



Tracy Vegro
Director, Green Deal Programme
Department of Energy and Climate Change
3 Whitehall Place
London SW1A 2AW

*Promoting choice and
value for all customers*

19 January 2012

Dear Tracy

Green Deal and Energy Company Obligation (ECO) consultation

Ofgem welcomes the opportunity to comment on DECC's Green Deal and ECO proposals. The Government intends that the Green Deal and ECO will encourage significant take up of energy efficiency measures in homes and businesses and help the UK to reduce its energy consumption and carbon emissions. We want to play our part in making these programmes a success.

It will of course be important to ensure that these benefits come alongside our continuing efforts to deliver effective competition and consumer engagement in energy supply markets. Effective competition, as the Government highlights in its Annual Energy Statement, remains essential to ensure that consumers receive energy at the lowest possible cost. The Green Deal and ECO represent a major change with an inevitable impact on aspects of the wider energy supply market, so it will be important to maintain consumer confidence and ensure that consumers are appropriately protected at all stages of the process.

We set out below our main observations on DECC's proposals and in the attached annex we respond to some of the questions in DECC's consultation document. Our comments are also informed by our experience of administering CERT and CESP.

Competition issues

Impact on small suppliers and customer switching

DECC is proposing that small suppliers with less than 250,000 customers can decide whether or not to participate in the Green Deal. We understand and appreciate the motivation behind this, which is to enable smaller suppliers to avoid the regulatory burdens and costs that go with Green Deal payment collection. However, DECC is also proposing that Green Deal consumers will not be able to switch to suppliers that have not opted-in (unless they immediately repay their Green Deal in full). Equally, customers remaining with a supplier that has not opted-in will be unable to participate in the Green Deal.

Our concern is with how these restrictions impact over the longer term on the capacity for switching, the scope for smaller suppliers to develop in the market and the opportunity for new entry. The Green Deal itself provides an important opportunity for new market entry and service development and Ofgem believes it is essential that DECC puts in place arrangements for monitoring the impacts of these restrictions on overall market development. Ofgem will continue its own market surveillance work including in its capacity as a National Regulatory Authority (NRA) in the EU with objectives that relate to promoting competition and effective market opening for all customers and suppliers.

Suppliers' tariffs to Green Deal and non-Green Deal customers

The existing non-discrimination condition in respect of domestic consumers ceases to have effect on 31 July 2012. Consistent with our remit as a NRA, we will review the need to reintroduce this licence condition. If we find continuing evidence of consumer detriment that will not be tackled by other intervention such as our Retail Market Review proposals, we will consider whether it is appropriate to renew the condition on a long-term basis. It is not therefore necessary for DECC to seek to prohibit undue discrimination through its own Green Deal-related supply licence modifications.

DECC proposes to oblige electricity suppliers to report on any differences in their charges for Green Deal customers compared to their non-Green Deal customers. We welcome this proportionate measure and look forward to developing the details with DECC and suppliers.

Green Deal information on bills and statements

A key part of Ofgem's Retail Market Review (RMR) focuses on the information that energy suppliers should provide to customers. Our proposals include standardising the presentation of key information on the domestic energy bill and the Annual Energy Statement to help consumers readily access key information for the purposes of comparing energy offers, and facilitate consumer engagement.

DECC's proposals include plans to modify suppliers' licences to require certain Green Deal information to appear on bills and annual statements. We note that DECC is striving to achieve what is a difficult balance between providing key Green Deal information that customers should know and making sure that the bill and annual statements are not overloaded with information unrelated to consumers' energy charges. Ofgem's domestic consumer research for the RMR highlights, amongst other things, that the sheer volume of information on bills means that many consumers focus on their account balance and do not consider the other information. Given Ofgem's plans for wider changes to information on energy bills and in the annual statement it is vital that we work closely to ensure that a clear and coherent approach is taken to the presentation of Green Deal data.

Bundling Green Deal and other products and the use of cash-related offers

It is not clear from the consultation whether energy suppliers that are Green Deal providers will be free to bundle Green Deal and energy products or to offer discounts on energy tariffs to customers who agree to take out a Green Deal plan with them. As part of our RMR tariff simplification proposals Ofgem is seeking to ensure that the customer only needs to look at a single unit rate to compare tariff offerings. For standard 'evergreen' tariffs we propose to ban suppliers (and their agents, which could include Green Deal providers) from offering any form of discount and from bundling products that do not directly relate to gas and electricity supply. Bundling of Green Deal products and standard evergreen energy tariffs would not therefore be permitted but would be capable of being provided in the area of non-standard tariffs. It is important the Green Deal packages are offered in a way that is consistent with the future energy tariff framework once this is settled by Ofgem.

