while also seeing higher costs for consumers with traditional electric heating or medical needs for higher energy usage. This would compound existing fairness issues, as higher users already pay a disproportionate share of policy levies.

The cap should continue to seek to allocate underlying fixed and variable costs to standing charges and unit rates, rather than skewing this in ways that deliver unfair outcomes. Affordability issues related to standing charges are best tackled through better targeted bill support. We set out our views in more detail in response to Ofgem's call for input on standing charges.<sup>7</sup>

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<sup>7</sup> Citizens Advice (2024) [Citizens Advice response to Ofgem's Call for Input on standing charges](#)

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

In our January 2020 paper, [When the cap no longer fits](#), we set out a range of possible options that could be considered to protect consumers when the current price cap ends. Several of those options are also considered by Ofgem in its paper. Options that aren't referred to include the use of collective switching (whether on an opt-in or opt-out basis), the creation of a backstop supplier tasked with providing fair pricing to vulnerable consumers, or using reputational regulation through the creation of a 'price to beat'.

It is not apparent to us that any of those options would be an improvement on the current price cap, but we wished to highlight them given Ofgem is in the market for ideas on this topic.

In our paper [Raising the Bar](#), we set out why we think a Consumer Duty, similar to the one introduced in financial services, should be introduced in energy. The framework includes rules around fair pricing, whereas Ofgem's Treating Customers Fairly rules exclude pricing from their scope. As energy products become more complex, rules on fair pricing could protect consumers who make an active choice, and those on complex default products which may fall outside the scope of more prescriptive price protection.

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