

Guidelines for renewable and low carbon tariffs – The consumer interest

**NCC's response to Ofgem's consultation on developing guidelines for
renewable and low carbon tariffs: the next steps**

About the National Consumer Council

The National Consumer Council (NCC) makes a practical difference to the lives of consumers around the UK.

With changes in provision of services by government and companies, there is apparently more choice, and more talk about meeting consumers' needs. Yet, the rhetoric does not always match people's experience: markets can operate in ways that act against consumer interests; and consumers who are disadvantaged or inarticulate can be ignored.

The NCC uses its insight into consumer needs to advocate change. We conduct rigorous research and policy analysis to investigate key consumer issues, and use this to influence organisations and people that make change happen. We don't just respond to policy discussions, but shape future debate through our groundbreaking thinking.

An open and collaborative organisation, we seek to work with public service providers, businesses and regulators. We hold regular policy forums which provide us with a unique opportunity to exchange views and test our thinking.

Our relationship with the Department for Business, Enterprise and Regulatory Reform – our main funder – gives us a strong connection within government. But we are ready to challenge any organisation, public or private, that does not give consumers a fair deal.

We have linked organisations in Scotland and Wales, and a close relationship with colleagues in Northern Ireland. We play a leading role within European and worldwide consumer groups, ensuring that cross-border consumer issues are tackled and the consumer voice is heard within global institutions.

Please check our website at www.ncc.org.uk for our latest news.

We can often make our publications available in braille or large print, on audio tape or computer disk. Please contact us for details.

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Summary

There are several aspects of Ofgem's updated proposals on renewable and low carbon guidelines that the NCC supports. It is crucial that these remain in the final guidelines. In particular, we welcome the proposed requirements in the guidelines that would oblige energy suppliers to:

- Provide consumers with information about the amount that they are already contributing towards government's environmental initiatives, such as the Renewables Obligation.
- Display tariff information in a consistent format and provide data on the carbon rating and the renewable content for all their retail products (i.e. not just those marked as renewable or low carbon).
- Demonstrate evidence of supply through the use of Renewable Energy Guarantees of Origins (or equivalent European Guarantees of Origin) and retire Levy Exemption Certificates to avoid double counting.

There are also some elements of Ofgem's proposals that we are concerned about. These concerns should be addressed as a matter of urgency. We recommend that:

- Ofgem should take the proposals a step further by requiring a "ranking" for renewables – as well as the carbon intensity of all tariffs.
- Ofgem should tighten the Fuel Mix Disclosure requirements and modify the supply licence – so each supplier would be legally bound to show the fuel mix chart for their total supply as well as each individual tariff.
- Energy suppliers offering a low carbon product need to make it clear to consumers the types and proportion of energy sources that make up the tariff. This should be done through displaying the fuel mix chart for the tariff.
- Energy suppliers should only be allowed to charge a premium for a particular tariff if they are able to demonstrate that the tariff offers an additional environmental benefit over and above their legal obligations.
- Energy suppliers offering green funds in their tariff offerings should be required to meet specific criteria. It is crucial that the certification body monitors energy suppliers in this area.
- The certification body should set up an independent board to govern and advise on the ongoing management and continual improvement of the certification scheme.
- The guidelines and certification scheme for renewable tariffs and carbon intensity need to form part of one cohesive initiative – that covers the whole market.

Introduction

The NCC welcomes the opportunity to respond to Ofgem's latest consultation on renewable and low carbon guidelines entitled "*Cutting the green customer confusion – the next steps*". This follows on from the previous Ofgem consultation (June 2007) (1) and a NCC report entitled "*Reality or Rhetoric: Green tariffs for domestic consumers*" (December 2007) (2). This report concluded that there is considerable customer confusion and, as a result, a level of customer mistrust in tariffs that are being marketed as "green".