Assessor impartiality and potential competition impacts

DECC proposes that assessors can be employed or sub-contracted by Green Deal providers and that they may perform the dual roles of independent property assessment and marketing and selling of Green Deal measures, as well as other services and products. This creates a risk that customers may be dissuaded from seeking alternative Green Deal quotes, and/or that assessors working for a Green Deal provider might skew the recommendations toward that company's products. From our perspective, where the Green Deal provider is an energy supplier, we would be concerned if an assessor recommended only that company's energy tariffs and customers were dissuaded from seeking alternative quotes, since there could be potential to distort competition in the energy market.

Consumer protection issues

Cold calling and doorstep selling

In order to maximise take up, DECC's proposals allow Green Deal companies to be able to sell via all means permitted under existing consumer protection law with protection against misselling being provided via the operation of the consumer code and the application of consumer protection regulations. The DECC Oversight Body and the OFT are the lead enforcement agencies in this respect. Energy suppliers acting as Green Deal providers, where marketing and sales also concern energy tariffs, will also be bound by supply licence obligations enforced by Ofgem. At one level, this presents a complex picture for consumers which it will be important for the key agencies (DECC, OFT and Ofgem) to map clearly.

In other respects, the experience of cold calling and doorstep selling in the energy supply market has been that, while it has been an effective channel to reach a wide range of consumers, there have been problems with misselling which have resulted in consumer detriment and loss of trust. Five of the six largest suppliers have now suspended these activities. Ofgem is firmly of the view that strong safeguards are needed to protect against misselling. We have developed some suggested principles in relation to sales during the smart metering installation visit in response to DECC's proposals in this area (see attachment). We invite the DECC Green Deal programme to consider these for the consumer code to strengthen further the protection this can offer.

Misselling can have a damaging effect on consumer confidence in energy efficiency measures and in the wider development of the energy retail market which Ofgem's RMR proposals seek to promote. Ofgem therefore has a clear interest in seeing the Green Deal market develop in a way that is not susceptible to misselling.

Securing redress for consumers

DECC proposes that the existing Energy Ombudsman will be able to investigate certain disputes between Green Deal providers and domestic Green Deal bill payers and report to the Secretary of State on whether a compliance failure has occurred. The Secretary of State will determine whether any such failure has occurred and any sanctions.

We understand that DECC's longer term policy aim is to delegate the power to secure redress to an energy ombudsman function. In the longer term this provides a simpler route to redress and avoids consumer confusion. We will work with DECC to deliver the arrangements for the longer term, which could include a role for Ofgem to approve the scheme. In the short term, it is important that the arrangements enable appropriate governance and funding of the ombudsman service in a way that does not conflict with existing obligations to resolve gas and electricity supply disputes. We also recommend that DECC extends the scope of its planned scheme to include disputes in respect of Green Deal services to micro business consumers.

The ECO and low income customers

Given the scale of the ECO, it is important that consideration is given to the way that the costs are apportioned between consumers. We welcome the consideration being given to a sales volume target setting model and would emphasise that there is a need to apportion the costs of programmes such as ECO in the most equitable manner possible. To that end we fully support changing the allocation of targets for suppliers from customer numbers to a per kWh supplied model. We consider that this would lead to a more equitable allocation of scheme costs particularly for low income households and the fuel poor.

We note that the Carbon Saving Obligation (CSO) will be aimed primarily at installing solid wall insulation while the Affordable Warmth Obligation (AWO) targets other measures at lower income households. It may be that the CSO will be dominated by households that secure partial funding via the Green Deal, because ECO suppliers will still receive 100% of the savings. As DECC acknowledges in the consultation, customers who utilise the Green Deal are less likely to be on low incomes. It also seems likely that the AWO could be dominated by cavity wall and loft insulation, because they are less costly measures than solid wall insulation but yield similarly high savings.

On this basis there appears to be a risk that low income households in solid-walled properties will be excluded from the ECO. Ofgem would welcome inclusion of a sub-obligation for low income households within the CSO to ensure that part of it is directed towards customers on low incomes, though we would also urge DECC to consider instead the merits of a SWI sub-obligation within the AWO, as we believe this would ensure greater access to ECO-funding for low income households in solid-walled properties.

Governance issues

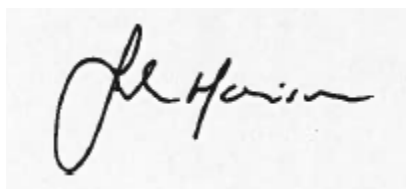
Green Deal Arrangements Agreement (GDAA)

We understand that suppliers will be required by licences to be a party to and comply with the GDAA such that Ofgem has a potential enforcement role against suppliers in breach of obligations in the GDAA. The draft GDAA includes a stand-alone disputes resolution mechanism in which disputes between any parties to the GDAA may be referred firstly to representatives from the disputing parties and then to a Disputes Committee that can issue binding decisions (save where either of the parties subsequently refers the dispute to arbitration). Further clarity is needed over the interaction between the GDAA's disputes resolution mechanism and Ofgem enforcement action.

