

The green supply guidelines – The consumer interest

NCC's response to Ofgem's July 2008 consultation on the green supply guidelines: updated proposals

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 the green supply guidelines that the NCC supports. It is crucial that these remain in the final guidelines. In particular, we welcome that the proposed guidelines:

- Prevent 'slicing and dicing' from occurring, so non green tariff customers don't have their proportion of renewable generation allocated to green tariff customers without their consent.
- Recognise some of the weaknesses associated with the consumer demand/consumer pull argument (proposed by some stakeholders).
- Focus on additional environmental benefit and that they plan to rank this for consumers, although we think this should be based on carbon emissions abated.
- Provide clear and consistent information to help ease existing customer confusion in this complex market.
- Demonstrate evidence of supply through the use of Renewable Energy Guarantees of Origins (or equivalent European Guarantees of Origin).
- Ensure energy suppliers are compliant with the guidelines and that the associated certification scheme is in place 3 months from the date the revised guidelines are published.

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:

- The ranking on additional environmental benefit should be based on carbon emissions abated for both domestic and non-domestic consumers.
- Only measures which are a) directly related to renewable energy or energy efficiency; and b) easily able to identify carbon emissions savings; should be eligible for ranking additionality.
- Robust processes and procedures need to be put in place to prevent double counting from occurring - in terms of additional environmental benefit.
- The certification body should set up an independent board to govern and advise on the ongoing management and continual improvement of the certification scheme.
- At a glance information should be provided about the amount that consumers are already contributing towards environmental initiatives, such as the Renewables Obligation.

- If energy suppliers fail to step up to the challenge, then the guidelines / scheme should become mandatory.

Based on Ofgem's proposals, the tariffs will no longer be based on "green supply"; neither will they be strictly speaking a tariff. If Ofgem and energy suppliers continue to use this incorrect terminology, it could be potentially misleading. It is therefore important that Ofgem decides on the correct terminology, updates the title of the guidelines accordingly; and all energy suppliers use this new terminology within their marketing and advertising material - to ensure consistency.

Introduction

The NCC welcomes the opportunity to respond to Ofgem's latest consultation on their updated proposals on the green supply guidelines. This follows on from previous Ofgem consultations (June 2007) (November 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 November 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.

Preventing slicing and dicing

Ofgem's proposals will ensure that energy suppliers are prevented from 'slicing and dicing'. 'Slicing and dicing' involves attributing renewable generation (which is paid for by all consumers through the Renewables Obligation) to green tariff consumers (both domestic and non-domestic); so the remainder of consumers (who have also contributed to the Renewables Obligation) have their proportion of renewable generation allocated to green tariff customers without their consent. It is essential that the guidelines prevent this 'slicing and dicing' from occurring, so non green tariff customers don't become 'browner' at the expense of others who become greener (without their consent).

Recognising the limitations of the consumer demand/consumer pull argument

The NCC recognises that there are limitations associated with the consumer demand/consumer pull argument. In an in-depth review of the drivers behind the market transformation of 19 green consumer products, we (together with the Sustainable Development Commission) found that the green consumer has not been the tipping point in driving green innovation. Instead, government intervention and choice editing by business has been the critical driver in the majority of cases (3).

Within the consultation document, Ofgem also recognises the weaknesses associated with the consumer demand/consumer pull argument (proposed by some stakeholders) in relation to the energy market. This is based on the idea that consumers can signal to energy suppliers and generators consumer demand, and therefore provide a customer pull on investment. The NCC agrees with Ofgem that this could work well in an unrestricted market, but that intervention in renewable electricity (through the Renewables Obligation), challenging new targets for increased renewable electricity and the level of supply side constraints (e.g. planning and grid access issues), would prevent this from happening. If the level of renewable generation approaches the level of the target, the NCC would be happy for this to be reviewed. It is therefore logical that green tariffs must focus on additional environmental benefit.

Focusing on additional environmental benefit

The NCC welcomes that Ofgem now recognise the importance of additional environmental benefit in relation to green tariffs and that they plan to rank this for consumers. The NCC has been calling for this for some time. This is also a key finding from the consumer research commissioned by Ofgem (4).

However, we are concerned that Ofgem want to base the ranking on outputs (financial contributions). The NCC believes the ranking should be based on outcomes (carbon emissions abated). See below for further information.

Providing consistent information so consumers can make comparisons

We welcome Ofgem's proposals that energy suppliers would be required to provide clear 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. The NCC agrees that information should be provided in a layered approach, consisting of the following 3 tiers:

- Tier 1: At a glance information
- Tier 2: Further explanations
- Tier 3: General background information

However, we do have some concerns about the specific information that Ofgem are proposing should be provided at each level. See below for further information.

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.

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 3 months (from the date the revised guidelines are published) to be compliant with the guidelines and to have an associated certification scheme in place.

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.

Ranking additional environmental benefit should be consistent and meaningful

The NCC strongly believes that the ranking on additional environmental benefit should be based on carbon emissions abated for both domestic and non-domestic consumers. We disagree that the additionality ranking for domestic consumers should be based on the financial contributions (made by energy suppliers on behalf of its customers), because it will emphasise 'outputs' over 'outcomes'; and 'quantity' over 'quality'.