Since the last consultation was issued in June 2007, Ofgem have consulted stakeholders through a series of workshops and bi-lateral meetings. As a result, Ofgem's proposals have evolved significantly. The aim of this consultation is to gather the views of interested stakeholders on the updated proposals and ultimately revise the 2002 guidelines for energy suppliers.

Key Issues

Positive aspects of the updated proposals

There are various aspects of the updated proposals that NCC welcomes. It is crucial that these remain in the final guidelines.

Ensuring transparency about customer's environmental contributions

The NCC fully supports Ofgem's proposals to provide consumers with information about the amount that they are already contributing towards government's environmental initiatives, such as the Energy Efficiency Commitment (which will be replaced by the Carbon Emissions Reduction Target) and the Renewables Obligation. The NCC has been calling for this for a number of years so consumers can make an informed choice about making further contributions in this area. It is important that consumer research is undertaken to assess the best way to convey this information to customers in their bills / statements.

Providing consistent information so consumers can make comparisons

We welcome Ofgem's proposal that energy suppliers would be required to provide the relevant tariff information in the same format for customers. This will introduce greater consistency in the provision of information and help ease existing customer confusion in this market. Ofgem are proposing that energy suppliers should develop joint proposals on the formatting of the relevant information – perhaps taking a "layered approach". It is important that both the level and approach to displaying the information is subject to consumer testing.

Providing information on all supply tariffs

In the consultation document, Ofgem propose that in order for energy suppliers to offer a renewable or low carbon tariff, the guidelines would require that suppliers provide information on the carbon rating and the renewable content for all their retail products (i.e. not just those marked as renewable or low carbon).

This will help to ensure that consumers are able to make an informed choice and give them confidence that suppliers are not 'slicing and dicing' their fuel mix to create tariffs that are largely constituted from renewable or low carbon sources, whilst their overall portfolio carries a much higher non-renewable content and carbon intensity.

Demonstrating evidence of supply

The NCC agrees that evidence of supply should follow the requirements set out in the Fuel Mix Disclosure Obligations. It therefore follows that the use of Renewable Energy Guarantees of Origins (or equivalent European Guarantees of Origin) provide a sensible way to demonstrate evidence of supply and ensure that those tariffs sold as renewable are based on verifiable evidence.

Preventing double counting

The NCC fully supports Ofgem's proposals (which are also supported by HMRC) that where Levy Exemption Certificates are available, these should be retired to avoid double counting.

Complying with the guidelines

In the consultation document, Ofgem outlines the timescale in which it expects to see energy suppliers complying with the guidelines. The NCC agrees with Ofgem that energy suppliers should be given (from the date the revised guidelines are published):

- 1 month to sign up to the guidelines;
- 3 months to comply with the guidelines; and
- 6 months to develop and launch the associated certification scheme.

Dealing with carbon offsetting

The NCC welcomes Ofgem's proposals on carbon offsetting. Under this option, the carbon offsetting element of a tariff can be recognised as an added extra, but it could not contribute to the overall carbon rating of a tariff. This is important so it is clear to consumers what the carbon intensity is for different tariffs (without carbon offsetting altering the overall rating of a tariff).

We also agree with Ofgem that should energy suppliers want to promote carbon offsetting as an added extra, these would need to comply with a common standard – as it is important to ensure that there is not a proliferation of carbon offsetting standards and certification schemes, as this will only create more customer confusion. It therefore makes sense to use the standard and scheme developed by Defra. However, the NCC has concerns about some elements of Defra's proposed Code and accreditation scheme on carbon offsetting put forward in Defra's consultation document (3).

In its proposed Code, Defra is effectively promoting a gold standard that could lead to potential imbalances of supply and demand as the availability of regulated certificates is limited. Furthermore, it could encourage the voluntary market to develop their own standard and kitemark – creating two parallel markets in accredited and unaccredited offsets at possibly widening price differentials, which could confuse consumers.