The process for changing the terms of GDAA could be modelled on existing energy industry codes arrangements. The GDAA could establish certain objectives against which any modification can be assessed. This would make clear and transparent to all market participants the basis for agreeing modifications, as well as giving guidance to decision-makers such as the Secretary of State or Ofgem. Such objectives could also determine the nature of the 'Priority Provisions' which cannot be modified without the prior written consent of the Authority.

We look forward to discussing all these issues, and the detailed points in the annex to this letter, with DECC and other stakeholders.

Yours sincerely



Sarah Harrison
Senior Partner, Sustainable Development

Enc.

Extract from Ofgem's response to DECC's consultation on draft licence conditions for a code of practice for the installation of smart electricity and gas meters, 30 November 2011

Commercial activity during the installation visit

Effective customer safeguards and competition are crucial in helping to increase consumer engagement, enabling consumers to realise the full benefits of a competitive energy market. The installation visit will present a unique opportunity to engage consumers - but there is a need to strike a balance with ensuring that effective consumer safeguards are in place, particularly for vulnerable consumers.

Rules around sales and face-to-face marketing activities during the installation visit should be designed to ensure that consumers have a positive experience of the installation process; are protected from mis-selling; and are empowered to access the benefits offered by smart metering. Retaining consumer confidence in the installation process will help suppliers achieve the high access rates that are essential if consumers and industry are to make the most of the benefits offered by smart metering. It would be undermining and damaging if the smart metering installation visit became a vehicle for the types of undesirable sales practices we have previously seen in some door-step selling.

With this in mind, we support the principle that robust restrictions should be placed on sales and face-to-face marketing activity during the installation visit.

Requiring prior consent from consumers before any sales or face-to-face marketing can take place during the installation visit will provide a degree of protection for consumers. There may, however, be other mechanisms that can provide the necessary consumer protection without requiring written consent.

In Ofgem's view, any mechanism for obtaining consent from consumers for sales and face-to-face marketing should meet a number of objectives. These objectives are the same whether that consent is gained in written form or otherwise. These include ensuring that:

- No sales or face-to-face marketing may take place unless the consumer has made a positive decision to receive sales or face-to-face marketing;
- Customers understand in advance that they have no obligation to receive sales or face-to-face marketing during the installation visit;
- Customers can make genuinely informed choices about whether to receive sales or face-to-face marketing, including receiving all relevant information and sufficient time to make such a choice;
- Customers are not pressurised into receiving sales or face-to-face marketing at any time;
- Suppliers maintain a clear, auditable trail of any mechanism they use to seek permission from a customer to engage in sales or face-to-face marketing and;
- The potential impacts on effective competition are fully considered when evaluating different mechanisms.

A mechanism for obtaining consumers' consent that meets these objectives could be expected to provide suitable consumer protection. We look forward to engaging with DECC further in this area.

Annex: DECC's Green Deal and ECO consultation questions

In answering these questions Ofgem has drawn not only on its experience as regulator of the energy market, which includes specific duties towards vulnerable consumers, but also on our role as administrator of energy efficiency programmes on behalf of the Government.

Chapter 1: Assessment

Question 1

Do you feel the proposed requirements on Green Deal assessors set out in the main body and at Annex A of the Code of Practice are clear and robust enough to support the Green Deal assessment?

DECC proposes that assessors can be employed or sub-contracted by Green Deal providers and that they may perform the dual roles of providing independent GD assessment and marketing and selling Green Deal measures, as well as other services and products. From our perspective, where the Green Deal provider is an energy supplier, we would be concerned if the assessor skewed its recommendations towards that company's energy tariffs and customers were dissuaded from seeking alternative quotes, since there could be potential to distort competition in the energy market. We have developed some suggested principles in relation to sales during the smart metering installation visit in response to DECC's proposals in this area. We invite the DECC Green Deal programme to consider these for the consumer code to strengthen further the protection this can offer.

Chapter 2: Measures, products and systems

Question 11

Please provide views on the potential inclusion of hard-to-treat cavities (and potentially other measures of a similar type), and proposals for how properties might be accommodated in the ECO without excessive complication or perverse consequences.

