



Making a positive difference
for energy consumers

Holders of Electricity Supply
Licences, DECC, Citizens Advice,
consumers and their
representatives and other
interested parties

Direct Dial: 020 7901 1821
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Date: 1 October 2014

Dear Colleague

Proposal to modify the electricity supply licence Standard Licence Conditions (SLCs) by inserting a new condition, SLC 21D

Please find enclosed a proposal to modify the SLCs of the electricity supply licence by inserting a new condition, condition 21D.

This proposed addition affects environmental claims¹ on tariffs that supply renewable electricity to domestic customers. The new licence condition will mean suppliers will have to meet requirements on additionality, transparency and evidence of supply, if they offer domestic customers a tariff(s) based on the supply of renewable energy.

- **Additionality:** Suppliers will have to make sure that a customer's choice to purchase a green or renewable tariff results in an additional benefit to the environment, above and beyond existing subsidies, obligations and schemes. They must publish an annual report explaining to their customers how they are meeting this obligation. If they are not offering additionality, they will need to make this clear to customers.
- We don't propose defining what should be considered as additionality. Instead, to allow for innovation, we are taking a principles-based approach to additionality. We expect suppliers to engage appropriately to find out what their customers expect in terms of additionality.
- **Transparency:** Suppliers must be clear to customer about the environmental claims they make about their green and renewable tariffs. This includes publishing an annual report explaining how the tariff delivers additional environmental benefits. Suppliers will need to clearly tell customers at the point of sale if a renewable tariff does not offer additional environmental benefits.
- **Evidence of supply:** Suppliers must have evidence that verifies where the electricity supplied in the tariff comes from. This means that they must show they have enough Renewable Energy Guarantees of Origin certificates and have retired

¹ "Environmental claim" means a claim made in the course of marketing, billing, or other customer communication that says, or may lead a customer to believe, that choosing the particular tariff is delivering an environmental benefit based on the supply of renewable electricity.

any renewable Levy Exemption Certificates to account for the renewable supply in the tariff.

We first consulted on these proposals in December 2013.² We then consulted on our final proposals in June 2014.³ A summary of the responses to the June consultation is available at Annex I. The June consultation did not lead to the provision of any new material evidence so we are now seeking views on the proposed new standard licence condition. Following this statutory consultation we expect to implement these changes in time for the start of the 2015-16 financial year.

Representation to the proposed modification should be made in writing on or before 29 October 2014 to: Natasha Smith, Office of Gas and Electricity Markets, 9 Millbank, London, SW1P 3GE or by email to Natasha.Smith@ofgem.gov.uk

All responses will normally be published on Ofgem's website. However, if respondents do not wish their response to be made public then they should clearly mark their response as not for publication. Ofgem prefers to receive responses in an electronic form so they can be placed easily on the Ofgem website.

If you have any queries regarding the information contained within this letter you please contact Natasha Smith on 0207 9011821 or by email Natasha.Smith@ofgem.gov.uk

Yours faithfully

Natasha Smith
Senior Manager
Sustainable Energy Policy

² <https://www.ofgem.gov.uk/publications-and-updates/consultation-improving-consumer-protection-green-and-renewable-energy-offers-market-0>

³ <https://www.ofgem.gov.uk/publications-and-updates/final-proposal-improving-domestic-consumer-protection-green-and-renewable-energy-tariffs-market>

Annex I - Summary of consultation responses

We received eight non-confidential responses to our June consultation – “Protecting Domestic Consumers in the Green and Renewable Tariffs Market – Final Proposals”. Overall, respondents supported our proposals. The majority of respondents were in favour of our proposals for evidence of supply. All respondents supported the principle of additionality, however some raised concerns about how it would be implemented. Respondents were in favour of the transparency principle. Some respondents asked for more information about the annual reporting requirement. We received some sensible suggestions to make the licence condition clearer. No respondents submitted any material evidence, however a number of issues were raised.

The table below summarises the issues raised following our consultation, and our response.

	Issues raised	Our response
Nuclear and low carbon tariffs	Nuclear and low carbon tariffs also make environmental claims, and some respondents were concerned that these were not covered by our proposals.	These claims are still covered by the Advertising Standards Authority and the Department for Environment, Food & Rural Affairs guidance on environmental claims. We will continue to monitor this area of the market. Suppliers selling these tariffs should communicate what they offer clearly to consumers. Misleading statements are, of course, contrary to other consumer protection legislation and licence conditions including the Standards of Conduct and may result in enforcement action.
Auditing of claims	Several respondents suggested that Ofgem or another body should audit additionality claims.	Suppliers will need to be able to prove their environmental claims, and we may check this evidence. Suppliers are able to have their claims independently audited and should seek their own legal advice.
Defining additionality	Several respondents requested further clarity about additionality. It was suggested that Ofgem should set a level of CO ₂ abatement.	We will continue to engage with stakeholders as our policy progresses. We want to allow suppliers to be innovative and to listen to their customers by taking a principle-based approach to additionality. We will monitor what is being offered by suppliers, and will take action if necessary.
Bundles	A supplier requested clarification that environmental bundles not linked to supply were not covered by our licence condition	If offering an environmental bundle not linked to supply, suppliers will need to be clear about what they are offering and ensure that customers are not misled.
Tariff limit	Suppliers are allowed to offer 4 core tariffs, inclusive of a green or renewable tariff. One supplier	Our retail market reforms ⁴ aim to make the market simpler for consumers, so green and renewable

⁴ <https://www.ofgem.gov.uk/ofgem-publications/39350/retail-market-review-final-domestic-proposals.pdf>

	raised a concern that this may impact suppliers' decisions to offer these tariffs.	tariffs are included in the tariff cap. See our impact assessment ⁵ for further analysis.
Additionality report	Several respondents asked for more detail about the additionality report.	We want suppliers to engage with their customers about how they provide this information. We have provided further detail in our guidance document.
Compliance	Respondents raised queries about how Ofgem will monitor compliance and how we will deal with non-compliance.	We will continue to monitor the market. This may include reviews of additionality reports or auditing of claims, depending on how the market develops. Our usual enforcement procedures would apply.
Business consumers	One respondent supported not including business consumers, whilst another suggested we should.	As we are introducing a mandatory licence condition, it would not be proportional to also cover business consumers currently. We will continue to monitor this area and are supportive of industry-led initiatives.
Retiring Levy Exemption Certificates	One supplier said that it would be difficult to retire Levy Exemption Certificates by the deadline.	Suppliers are able to retire Levy Exemption Certificates throughout the year, so would not need to retire them all close to the deadline.
Evidence of supply	One respondent did not think it was logical to require retirement of Levy Exception Certificates. They did not think the costs were justified.	As set out in our consultation, this requirement is in the interests of consumers. It means that suppliers are competing fairly, and is in line with the rules and regulations in place from Her Majesty's Revenue and Customs.
Transparency and fuel mix disclosure	There might be confusion if a supplier publishes their fuel mix for the current year as well as publishing their fuel mix in line with SLC 21.	Suppliers will need to ensure that they fulfil requirements for fuel mix disclosure under SLC 21, and that they communicate clearly with consumers when providing additional information.
Third party intermediaries	One respondent raised concerns about switching sites following guidance and marketing tariffs correctly.	We published our consultation "Domestic third party intermediaries: Confidence Code and wider issues" on 7 August 2014. This includes a question about how green and renewable tariffs should be presented. The consultation closes on 2 October 2014.

⁵ <https://www.ofgem.gov.uk/ofgem-publications/39351/retail-market-review-final-impact-assessment-domestic-proposals.pdf>