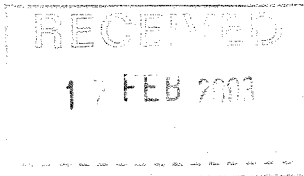


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Dear Iain,

Testing Domestic Consumer Take-Up of Energy Services: Trial Suspension of 28 Day Rule

Thank you for the opportunity to comment on the above paper. We very much welcome the concept of a pilot and Ofgem should be applauded for their part in this proactive approach to the problem. We have been looking into how energy services can add value to our relationships with both existing and potential customers. This was with a view to participating in the new energy services market through the industry pilot scheme from April this year.

However, in short, we have significant concerns about Ofgem's proposed rules for the pilot and in particular the definition of energy services. We believe that this definition is overly prescriptive and, in our view, simply replaces one market barrier (the 28 day rule) with another (a prescriptive and narrow definition of energy services).

In particular, Ofgem set out a number of detailed criteria defining "substantive benefit to customers" which must be satisfied in order for an energy services contract to qualify under the pilot and therefore not be subject to the 28 day rule. These include a requirement to save the customer money, all other things being equal. While at face value this would appear a reasonable requirement, it could in-fact preclude measures such as energy efficient appliances, double glazing, photo voltaic panels, boiler replacements and insulation in certain circumstances. There are many instances where such measures cannot be justified on cost alone (particularly when finance costs are included), but customers gain additional value through improved comfort, reliability and additional features coupled with lower energy consumption / bills and a more affordable means of installing such measures.



Indeed, the key feature identified by the Energy Services Working Group (ESWG) was not that customers saved money in all circumstances (this was not even a criteria agreed by the ESWG) but rather that the energy service made a significant reduction in the total energy supplied to a household. Clearly, the above measures would significantly contribute to an energy saving and should not therefore be excluded from the pilot.

Another proposed requirement is that customer deposits should amount to no more than one-third of the initial cost, with the balance spread broadly equally over the repayment period. This is unnecessarily prescriptive as many customers may wish to pay more up-front to reduce their finance costs. Indeed, the ESWG explicitly concluded in their report to Ministers that customers should have the ability to choose how they wish to pay for the measures installed, with options ranging from taking out a loan from the supplier to paying cash up-front.

Ofgem also state that the rules of the pilot should be designed to ensure that suppliers include all of the common energy efficiency measures relevant to a customer in a qualifying energy services contract e.g. cavity wall and loft insulation, boiler replacement, double glazing, etc. This view is very restrictive and would effectively block many customers who may wish to have an energy services package but can not afford (or choose not) to have all the measures installed at once. In addition, suppliers may choose not to offer certain measures due to commercial risk, reliability issues, inability to deliver, etc. Again, "cherry picking" of measures was not raised as an issue at the ESWG and would unnecessarily restrict customer choice and the potential for suppliers to experiment with different energy services packages during the pilot.

Yes?
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Moreover, Ofgem state that the energy saving threshold should be set at 15% (the top of the range considered by the ESWG) to avoid suppliers "cherry picking" measures. We do not support the need for such "cherry picking" rules for the reasons set out above. In addition, while we support a requirement to achieve a significant energy saving, in our view a slightly lower threshold set nearer 10% would increase the availability of energy services to customers on a lower budget (and therefore most in need of energy saving measures). A lower threshold would also increase the scope and flexibility of the pilot for suppliers to develop energy services packages.

In summary, therefore, a genuine pilot designed to stimulate the energy services market must be based on competitive forces and customer choice while allowing companies to experiment with different products. That is, we believe that the only criteria that should apply to the definition of an energy services contract are: a significant energy saving is achieved; some form of customer-specific advice is given; an option of finance is available; and that customers secure value for money over the period of the contract. These criteria are in line with the conclusions of the ESWG and we believe that they should be included in headline terms in the scheme rules, without introducing additional and prescriptive criteria.


For the avoidance of doubt, we fully recognise the need to maintain adequate consumer protection for customers entering into energy services contracts and agree that some additional measures would be necessary including, for example, explicit provision as to how prices would change over the period of the contract, fair termination provisions, etc. As above, we believe that it would be sufficient to specify these criteria in headline terms in the scheme rules. Clearly, Ofgem would be closely monitoring the pilot and could take appropriate action if any supplier does not adhere to the rules.

I am disappointed to be writing to you along these lines, but we believe that if implemented Ofgem's rules would effectively restrict the pilot and its potential benefits before it has started. In our view, it is the role of the pilot, not Ofgem, to determine what customers want and value in terms of energy services.

Notwithstanding the above, we are continuing to develop our ideas on energy services in the hope that the rules of the pilot are reviewed and the pilot remains a viable commercial option. One means of achieving this may be to scale down the pilot in terms of customer numbers but provide for a genuine pilot based on innovation and customer choice.

I would be happy to discuss this further with you should you wish to do so.

Yours sincerely,


Rob McDonald
Director of Regulation