Ofgem's experience from administering CESP and (to a lesser degree) CERT is that there are a significant number of hard-to-treat cavities in Britain and that they can be prohibitively expensive to insulate effectively for a typical householder, and in that respect are similar to solid wall insulation (SWI). Whilst hard-to-treat cavities can be complex to evaluate, we recommend their inclusion under the CSO. Otherwise a large number of people with inefficient homes (some of whom may be in, or at risk of, fuel poverty), who are unable to fully fund improvements through the Green Deal, would effectively be excluded from the CSO element of ECO.

We agree that non-typical cavity wall insulation (CWI) or combined CWI/SWI installations will increase complexity when assessing carbon savings and this should be discussed in-depth with UKAS-accredited certification bodies to establish a suitable scoring mechanism. Nevertheless, under the Green Deal the savings from hard-to-treat cavities will need to be calculated anyway, in order to assess compliance with the Golden Rule. Therefore we do not think that complexity in itself should be a reason to exclude them from ECO. DECC may wish to consider classing hard-to-treat cavities separately to SWI and normal CWI because of the additional technical demands on materials, installers and the guarantee system (i.e. potentially utilising both CIGA and SWIGA).

DECC should also consider how to deal with hybrid properties with some cavity walls and some solid walls. As the number of insulated homes increases, hybrid properties are

gradually forming a higher percentage of the remaining uninsulated housing stock. This is discussed further in our response to Q13.

Regarding the need to avoid SWI being used on properties where CWI would have been more cost effective, installer accreditation and the introduction of SWIGA should help ensure that the most effective route is pursued. We are aware, through the administration of the CERT and CESP programmes, that there are viable applications of solid wall insulation on non-solid walled structures. We recommend that the definition of SWI is not legally restricted to solid walls, for example to allow its use on hard-to-treat cavities. We also recommend allowing park homes and similar structures to receive 'whole system' installations where SWI is used on walls, floor and roof.

We understand that a further complication is that park homes (and other property types) will i) be ineligible for the Green Deal where they do not have electricity meters and ii) sometimes may not be suited to an EPC and so present scoring problems under the ECO. We would urge Government to ensure there is appropriate flexibility in the arrangements to enable treatment of exceptional property types such as these. It will also be important, of course, to monitor the take up of CWI and loft insulation in the Green Deal and the AWO to see if its ambitions for these measures are being achieved.

Question 12

We propose that the ECO Carbon Saving obligation should be achieved primarily by promoting and installing solid wall insulation. Should any other measures be supported, and how would these be defined?

Prescribing specific solutions always carries the risk of preventing the market from delivering a more efficient outcome, and/or precluding the adoption of new, and better, measures made possible through innovation and technological development. Similarly, our experience in administering Government energy efficiency programmes leads us to recommend that the CSO should not be restricted to a single measure. As well as hard-to-treat cavities (see Q11), fuel switching could also be included as it too is costly yet results in significant carbon savings. Energy suppliers are exploring using flat roof insulation under CERT but we have little information on cost or availability. However, significant carbon savings appear to be available so this may also be a suitable measure for the CSO (though if flat roofs were allowed, consideration would need to be given as to whether to include hybrid-roofed properties).

Question 13

For the ECO carbon saving obligation, we propose that any other carbon saving measures should only be eligible when delivered as part of a package with solid wall insulation. Do you have any suggestions for the criteria by which eligibility within packages should be restricted, explaining why you think any such restrictions should be included?

We agree with the proposal to enable additional measures to be installed in conjunction with SWI, including the 6 months rule. Not only would it encourage householders to take a holistic approach to home energy efficiency, but it would also presumably increase compatibility with the Green Deal, under which suites of measures can be bundled together. However, based on our experience administering the CERT and CESP programmes, there are three areas where we would urge caution:

- we have concerns about how the rule for "fixed" products could be gamed. Assessing whether an improvement is "fixed" could be difficult, and could incentivise manufacturers to produce products that are rigidly fixed to a property or system for no other reason than to gain ECO CSO accreditation.

- the government should be explicit in the legislation whether its intention is to reduce heat loss in space heating systems, or whether to include measures that reduce heat loss in water heating systems as well. There is a wide range of products on the market that are in this latter category and it is important that manufacturers, suppliers and the administrator are clear from the outset whether they are eligible.
- we agree that there should be a minimum level of solid wall insulation installed that would enable additional products to be eligible under the CSO. However, we think the current wording in the consultation (that “the solid wall insulation must improve at least 50% of the exterior walls of the property which at the time of the installation are capable of receiving such treatment”) could be ‘gamed’. Take as an example a property that has one third external solid walls and two thirds cavity (either filled or unfilled). It appears that a supplier could install the SWI, ignore the cavities and still meet the condition in the consultation. We believe the Government should ensure the rules are designed to cover hybrid-walled properties.