In NCC's consultation response to Defra, we argued that it is absolutely critical that the Code covers both the regulated and voluntary market and that there is not a proliferation of carbon offset standards (4). This will enable consumers to choose from a range of carbon offsetting options (under one scheme) and prevent them being confused by multiple labels.

Negative aspects of the updated proposals

Whilst there are various aspects of the updated proposals that the NCC welcomes, there are also some elements that we are concerned about. These need to be addressed as a matter of urgency.

Keeping it simple – One certification scheme

The NCC believes that it is absolutely crucial that the guidelines and certification scheme for renewable tariffs and carbon intensity are part of one cohesive initiative. It is also important that only one scheme is established covering the whole market. Lessons should be learnt from the food sector, where there has been a proliferation of uncoordinated and competing labelling schemes, which has the potential to fuel customer confusion – rather than helping to reduce it.

We also believe that having two sets of guidelines and two certification schemes for renewables and low carbon tariffs could be potentially confusing for consumers – as it implies that renewable tariffs are not ‘low-carbon’.

Achieving greater clarity

In the consultation document, Ofgem proposes to move away from the term ‘green’ tariffs and move towards ‘renewable’ and ‘low carbon’ tariffs – as it will reduce customer confusion about what constitutes ‘green’. However, research shows that there is also customer confusion about the term ‘low carbon’ – as it means different things to different people.

A recent survey conducted by Ipsos Mori on behalf of energywatch found that the public are confused about which methods of generating energy are low carbon. While the vast majority correctly identify renewables (75%) as a low carbon method, only one third (34%) of respondents correctly identify nuclear power (5).

It is therefore important that energy suppliers make it clear in their materials to consumers the types and proportion of energy sources that make up the tariff – so there is no confusion. This should be done through displaying the fuel mix chart for the tariff so consumers are aware that the tariff is made up of a range of low-carbon fuels – such as renewables, nuclear, clean coal, etc.

Customer confusion about the term ‘low carbon’ could be propelled further and consumers potentially misled, if third parties (such as businesses and local authorities) purchase low carbon energy and promote to their customers that they do so – without explaining that low carbon energy is made up from a variety of fuels, including renewables and nuclear. Ofgem also needs to address this.

Reducing confusion about additional environmental benefit

A lot of the customer confusion regarding renewable tariffs is about the additional environmental benefit that they offer customers – over and above their legal obligations. Ofgem proposes the following five options for additionality:

- ROC retirement
- Centrally administered green fund
- Decentralised green funds
- Additionality is not included in the guidelines – but there is increased transparency
- Hybrid option.

The NCC believes that basing additionality either solely on ROC retirement, a centrally administered green fund or decentralised green funds is not sufficient – as it only allows one measure of additional environmental benefit. Taking this route would be too prescriptive and polarised – doing little to encourage market differentiation and product innovation. However, we also think that failing to include additionality in the guidelines is inadequate as this will not help to reduce customer confusion in this area.

Rather, the NCC would support a hybrid approach that takes into account the different measures of additional environmental benefit. We agree with Ofgem, that – under this approach – suppliers would only be allowed to charge a premium for a particular tariff if they are able to demonstrate that the tariff offers an additional environmental benefit over and above their legal obligations. This is important for transparency purposes – so it is clear to consumers what they are getting by signing up to a renewable tariff.

However, we believe that Ofgem need to develop this proposal further and clarify what it considers additional – so the certification body is able to robustly monitor energy suppliers' claims in this area.

Mandating the guidelines and certification scheme or keeping the initiative voluntary

For the guidelines / scheme to work, all energy suppliers that wish to market renewable and/or low carbon tariffs must comply with the guidelines / scheme, otherwise this could undermine the whole initiative and consumers could still be misled by suppliers that are not signed up to the guidelines / scheme. If this can be done voluntarily, then there is no need to mandate the guidelines. However, if energy suppliers fail to step up to the challenge, then the guidelines and scheme should become compulsory – requiring suppliers through a supply licence condition to sign up to the guidelines / scheme.

