



House of Commons

Business, Energy and Industrial  
Strategy Committee

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**Pre-legislative scrutiny  
of the draft Domestic  
Gas and Electricity  
(Tariff Cap) Bill:  
Government Response  
to the Committee's  
Fourth Report**

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**Fifth Special Report  
of Session 2017–19**

*Ordered by the House of Commons  
to be printed 28 February 2018*

## Business, Energy and Industrial Strategy Committee

The Business, Energy and Industrial Strategy Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Business, Energy and Industrial Strategy.

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[Rachel Reeves MP](#) (*Labour, Leeds West*) (Chair)

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### Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via [www.parliament.uk](http://www.parliament.uk).

### Publication

Committee reports are published on the Committee's website at [www.parliament.uk/beis](http://www.parliament.uk/beis) and in print by Order of the House.

Evidence relating to this report is published on the [inquiry publications page](#) of the Committee's website.

### Committee staff

The current staff of the Committee are Chris Shaw (Clerk), Ben Sneddon (Second Clerk), Ian Cruse, Jeanne Delebarre, and Becky Mawhood (Committee Specialists), James McQuade (Senior Committee Assistant), Jonathan Olivier Wright (Committee Assistant) and Gary Calder (Media Officer).

### Contacts

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# Fifth Special Report

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The Business, Energy and Industrial Strategy Committee published its Fourth Report of Session 2017–19, [Pre-legislative scrutiny of the draft Domestic Gas and Electricity \(Tariff Cap\) Bill](#) (HC 517) on 13 February 2018. The Government’s response was received on 26 February 2018 and is appended to this report.

In the Government response the Committee’s recommendations are shown in *italic* type; the Government’s response is shown in plain type.

## Appendix: Government Response

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### Introduction

1. This memorandum sets out the Government response to the recommendations from the Business, Energy & Industrial Strategy Select Committee’s report on the draft Domestic Gas & Electricity (Tariff Cap) Bill. We note that the recommendations in paragraphs 20 and 23 relate to actions on Ofgem and we have asked Ofgem to respond separately.

2. The Government and your Committee both agree that the energy retail market is not functioning properly. As you stated clearly in your report: *“Sadly, competition in the domestic energy market is not working for 12 million<sup>1</sup> customers stuck on poor-value tariffs called standard variable and default tariffs.”*

3. That is why the Government has brought forward this Bill to place a requirement on the regulator, Ofgem, to cap all standard variable and default energy tariffs, while we take wider action to make the market more competitive. We welcome your scrutiny and endorsement of our overall approach.

4. As the Committee’s report noted, the energy market is not working for all customers. The Competition and Markets Authority (CMA) investigation into the energy market in 2016 highlighted that customers pay on average £1.4bn a year more than they would in a truly competitive market. There is, in effect, a two-tier market. Active customers save money by switching from the Standard Variable Tariffs of the Big 6 to the cheapest tariffs in the market and can save around £300 each year. But too many customers remain on poor value tariffs. It is of particular concern that these customers typically tend to be more vulnerable than those who are getting the best deals.

5. Government and Ofgem are implementing remedies proposed by the CMA, alongside the steps we are taking to improve competition. We have removed barriers to market entry. As a result, there are now more than 60 energy suppliers in the domestic retail energy market, up from 13 in 2010. In 2010 independent suppliers had less than 1% share of the domestic market. They have increased their share of the dual fuel market to nearly 22%.

6. Of course, there is more to do. We are also rolling out smart meters, taking measures to make switching faster and easier and testing initiatives to improve engagement, particularly

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1 From 2 February 2018 Ofgem extended the PPM safeguard tariff to around 1 million households receiving the warm home discount, so that leaves 11 million household unprotected.

among the most vulnerable. I am confident that the programme of work the Government and Ofgem are currently undertaking will help deliver the needed improvements to the market and further reduce the barriers to switching and engagement. Ofgem recently sought views on whether the current energy supply market arrangements need to be reformed in the medium term to boost innovation and competition. We welcome this work, to ensure that, as we move towards a smarter and more competitive energy system, new technologies and business models offer significant benefits to consumers.

7. The government remains committed to the ambitious agenda of cutting carbon emissions while driving economic growth, as set out in the Clean Growth Strategy. In the immediate term the price cap and our wider reforms will protect consumers from overly-high energy tariffs, while putting the conditions in place for greater competition to flourish. The Select Committee's report and detailed recommendations will improve our intervention on domestic prices, so that the energy market works better for all consumers.