Question 14

We propose that *any measure* should be allowed under the Affordable Warmth obligation, provided it allows eligible households to heat homes more affordably. If you disagree, or feel there are risks to this approach, please explain and set out any restrictions you believe should be put in place.

Ofgem supports this proposal because it will enable the obligation to be delivered more flexibly and at reduced cost (though see Q13 on ‘fixed’ measures and hot water heating). The definition of “allows eligible households to heat homes more affordably” will need to be developed in a way to ensure the policy delivers the outcomes the Government desires.

Question 15

Do you have any suggestions for whether and how we should score, boiler repairs under the Affordable Warmth obligation, such that where repairs are more cost-effective than replacement systems, without significant impact on efficiency, these can be promoted?

Ideally where a boiler was below a certain energy efficiency rating it should be replaced with a new energy efficient boiler, as this would result in greater carbon savings. However, we can understand the economic logic of allowing a cheaper repair to be carried out instead. Certainly, if boiler repairs are deemed eligible they should be restricted to the AWO element of ECO, as the net impact on carbon emissions may not meet the intention of the CSO.

We note that assigning a score to a boiler repair could be complicated and open to interpretation, as not all repairs will necessarily have a direct impact on energy consumption. For example, some suppliers could try to class annual inspections as repairs and thus game the system. There also may be a danger that this measure will prove so cost-effective that the AWO will become dominated by boiler repairs.

We are also concerned that there may be little ‘additionality’ in enabling subsidies for boiler repairs because in many cases homeowners would have funded the repairs themselves.

Chapter 5: Delivering equitable support and tackling fuel poverty through the Green Deal and ECO

Question 31

Do you agree that eligibility for Affordable Warmth measures should be restricted to households who are in receipt of the benefits and tax credits similar to the CERT Super Priority Group and who are in private housing tenures?

We support Government's desire to ensure that assistance under ECO is targeted to those in most need. In recognition of government's commitment to eradicating fuel poverty as far as is reasonably practicable in England by 2016 (and with similar targets in Scotland, Northern Ireland and Wales), it is important that government assigns eligibility for affordable warmth measures in line with those most in need and likely to be in fuel poverty.

It is often challenging to effectively identify and target the fuel poor for assistance. Energy suppliers undertake a variety of initiatives to identify and target their vulnerable customers, but it will also be particularly important that government is able to help in correctly identifying those consumers who are fuel poor and driving the take-up of these measures by those they are designed to assist. For example, to assist energy suppliers identify SPG customers under CERT, DWP is writing to people who receive applicable benefits to make them aware of the opportunities that may be available to them under the programme. It will be important for the Government to track the uptake of energy efficiency measures under this initiative to inform its view on ECO. We would encourage Government to continue running the DWP data-matching exercise to identify those who are most in need of assistance.

Question 32

We propose seeking a voluntary agreement with ECO obligated companies as to how they commit to following up referrals. Do you have any suggestions as to what this commitment should consist of?

We support the idea of a referrals system to support the delivery of ECO Affordable Warmth, particularly given the difficulties suppliers are facing in identifying Super Priority Group customers under CERT. However, such a system would need to be designed carefully to ensure competitiveness is not undermined. In particular, any commitment between ECO obliged energy companies as to how they follow up referrals should ensure that energy suppliers cannot discriminate against customers that have contracted their energy supply with a competitor, especially those customers supplied by energy companies that do not have an ECO obligation. In this direction, we support the idea of requiring all suppliers to deliver a minimum standard service to all those households to whom they were alerted by the referral system. We also consider that all ECO obliged suppliers should be fairly represented in the referral system. We recommend comparison with normalisation procedures that already exist for the FIT and WHD schemes.

Question 33

Do you have any evidence or views to put forward on whether the benefits of ECO as a whole, or of the carbon saving obligation within it, are or are not likely to be distributed equitably to all income groups? If so do you think regulatory intervention is necessary to ensure a more equitable pattern of delivery and, in particular, do you have any comments on the likely effectiveness of setting a 'distributional safeguard' as a means of achieving this?

The primary intention of the CSO is to target hard-to-treat properties, and the AW to target lower income households. We consider that it is important to ask whether lower income

households residing in hard-to-treat properties will be effectively targeted under either obligation. There seems to be a distinct possibility that the CSO will become dominated by households that secure partial funding via Green Deal, because ECO suppliers will still receive 100% of the savings. As acknowledged in the consultation, customers who utilise the Green Deal are less likely to be on low incomes. It also seems likely that the AW could be dominated by CWI and LI because they are less costly measures than SWI yet yield similarly high savings.

