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The Renewable Energy Company Ltd (Ecotricity) response to consultation on Ofgem's proposal to make a market investigation reference in respect of the supply and acquisition of energy in Great Britain

Dear Maxine Frerk,

Ecotricity is an independent British renewable energy generator and supplier with over 110,000 customer accounts and 61.5MW of renewable capacity. The power we supply is 100% renewable and we pride ourselves in the professional, transparent and personalised customer service that we offer, which is consistently recognised by customers and third party surveys.

We welcome the proposal from Ofgem to refer the energy industry to the Competition and Markets Authority (CMA) as we believe that there are areas of the market which need fixing.

We urge the CMA to focus its attention on:

The complex issue of separating the generation and supply arms of energy companies. The British energy market is dominated by a few large players whose large baseload generation capacity is vertically integrated with a supply arm. These arrangements stifle competition and should be challenged. However, it is our view that competition is facilitated if intermittent, less predictable generation is allowed to be supported by a supply arm. We expand on this point in our response below.

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The credit and collateral required for trading in the energy market: This is a significant barrier to entry to the market, exposing smaller generators to increased risk and reduced capital available for growth. It is vital that the CMA develop alternatives to the current credit lodging processes. With respect to network charges, we propose a system of DUoS mutualisation.

The barriers to customer engagement which reduce competition in the market: Certain industry and regulatory processes discourage consumer engagement. These include the process of switching supplier; and elements of the recent RMR reforms which, despite having been introduced to improve consumer engagement, restrict the ability for suppliers to differentiate their offering to customers. With regard to switching, we propose that the CMA remove the rights of a supplier to object to a switch.

Our full response to Ofgem's state of the market assessment and proposals for a referral are set out below. For ease of reference we have grouped our comments under the headings provided in Ofgem's proposal as features of the market which prevent, restrict or distort competition.

Weak customer response

We agree that customer trust is low, and that the ability of recent RMR reforms to adequately build trust and improve consumer engagement is limited.

The speed, or lack of it, in switching and the fact the suppliers can object to a switch impacts on customer engagement and trust. We propose that suppliers should not be allowed to prevent a customer from switching when that customer is in debt. Suppliers should be forced to pursue debt recovery by the usual business means rather than preventing the switch. This would allow a much smoother switching process and improve consumer engagement. Implementation of this policy will be as much of an operational issue for Ecotricity as it will for other suppliers, but we believe it is essential in tackling low customer engagement.

Targeted policies, not 'one-size fits all'

The Regulator's approach of treating all suppliers the same and with a perpetual focus on price, rather than innovation and customer service, has had the effect of damaging consumer trust in the whole industry, rather than just in the culprits. Small suppliers, who do not have the economies of scale of larger companies, are forced to focus on price and additional compliance requirements rather than innovating and building trust.

Likewise, the Regulator's approach of treating all consumers in the same way does not allow for needs of vulnerable/sticky customers. Often one in the same, vulnerable and sticky customers must be targeted directly by the Regulator. Taking a 'one-size fits all' approach to the licence conditions, as has been done with RMR, will never achieve the desired outcomes for these groups of customers. In the case of vulnerable customers, we believe that there is scope for Government to subsidise their supply or at the very least require suppliers to always place them on the cheapest tariff.

RMR

One of the effects of recent RMR reforms has been to erode supplier's opportunity to differentiate themselves in communication with customers. This in itself is anti-competitive, but also makes it difficult to counter the negative media image of energy suppliers and present an alternative. As a company, Ecotricity has always sought clarity and simplicity in its communications with customers; the highly prescriptive information requirements reduce our ability to do this.

Vertical Integration

We recognise the benefits and inherent risks of vertical integration (VI). In Great Britain the Big 6 dominate the energy market with supply arms integrated to their large baseload generation capacity. VI in these circumstances, where large volumes can significantly affect market is unarguably anti-competitive and should be challenged; it undermines transparency, facilitates multinational transfer pricing (moving profit between different arms of company) and reduces liquidity.

The counter to this, however, is that VI within the intermittent, smaller scale, less predictable generation side of the industry improves competition, supports market entry & expansion and promotes energy security. VI in this context should therefore be supported.

In addition, we urge the CMA to consider the particular concerns of the intermittent and renewable sector:

- Raising finance for renewable projects can be difficult, particularly in times of political change and therefore having a supply arm secures a route to market, which reduces risks for investors, making obtaining finance easier; and
- Intermittent generation needs to be balanced by within-day trading, which means that generators cannot sell specific blocks of power at a given time and can therefore only guarantee their income through VI or a power purchase agreement.