We also disagree that the requirements of additionality differ between domestic and non-domestic consumers. Non-domestic consumers mainly purchase green tariffs to market their green credentials to consumers. It is therefore essential that the ranking for additional environment benefit is consistent between both groups of customers.

Measuring additional environmental benefit

The NCC acknowledges that some measures, which have been deemed additional in the past - for example, investment in R&D or a contribution to a green charity - would be difficult to accredit on the basis of carbon emissions abated.

However, in order to keep the scheme credible, the NCC believes that only measures which are a) directly related to renewable energy or energy efficiency; and b) easily able to identify carbon emissions savings; should be eligible for consideration when ranking additional environmental benefit. This would mean that those measures which are only tangentially linked to renewable energy or energy efficiency (for example, contributions to RSPB or investment in R&D) would not be

eligible for consideration when ranking additional environmental benefit. This does not mean that energy suppliers couldn't offer this as an 'added extra', but it should not contribute to the overall additionality rating of a tariff.

Preventing double-counting within the additional environmental benefit

It is absolutely essential that the guidelines and certification scheme do not allow double-counting in terms of additional environmental benefit. Robust processes and procedures need to be put in place to prevent double counting from occurring. For example, if energy efficiency measures are classed as additional, they should not form part of the energy supplier's Carbon Emissions Reduction Target; if a micro-generation project is classed as additional, it should not qualify for the Low Carbon Buildings Programme or new feed-in tariffs.

Whilst it is important that the guidelines are future proofed as much as possible, in reality some of the processes and procedures (regarding additionality) will need to be reviewed annually by an independent board of the certification scheme as they may need amending as a result of government intervention. For example, renewable heat projects are likely to be additional at present, but government intervention in this area could increase over the next 5 years (as indicated in the Renewable Strategy) - so this will need to be reviewed and the criteria amended to ensure no double counting occurs.

Providing specific information on the Renewables Obligation, carbon content and fuel mix

Whilst we welcome Ofgem's proposal that energy suppliers would be required to provide clear information in a tiered approach (see above for further information), we do have some concerns about the specific information that Ofgem are proposing should be provided at each level.

Firstly, we believe that consumers need information about the amount that they are already contributing towards environmental initiatives, such as the Carbon Emissions Reduction Target and the Renewables Obligation, as tier 1 information - certainly not tier 3. We also think Ofgem should go a step further (as they were previously proposing to do in the November 2007 consultation) and convey this information in all customers' bills / statements.

Secondly, it is also important that the information presented to customers about the overall supplier fuel mix and the carbon content of electricity consumption (which Ofgem suggest should be based on the grid mix) does not seem contradictory. This information should clear and

simple - and subject to consumer testing - to ensure consumers are not confused.

Mandating, enforcing and certifying the guidelines and certification scheme

Mandating the guidelines and scheme or keeping the initiative voluntary

For the guidelines / scheme to work, all energy suppliers that wish to market green 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 mandatory and energy suppliers should be required to sign up to the guidelines / scheme through a supply licence condition.

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.

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 are 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 claims.

Certifying green tariffs

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 green 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 green 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.

Funding the certification scheme and ensuring independent governance

Ensuring independent governance and 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 (5).

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 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.

Using correct and consistent terminology

Based on Ofgem's proposals, green tariffs will no longer be based on 'green supply'. Rather, they will be based on other measures of additionality, such as energy efficiency measures or contributions to community renewable generation projects. It is also important to acknowledge that Ofgem's proposals mean that these products will no longer be strictly speaking a 'tariff'. This is because the additional 'green' product or service they have signed up for has nothing to do with the price (per unit) they pay or the type of energy they are supplied with.

If Ofgem and energy suppliers continue to use this incorrect terminology, it could be potentially misleading. It is therefore important that Ofgem decides on the correct terminology, updates the title of the guidelines accordingly; and all energy suppliers use this new terminology within their marketing and advertising material - to ensure consistency.

References

1 Office of Gas and Electricity Markets (Ofgem) *Developing guidelines for green supply*. June 2007 and Office of Gas and Electricity Markets (Ofgem) *Cutting the green customer confusion – Next steps*. November 2007 www.ofgem.co.uk

2 National Consumer Council (NCC) *Reality or rhetoric: Green tariffs for domestic consumers*. December 2006. www.ncc.org.uk

3 National Consumer Council (NCC) and Sustainable Development Commission (SDC) *Looking back, Looking forward: Lessons in choice editing for sustainability – 19 case studies into drivers and barriers to mainstreaming more sustainable products*. May 2006. www.ncc.org.uk

4 Office of Gas and Electricity Markets (Ofgem) *Consumers' views on renewable and low carbon supply tariffs research study - conducted by MORI*. January 2008. www.ofgem.co.uk

5 National Consumer Council (NCC) *Three steps to credible self-regulation*. March 2003. www.ncc.org.uk