Enforcing the guidelines and certification scheme

If suppliers are found to be flouting the rules of the guidelines / scheme, they should be given a warning. If they persist, they should be subject to the scheme's disciplinary process. If a supplier is expelled from the scheme because of bad practice, the certification body should make this clear on the scheme's website. If our proposals (outlined in the next section) are taken forward (thereby tightening the Fuel Mix Disclosure requirements and modifying the supply licence accordingly – so each supplier would be legally bound to show the fuel mix chart for their total supply as well as each individual tariff), Ofgem would need to enforce its licence conditions in this area very strictly.

In addition, as part of the verification process, if suppliers' claims are found to be potentially misleading, the certification body should alert the Advertising Standards Authority to assist in their role in ensuring self regulation and compliance with the relevant advertising codes. They should also inform the Office of Fair Trading, who can take enforcement action against misleading claims under the Unfair Commercial Practices Directive. This will provide a legislative back stop – in particular, the regulations that apply to misleading actions and omissions. These powers will be available to local trading standards and the Office of Fair Trading nationally. This should help to increase consumer confidence in this area.

Ofgem should make sure energy suppliers are aware of the range of sanctions that could be enforced if they flout the rules of the guidelines / scheme. Ofgem should also inform the Advertising Standards Authority and the Office of Fair Trading about the revised guidelines and outline how they could use the guidelines to assist in enforcement action against misleading “green” energy claims.

Certifying renewable tariffs and carbon intensity rankings

The NCC understands that the management of the certification scheme should be open to competition. There are two key options to take this forward. The first option is to have a competitive tender – with the successful certification body certifying all renewable and low carbon tariffs for a certain period of time (say three years) – after which time there could be another competitive tender for the next three year period. The second option is to have multiple certification bodies that certify various renewable and low carbon tariffs against tightly defined standards. The NCC prefers the first option as this would ensure consistency in how the guidelines and certification scheme are applied.

Ensuring consumer confidence in the certification scheme

To ensure the credibility of the scheme to consumers, consumer representation in the development and establishment of the certification scheme is absolutely essential. The management and governance arrangements of the certification scheme are also significant in securing consumer confidence. We therefore recommend that the certification body should set up an independent board to govern and advise on the ongoing management / continual improvement of the scheme. The NCC believes that the board should be multi-stakeholder – again with consumer representation. The NCC also thinks that it would be important for a Government and Ofgem representative to sit on the board – perhaps as observers. The NCC has extensive experience of self-regulatory schemes and recommends that the certification body follows NCC's checklist for credible self regulation, which covers objectives, content, structure and governance (6).

Funding the certification scheme

The NCC believes that the certification scheme needs to be developed as quickly as possible as our research on green tariffs found that consumers are confused about green energy tariffs and it is difficult for consumers to compare the tariffs on offer. To ensure it is set up quickly, we think it is appropriate for government or Ofgem to fund the start up costs of the scheme. Once established, the scheme should be funded by energy suppliers on an ongoing basis.

In order that consumer confidence in the certification scheme is maximised, it is important that the scheme is seen to be independent from industry. It is therefore important to pay particular attention to the funding model. One possible way forward would be to follow energywatch's funding model.

The way forward

The NCC and energywatch believe that Ofgem need to take the proposals a step further by providing a “ranking” for renewables – as well as measuring (and ranking) the carbon intensity of all tariffs. Otherwise, consumers will not have the information that they require to distinguish between the different tariffs on offer. This could be done by basing a system on the Fuel Mix Disclosure requirements – which would need to be tightened and the supply licence modified accordingly.

Measuring the carbon intensity of all tariffs

Under this scenario, each supplier would be legally bound to show the fuel mix chart of their total supply as well as each individual tariff. They would then need to calculate the carbon intensity for each tariff and compare it to the average fuel mix available on BERR's website. Carbon ranking would thus be possible and could be illustrated in different ways (including the A-F approach put forward by Ofgem).