Therefore there does appear to be a significant risk that low income households in hard-to-treat properties will be excluded from ECO unless there is further intervention. The consultation proposes having a sub-obligation for low income households within the CSO. We support this to an extent however we are still concerned that there may be some low income customers in hard-to-treat homes who are missed out entirely, because (as noted in the consultation) some low income households may not feel comfortable taking on a Green Deal package and therefore will not initiate engagement with a Green Deal assessor.

It may be worth considering having a sub-obligation within the AWO for SWI/hard-to-treat cavities instead (and adjusting the size of the obligation accordingly). Firstly this would ensure some low income households will receive 100% subsidy for SWI. Secondly, it would align customers who would benefit most from lower energy bills to an obligation that is measured in terms of cost (and not energy) savings.

Chapter 8: Payment collection

Question 42

Do you agree with our proposed debt thresholds? If not, please suggest alternative thresholds with appropriate supporting evidence.

While recognising the need to ensure that the risk placed on Green Deal Providers is minimised, it is also important to ensure that customers are not unfairly restricted in their access to Green Deal and the opportunities it may afford. If a customer is struggling to pay or in debt with their energy bills, the opportunity provided under Green Deal could enable them to reduce their energy consumption and hence energy costs.

Given that under the 'Golden Rule' any charges under Green Deal must be less than the expected savings, for a customer in debt, Green Deal may enable them to hold down their energy bills, even as energy prices continue to rise and, in the longer term, provide them with a sustainable solution to ease them out of the debt cycle. As such, it is important that those in debt are not unduly excluded from Green Deal.

Ofgem published data in December as part of our Ofgem's quarterly Social Obligations monitoring¹ which indicated that the average debt per customer in Q2 2011 was £318 for electricity and £316 for gas. This data also showed that 14% of electricity customers and 13% of gas customers have debts between £300 and £600. 15% of electricity and 14% of gas customers have debts of over £600. Whilst these figures represent an average, on the basis of the data, it is likely that a significant proportion of customers in debt would currently exceed the proposed threshold and be unable to access Green Deal finance. It is important that any threshold set is researched and evidenced fully to understand the effects on how, and to what extent, it may exclude those customers in debt.

¹<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=84&refer=Sustainability/SocAction/Monitoring/SoObMonitor>. Data for the third quarter of 2011 will be published shortly.

Question 47

Do you have an alternative suggestion for reducing the burden on smaller suppliers that would not lead to a potential reduction in the number of electricity suppliers available to Green Deal customers?

DECC is proposing that small suppliers with less than 250,000 customers can decide whether or not to participate in the Green Deal. We understand and appreciate the motivation behind this, which is to enable smaller suppliers to avoid the regulatory burdens and costs that go with Green Deal payment collection. However, DECC is also proposing that Green Deal consumers will not be able to switch to suppliers that have not opted-in (unless they immediately repay their Green Deal in full). Equally, customers remaining with a supplier that has not opted-in will be unable to participate in the Green Deal.

Our concern is with how these restrictions impact over the longer term on the capacity for switching, the scope for smaller suppliers to develop in the market and the opportunity for new entry. The Green Deal itself provides an important opportunity for new market entry and service development and Ofgem believes it is essential that DECC puts in place arrangements for monitoring the impacts of these restrictions on overall market development. Ofgem will continue its own market surveillance work including in its capacity as a National Regulatory Authority (NRA) in the EU with objectives that include "promoting a competitive internal market...and effective market opening for all customers and suppliers".

Question 50

Do you agree with retaining the existing £200 arrears limit (including Green Deal repayment arrears) for prepayment customers with a Green Deal plan? If not, please suggest an alternative limit with appropriate supporting evidence.

At present, suppliers can object to customers switching if they are in debt. However, in order to promote switching by prepayment meter customers, they may switch if the debt on their energy charges is less than £200. DECC has proposed that this £200 threshold should include Green Deal as well as energy arrears. Notwithstanding the Golden Rule, we believe this risks having a negative impact on switching as Green Deal customers may accrue debt more quickly due to the fixed nature of the Green Deal component, and reduced capacity for consumers to reduce overall costs through demand reduction. We are also concerned that vulnerable customers may be disproportionately impacted. We would not therefore support any de facto reduction in the limit for energy arrears.

We are already considering whether the £200 threshold should be raised so as to avoid a negative impact on vulnerable customers and on switching rates in the electricity market. Quarterly data collected by Ofgem on use of the Debt Assignment Protocol (DAP) by the six major suppliers indicates extremely low levels of use and switching rates under the Debt Assignment Protocol. Ofgem is currently commissioning research to understand better the barriers to consumer switching via the DAP and whether PPM customers believe the current level of £200 for switching with debt is appropriate. Consistent with our new duties under the Third Package, we are also considering whether the threshold should be extended to all payment types. We look forward to engaging with DECC on these issues over the next few months once our analysis is complete.