Incumbency advantage & tacit coordination

It is obvious that the Big 6 will want to retain their incumbent customer base and advantage; no supplier wants to lose customers. The Regulator will need to work harder to deal with the incumbency advantage of the Big 6. We suggest that removing a supplier's ability to object to customer switches, as suggested earlier under 'Weak Customer Response', will take great strides towards reducing the incumbency advantage.

We have no direct experience of tacit coordination but can believe that it happens amongst the Big 6 and we wait to hear CMA's opinion on how they plan to deal with it.

Barriers to entry

For a small supplier there are numerous deterrents to joining the energy market.

Credit and Collateral:

Smaller suppliers require significant amounts of credit and collateral to trade, which is lodged in the form of cash. This can be millions of pounds at peak in winter. A lack of

available credit inhibits a supplier's ability to trade, exposes us to risk and reduces the cash available for growth. This is a particular problem for independent suppliers who, unlike the Big 6, do not have the option of a credit rating instead of cash collateral.

The Electricity Market Reform requirements will increase the collateralization of the market, due to the levies payable. For a small supplier the uncertainty around our cost base due to new levies represents an increased business risk and will make it more difficult to secure the necessary credit.

We have noticed some minor positive effects on available credit following the recent liquidity Secure and Promote reforms. We are, however, continuing to monitor the effects of these reforms as we cannot be certain that they are long term or significant. We do, therefore, believe that alternatives to credit/collateral issues need to be found in order to encourage competition.

One area where we see a solution is in DUoS. As an alternative to lodging credit, we propose that charges made by suppliers with fewer than 500,000 customers, should, in the event of a supplier default, be mutualised across the industry. At this point there would be a requirement for electricity suppliers to make payment according to their market share to the authority managing the mutualisation. We believe that this would improve the credit/cash flow options for smaller/new market entrants thereby improving competition.

Stealth taxation:

We believe that the current practice of raising funds from suppliers via schemes such as Feed in Tariff levelisation, the Renewable Obligation, the Energy Company Obligation, the Warm Home Discount and the future Supplier Obligations for Contracts for Difference and the Capacity Market is a regressive stealth tax. The funds for green power, social benefits, security of supply and energy efficiency measures should be collected through general taxation rather than from electricity suppliers, because they are general public goods.

Collecting these 'taxes' from suppliers creates a barrier to entry and growth for small suppliers because of the increased financial pressures they create. Such taxes present an additional regulatory risk and degrade customer trust as suppliers are blamed for passing on these costs to customer in their bills.

Politics:

The industry is used as a political tool, being required to respond to policy change, often at short notice. This only shows the Government's, and sometimes the Regulator's, lack of understanding of the time & costs involved with implementing policy; take as an example the recent requirement to deliver the Government's £12 electricity rebate. The requirement to respond to policy matters in this way is a barrier to entry, growth and expansion and takes companies away from their primary purpose. In addition suppliers become tarred with failure for delivery of bad government policy, further degrading customer trust.

Cost of compliance:

The cost of compliance is the same across the industry regardless of the size of organisation and therefore, larger suppliers, with their incumbent customer base, have a competitive advantage through economies of scale

Conclusions

Ecotricity supports Ofgem's referral of the British energy market to the CMA.

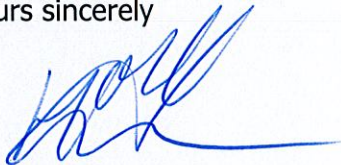
We support any measures which address the complexities of vertical integration in a way that improves liquidity in the market and increases transparency, but which protects the ability of smaller parties to participate in the market.

We propose DUoS mutualisation as one approach to improving the credit/collateral issues facing smaller players in the industry, but urge the CMA to offer additional solutions to this problem.

We would support any proposals from CMA which facilitate innovation in the market and encourage suppliers to differentiate themselves. In addition, we propose that the CMA remove the rights of a supplier to object to a switch which in our view would increase switching and improve customer engagement.

Ecotricity welcomes the opportunity to respond and hope you take our comments on board. We also welcome any further contact in response to this submission. Please contact Holly Tomlinson on 01453 769301 or holly.tomlinson@ecotricity.co.uk

Yours sincerely



Holly Tomlinson
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