Ranking renewable tariffs

From the fuel mix disclosure charts it will also be clear how much renewable electricity each company is supplying. In promotional materials, suppliers would be obliged to state what the percentage of their total supply was renewable alongside what the percentage is in the individual tariff. It will therefore be possible to rank this without any difficulties.

Making it work

To make this option work, it would be important that each energy tariff, as well as the total supply, is backed by Renewable Energy Guarantee of Origin and by renewable Levy Exemption Certificates. It would also be an obligation on suppliers to ensure that the amount of renewable electricity they sell to consumers (both domestic and non-domestic) does not exceed the total they have supplied. This would need to be strictly enforced and policed by the certification body.

Certifying and overseeing the ranking

The role of the independent certification scheme would be to oversee any ranking on the basis of carbon intensity and renewable supply, to ensure that no supplier was selling more renewable electricity than the total supplied and to police any claims about additional environmental benefits being made alongside. Essentially each Renewable Energy Guarantee of Origin and Levy Exemption Certificate would need to be matched to a customer. Ofgem would also need to enforce its licence conditions in this area very strictly.

Dealing with carbon offsetting

Under this option, Ofgem's proposals on carbon offsetting would still apply – hence it would be recognised as an added extra, but it could not contribute to the overall carbon rating of a tariff. It is important that consumers are clear what the carbon intensity is for different tariffs (without carbon offsetting altering the overall rating of a tariff). Also, in line with Ofgem's current proposals, should energy suppliers want to promote carbon offsetting as an added extra, these would need to comply with a common standard – as it is important to ensure that there is not a proliferation of carbon offsetting standards and accreditation schemes, as this will only create more customer confusion. It therefore makes sense to use the standard and scheme developed by Defra. However, the NCC has concerns about some elements of Defra's proposed Code and accreditation scheme on carbon offsetting put forward in Defra's consultation document (7). See the previous section for further information on these concerns.

Dealing with green funds

Investment in new renewable generation (over and above the Renewables Obligation) or other environmental projects – through green investment funds – would obviously not show up on fuel mix disclosure charts. Under our proposals, energy suppliers could advertise their activities in this area to consumers, but should be required to meet specific criteria.

For example, any premium gained through the sale of “green”, renewable or low carbon fund-based tariffs should be paid into a fund that is verifiably separate from the general accounts of the energy supplier. In addition, this fund should be independently audited. It is also crucial that the energy supplier provides information in a standardised format so consumers can assess the quality of the investment and make comparisons between the different tariffs that offer a “green”, renewable or low carbon fund.

It is crucial that the certification body monitors energy suppliers’ claims in this area. If suppliers’ claims are found to be potentially misleading, the certification body should alert the Advertising Standards Authority to assist in their role in ensuring self regulation and compliance with the relevant advertising codes. They should also inform the Office of Fair Trading, who can take enforcement action against misleading claims under the Unfair Commercial Practices Directive. This will provide a legislative back stop – in particular, the regulations that apply to misleading actions and omissions. These powers will be available to local trading standards and the Office of Fair Trading nationally. This should help to increase consumer confidence in this area.

References

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- 2** National Consumer Council (NCC) *Reality or rhetoric: Green tariffs for domestic consumers*. December 2006. www.ncc.org.uk
- 3** Department for Environment, Food and Rural Affairs (Defra) *Consultation on establishing a voluntary Code of Best Practice for the provision of carbon offsetting to UK customers*. January 2007. www.defra.gov.uk
- 4** National Consumer Council (NCC) *Carbon offsetting - The consumer interest: NCC's response to the Defra consultation on establishing a Code of Best Practice for the provision of carbon offsetting*. April 2007. www.ncc.org.uk
- 5** energywatch *Low carbon awareness and support among UK residents*. November 2007. www.energywatch.org.uk
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