Chapter 9: Delivering Green Deal and ECO

Question 51

Do you agree that stipulating strict regulatory quotas for partnering with specific types/numbers of third party delivery agents might be unduly burdensome, and

the development of a brokerage model may be a more effective means of achieving the desired outcome?

We believe that the ECO needs be delivered as efficiently as possible, to reduce the costs passed on to energy customers. It is also important that such measures do not negatively impact competitive pressures within the energy market. We agree with DECC that

- energy suppliers with ECO obligations could exercise a substantial influence over the Green Deal market, particularly if they use ECO funding to a large extent to fund their own internal Green Deal activity or that of a small number of Green Deal providers
- there is a need to ensure that suppliers make a significant proportion of their ECO funding available to other Green Deal participants that can commit to delivering cost-effectively
- imposing a quota system to channel part of supplier's carbon obligation would be unduly burdensome and difficult to regulate.

A brokerage model is therefore preferable, though it would of course need to be carefully designed.

Question 52

Do you agree that it is desirable that energy suppliers should have to fulfil some or the entire (carbon) obligation by spending money promoting measures through those organisations who are able to provide the most cost effective delivery options?

Any trading mechanism should ensure that small Green Deal providers are assured fair access. Ofgem supports a blind trading mechanism for a portion of the CSO to ensure that smaller Green Deal providers are assured a share of the market (as long as they are able to compete on cost). This will ensure the ECO is delivered at lower cost. We would not recommend that this is mandated for suppliers' entire obligations because, as pointed out in the consultation, suppliers should be able to form delivery partnerships with Green Deal providers and other companies.

Question 53

Do you agree that we should seek a firm commitment from the ECO suppliers that they will use brokerage for a defined and significant percentage (e.g. 50%) of their obligation? If so, what level do you consider this should be?

We agree that ECO suppliers should commit a significant proportion of their obligation through the brokerage in order to encourage competition in the Green Deal market. We do not recommend that this is mandated for suppliers' entire obligations as suppliers should be free to form partnerships with Green Deal providers and other companies. However, it is difficult to judge what level of commitment is appropriate at the beginning of the programme when the market will be in its infancy. If the specified proportion is higher than the number of jobs created by Green Deal participants, a lack of supply could reduce delivery and inflate costs, which would be borne by consumers. A gradual increase in the commitment from a low starting point might therefore be best over the first few years of the obligation.

Question 54

Do you have any further comments on the detailed design of a brokerage, or any alternative mechanism that ensures the most cost effective delivery?

In determining the percentage to be channelled through the brokerage mechanism, we recommend that DECC take into account the following issues:

- any trading mechanism should ensure that small Green Deal providers are assured fair access and should be designed to maximise the cost-effectiveness of the measures promoted under the CSO.
- in principle, with quality assured through the Green Deal regulatory framework, a brokerage mechanism with anonymous bids and offers could encourage Green Deal providers to compete on price.

This is an untested market so it is important that the brokerage design is sufficiently flexible to enable the Government to intervene if it becomes clear that it is not operating efficiently. Only the ECO supplier is obligated to make savings, and if demand outstrips supply it will lead to inflated costs for the energy suppliers, which will be passed on to their customers. The risk of this happening will be accentuated near the interim and final target deadlines.

Chapter 10: Consumer protection

Question 55

Do you agree that the Energy Ombudsman should have a role in helping customers secure redress in the Green Deal? If yes, what further powers will the Energy Ombudsman need to investigate compliance by Green Deal Providers and householders? If no, please explain why not.

The Energy Ombudsman scheme in the energy sector provides domestic and micro-business customers with an assurance that their complaint can be dealt with by an independent body with the power to make binding decisions on participating companies. It plays an important role in facilitating the resolution of disputes between energy suppliers and their customers.

Ofgem has a specific statutory role in relation to the existing energy ombudsman scheme, namely to approve or withdraw approval for the scheme. This role is set out sections 49 to 52 of the Consumer Estate Agents and Redress Act 2007. This statutory framework does not allow Ofgem to approve or withdraw approval from an ombudsman scheme covering Green Deal matters.

The role proposed for the Energy Ombudsman in relation to Green Deal disputes in this respect will be different. It will not make binding decisions but will report to the Secretary of State on whether a compliance failure has occurred. The Secretary of State in turn has the power to make decisions on breach and to determine sanctions. We understand that DECC's longer term policy aim is to delegate the power to secure redress to an energy ombudsman function. In the longer term this provides a simpler route to redress and avoids consumer confusion. We will work with DECC to deliver the arrangements for the longer term, which will include a role for Ofgem to approve the scheme.