## Recommendations

**BEIS Committee recommendation:** *We recommend that the Government provides details on its plans to protect vulnerable customers from overcharging when Ofgem's safeguard tariff and the Government's price cap are lifted (Paragraph 11)*

## Government response

8. The Government is already taking significant action to protect vulnerable energy consumers. Measures to support the vulnerable include:

- £140 a year for 2 million low income households through the Warm Home Discount scheme;
- £100-£300 a year for all pensioner households through Winter Fuel Payments;
- £25 a week for low income and vulnerable households during a cold snap, through Cold Weather Payments.

9. Since last year, the Energy Company Obligation (ECO), which improves the energy efficiency of more than 300,000 homes each year, has been 70% focussed on low income households. The Government will review ECO with a view to making it even more effective at addressing fuel poverty.

10. Under the Fuel Poverty Network Extension Scheme, Ofgem sets a target for Gas Distribution Networks to connect a certain number of low income households to the gas grid.

11. The Government is providing £1.3m of funding for the Big Energy Saving Network and Big Energy Saving Week this winter. The Big Energy Saving Network funds third sector organisations and community groups, to support vulnerable consumers so they can switch and save.

12. And Ofgem has extended the prepayment meter safeguard tariff (price cap) to households receiving the warm home discount (1 million households) and has just consulted on extending protection to a further 2 million households likely to be at risk of fuel poverty.

13. As we move forward, the technological changes and new entrants and business models coming into this sector will also drive reform and make the market more competitive. Our work includes the following programmes, which will progress alongside the price cap and Ofgem's safeguard tariff:

- The rollout of the smart meter programme to give people more control over their energy use.
- Midata - the Government published a call for evidence on Midata, which closed in February 2017. We are considering the evidence and will publish a response later this year. Midata makes comparing tariffs quicker and easier, enables more accurate comparisons and will ultimately increase competition in the retail energy market.
- Ofgem's quicker switching programme - on 12 February Ofgem announced their decision to implement changes to the switching arrangements that will enable consumers to switch their energy supplier reliably and quickly, including by the end of the next working day if they choose, by simplifying and harmonising the gas and electricity switching arrangements in a cost-effective manner.
- There is more to do, and we would welcome any views of the Committee on further measures we need to take.

**BEIS Committee recommendation:** *We recommend that the Government commits to removing these obstacles by seeking to amend section 36(3) of the Digital Economy Act 2015 in time for winter 2018. (Paragraph 13)*

### **Government response**

14. We agree. On 12 February, the Government published a short consultation on amending section 36(3) to enable sharing for the purpose of Ofgem's safeguard tariff for vulnerable consumers. Subject to the consultation we intend to bring forward regulations as soon as Parliamentary time allows.

15. These changes would enable energy suppliers to readily identify their consumers who are in fuel poverty, or potentially at risk of fuel poverty, and to automatically move them onto a safeguard tariff set by Ofgem. Ofgem has just consulted on extending protection to 2 million households likely to be at risk of fuel poverty, with the aim of putting protection in place by next winter.

**BEIS Committee recommendation:** *The Government should provide protection to customers in time for winter 2018 by seeking to ensure that the Bill receives Royal Assent before parliamentary summer recess 2018. (Paragraph 56)*

### Government response

16. The Government agrees that the aim must be to put a cap in place as soon as possible. We hope that the Bill will enjoy cross-party support and will progress swiftly through Parliament, as Royal Assent will be needed as early as possible to ensure that Ofgem can put a cap in place for next winter. In the interim, Ofgem has extended the price cap (safeguard tariff) for prepayment meter customers (4 million households) to households receiving the warm home discount (1 million households) and has just consulted on extending protection to a further 2 million households at risk of fuel poverty.

17. The Bill enables Ofgem to consult on the price cap while the Bill progresses through Parliament, to ensure a prompt introduction. We note that Dermot Nolan, Ofgem's Chief Executive, signalled to the Committee in his oral evidence that Ofgem would do so.