In the short term it is important that consumers are clear about what the ombudsman service can and cannot do and the extent to which it differs from the existing Energy Ombudsman Service with which they may be familiar. It will also be important that the arrangements enable appropriate governance and funding of the ombudsman service in a way that does not conflict with existing obligations to resolve gas and electricity supply disputes. We also recommend that DECC extends the scope of its planned scheme to include disputes in respect of Green Deal services to smaller business consumers.

Chapter 11: Setting the ECO and target metrics

Question 58

The division of the overall ECO between energy companies could be based on share of customer accounts, or sales volume. Do you have a preference as to which metric should be preferred, taking into account possible impacts on distributional equity? Please provide evidence for your views.

Given the scale of the ECO, it is important that consideration is given to the way that the costs are apportioned between consumers. We welcome the consideration being given to a sales volume target setting model and would emphasise our view that there is a need to apportion the costs of programmes such as ECO in the most equitable manner possible.

In order to ensure that targets are as progressive as possible, Ofgem fully supports changing the allocation of targets for suppliers from customer numbers to a per kWh supplied model. We consider that this would lead to a more equitable allocation of scheme costs particularly for low income households and the fuel poor. In July 2009, Ofgem published a discussion paper² which looked at how charges could be structured to minimise the regressive effects and provide a stronger incentive for energy efficiency. Basing the structure of the obligation on customer numbers could be regressive since energy bills represent a higher proportion of expenditure for low income than better off households.

As part of Ofgem's RMR tariff simplification work we are considering whether the standing charges for our proposed standard evergreen tariffs should have a narrow or wide definition. If the standing charge has a wide definition it could include environmental programmes, which would include the ECO if the target is based upon the share of customer accounts. If the ECO target is apportioned upon sales volume, then we would expect suppliers to collect the costs through the unit rate.

We recognise that there are some consumers who are on low incomes and are also high users. Last year we commissioned research by the Centre for Sustainable Energy³ which identified that around 1.22m low income households have above average combined gas and electricity consumption. The characteristics of low income/high use consumers are a mix of tenure, household size and makeup and whether they are heated by electricity or are off the gas grid. Electricity-only homes in this group are generally houses without a gas supply and reliant on electricity for heating, or larger properties, or both. Occupants are generally older though young adults living in social rented electrically heated flats, with children may also be included. Gas and gas-and-electrically homes are dominated by larger properties with retired owner occupiers. We believe that it would be most equitable to set the ECO target on sales volume and that DECC should consider how best to ensure that low income/high use consumers may access and benefit from the programme.

Question 59

We propose that savings calculated through the SAP-based Green Deal Assessment methodology be used as the basis for ECO targets and scoring. Can you envisage any undesirable or inadvertent effects that this approach might result in? If so, please provide details and evidence.

We are not aware of any suitable alternatives to using the SAP-based methodology. We believe that ECO can be delivered more efficiently in conjunction with the Green Deal if both programmes utilise the same assessment methodology.

² <http://www.ofgem.gov.uk/Sustainability/Documents1/Final%20discussion%20paper%2022%20July.pdf>

³ <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=43&refer=Sustainability/Cp/CF>.

Question 60

Should targets and scores for the Carbon Obligation and/or the Affordable Warmth Obligation be expressed on the basis of the annualised savings of measures or the lifetime savings?

Under CERT and CESP, products and measures are scored according to lifetime savings. This provides an incentive to manufacturers to maximise product durability. This isn't purely theoretical – we have extensive experience under CERT and CESP dealing with manufacturers who seek to prove the extended lifetime their products can achieve, so that they can be awarded a higher carbon saving score.

We are concerned that if products are scored based on annual savings, the market will be distorted in favour of manufacturers who produce cheaper, less-durable products that achieve high carbon savings in the first few years but will then need to be replaced. We therefore feel strongly that lifetime savings scores are used under ECO, despite the inherent complexities of awarding lifetime scores to measures.

The consultation states that "lifetime versus annual savings is less of a concern for the CO2 target, as all measures would have similarly long lifetimes". However, we understand that a suite of measures will be eligible for the first six months after SWI is installed, presumably including measures with shorter expected lifetimes. On a related issue, as ECO will last much longer than previous government domestic energy efficiency programmes, potentially some products will have lifetimes that are shorter than the length of the programme. We believe the Government should consider whether a single household will be able to receive the same measure more than once.

Chapter 12: Green Deal monitoring and evaluation and ECO administration

Question 62

Should DECC be responsible for administering the ECO, with technical functions outsourced to the private sector, or should Ofgem administer the scheme? Please provide evidence to support your views.

Ofgem is responding separately to DECC on this matter. However, Ofgem notes that under CERT and CESP we already outsource various technical functions to the private sector.