**BEIS Committee recommendations:** *The Government should work with Ofgem to amend the wording of the Bill to make it as resistant as possible to successful legal challenge to subsection 1(6)(d). (Paragraph 62)*

*To deter legal challenges that would delay unnecessarily the implementation of the cap, we recommend that the Government clarify in the Bill that Ofgem will not be required to set a cap that will meet all five subsections simultaneously, though it may eventually do so. This would be consistent with the main aim of the Bill of reducing overcharging, not increasing switching. (Paragraph 66)*

### Government response

18. The Government has amended this section so that is clear that the purpose for which the powers are exercised is to protect existing and future domestic customers who are on SVT and default tariffs. The other matters are considerations that Ofgem must have regard to when exercising the powers. This gives a clearer direction to Ofgem when exercising the powers.

**BEIS Committee recommendation:** *We recommend that the Bill be amended to include a requirement that Ofgem review the level at which the cap is set at least every six months to keep up with changes in suppliers' costs and consumer engagement. (Paragraph 64)*

### Government response

19. The Government agrees with the Committee that this provision would assist both consumers and suppliers. The Bill has been amended to reflect this recommendation. This is in line with the revision to the prepayment meter safeguard tariff (price cap) established by the CMA and implemented by Ofgem.

**BEIS Committee recommendations:** *The Government should work with Ofgem to strengthen the definition, standards and checks for electricity tariffs with environmental claims so the system cannot be gamed in this fashion and undermine the success of the cap. (Paragraph 70)*

*We recommend that the Bill be amended to make clear that attempts to circumvent the cap by offering tariffs that do not provide substantial environmental benefits and were not*

*actively chosen by customers will be in breach of the legislation. Ofgem should be alert to and be prepared to stop any form of pricing that is designed to circumvent the cap. (Paragraph 71)*

*The Government should explain its rationale for not exempting green gas tariffs under clause 3. (Paragraph 72)*

*The Government should respond to the concerns expressed by stakeholders in evidence to us on the detriment to investment in renewable generation and green gas tariff customers of not exempting these tariffs. (Paragraph 73)*

*The Government should work with Ofgem to create the necessary accreditations to include green dual-fuel and green gas tariffs within the price cap exemption. This should be done without repeating the gaming risks of the green electricity tariff exemption. (Paragraph 74)*

### **Government response**

20. The Government agrees with the Committee and is keen to ensure that the exemption is robust to any potential gaming, whilst also ensuring that consumers can continue to choose to support renewable generation by purchasing a green energy tariff. We take the view that an exemption should be able to cover green gas tariffs.

21. We have considered this further and concluded that the most robust way of providing for the exemption, while minimising the risk of gaming, is a duty for Ofgem to consult on the matter of exempting green tariffs which have been chosen by customers. This includes the definition of a green tariff for the purpose of the price cap. The Bill also provides a power for Ofgem, once these matters have been consulted on, to implement a separate condition exempting the tariffs that Ofgem consider fit within their definition. We have also clarified that we would also like to include green gas tariffs in the exemption. The updated Bill will enable Ofgem to consult on, and identify how, green gas might be included in an exemption.

**BEIS Committee recommendation:** *We recommend that the Secretary of State base the decision to keep or lift the cap on the minimum requirements that overcharging and the differential are substantially reduced, fairness is improved, and vulnerable customers are protected. (Paragraph 81)*

### **Government response**

22. The Government agrees. The Secretary of State's decision to lift the cap, which will be published in a statement, will be based on whether the conditions are in place for effective competition. This will be informed by Ofgem's report. Having the conditions in place should mean that there is greater fairness for customers, and the detriment identified by the Competition and Market's Authority has been substantially reduced.

23. For vulnerable consumers, Ofgem has existing powers to provide protection from high prices via a safeguard tariff - both now and after the price cap has ended.

**BEIS Committee recommendation:** *Once the cap is lifted, the Government and Ofgem should take any necessary measures to ensure that the elimination of overcharging remains in place in the long term and suppliers are not able to go back to their overcharging and cross-subsidising practices. Engagement measures currently rolled out should also be maintained to keep encouraging customers to switch suppliers. (Paragraph 85)*

### **Government response**

24. We agree. Ofgem is implementing the remedies set out in the CMA report. This includes trialling different prompts to engage - Ofgem's first large scale trial has just been completed- and developing a database of customers who are not active and not switching tariffs or providers The Government and Ofgem's work in this area is designed to ensure a permanent move away from a market with unfair pricing and practices. We want competition to be effective in driving value and service, and for the market to work for all consumers, not just some. Our reforms will deliver this, and in the interim the price cap will provide protection from unfair pricing.