

Protecting Domestic Consumers in the Green and Renewable Tariffs Market – Final Proposals

Consultation

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Contact: Natasha Smith

Team: Sustainable Energy

Tel: 020 7901 1821

Email: sustainable.energy@ofgem.gov.uk

Overview:

Ofgem is proposing policy changes for the green and renewable tariffs market to improve protection for domestic consumers. We are proposing new rules on how suppliers tell consumers about the environmental benefits of tariffs that include renewable electricity. If a tariff doesn't lead to environmental benefits, suppliers will need to make this clear too. Finally, suppliers will need to hold certain evidence to show that they have supplied renewable electricity. Our reforms will support our recent Retail Market Review to make the market simpler, clearer and fairer for consumers. Following our initial consultation published in December, we are now seeking views on our proposed changes to suppliers' licences to implement these changes. We expect to issue a statutory consultation later in the year.

Context

The way we generate our electricity is changing. By 2020, the government has committed to raising the renewable energy share of our overall energy consumption to 15 per cent. This could mean around 30 per cent of our electricity is generated from renewable sources in 2020. By 2030, the majority of the electricity produced in the UK is expected to come from low carbon sources. Government policies and support for renewable generators will help meet these targets.

Some consumers are interested in purchasing an electricity tariff that directly supports an environmental cause. However, it can often be difficult for consumers to understand the environmental claims made by different tariffs. As these tariffs do not always fulfil their expectations, we are proposing changes to protect consumers' interests.

Our proposals build on the Green Supply Guidelines¹ that we introduced into the market in 2009. They were developed in response to the complexity in the market and consumer confusion over tariff claims. They helped provide certainty to consumers that the product they were buying was delivering a positive environmental difference. The guidelines were implemented through a voluntary certification scheme, the "Green Energy Supply Certification Scheme" (GESCS) in 2010. Since its launch tariffs certified by the scheme have helped reduce carbon dioxide emissions by over 130,000 tonnes.

Since the introduction of the Guidelines and GESCS, the market has divided into tariffs certified by the scheme and those that were not. At present only one tariff in the market remains on the GESCS, whilst the majority of renewable tariffs are not certified. We reviewed the market and published a consultation on our initial proposals in December 2013.²

Ofgem's Retail Market Review³ (RMR) is making changes to improve Britain's energy market for the benefit of consumers. The RMR aims to increase consumer confidence and engagement in energy markets, and enable consumers to choose the deal that best suits them. Similarly, the proposals set out in this document aim to increase confidence and engagement in the retail energy market by creating a simpler, clearer and fairer market for green and renewable energy tariffs.

¹ <https://www.ofgem.gov.uk/ofgem-publications/57771/green-supply-guidelines-final-proposals-open-letter.pdf>

² <https://www.ofgem.gov.uk/ofgem-publications/84969/consultationonimprovingconsumerprotectioninthegreenandrenewableenergyoffersmarket.pdf>

³ <https://www.ofgem.gov.uk/publications-and-updates/retail-market-review-final-domestic-proposals>

Associated documents

Consultation on Improving Consumer Protection in the Green and Renewable Energy Offers Market, December 2013:

<https://www.ofgem.gov.uk/ofgem-publications/84969/consultationonimprovingconsumerprotectioninthegreenandrenewableenergyoffersmarket.pdf>

Insight Exchange, Perceptions of Green tariffs, December 2013:

<https://www.ofgem.gov.uk/ofgem-publications/84932/perceptionsofgreentariffs.pdf>

Big Sofa (formerly Insight Exchange), Consumer understanding of the green and renewable tariffs market, June 2014:

<https://www.ofgem.gov.uk/ofgem-publications/88451/gtmessagingsummaryfinal.pdf>

Green Supply Guidelines, February 2009:

<https://www.ofgem.gov.uk/ofgem-publications/57771/green-supply-guidelines-final-proposals-open-letter.pdf>

Ipsos MORI, Consumers' views of price comparison guides and tariff structure, September 2012:

<https://www.ofgem.gov.uk/ofgem-publications/39462/consumers-views-price-comparison-guides-and-tariff-structures.pdf>

The Retail Market Review - Final domestic proposals, March 2013:

<https://www.ofgem.gov.uk/publications-and-updates/retail-market-review-final-domestic-proposals>

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Executive Summary

What are we proposing?

We are proposing licence conditions that regulate all tariffs that make environmental claims based on the supply of renewable electricity. By “environmental claim” we mean a claim made in the course of marketing, billing, or other customer communication that says, or may lead a customer to believe, that choosing the particular tariff will deliver an environmental benefit based on the supply of renewable electricity.

Additionality

Our consumer research shows that when customers buy these tariffs they expect they are benefitting the environment by supporting renewable generation. We have called this “additionality”. We are not proposing rules about how we think suppliers should provide this environmental benefit. We propose introducing a requirement on suppliers to show that environmental benefits happen because consumers chose a tariff and not solely due to subsidies or supplier obligations. This is a complex area and in our consultation stakeholders had a wide range of views. This requirement will protect consumers but will allow suppliers flexibility and opportunities to innovate.

Transparency

To help consumers understand the market better, we propose asking suppliers to clearly say if a tariff does not offer any environmental benefit other than those that consumers already pay for through their energy bills or taxes. Most of our stakeholders support this, and our consumer research does too. Suppliers must also give consumers other information that means they can make informed decisions. We have provided additional guidance on how suppliers can meet our transparency principle.

Evidence of Supply

To avoid double selling of renewable energy to domestic consumers and business consumers, we are proposing that suppliers must hold Renewable Energy Guarantee of Origin certificates as well as retiring any associated Levy Exemption Certificates. Most of our stakeholders supported this proposal. Two suppliers disagreed.

Why is this needed?

We published Green Supply Guidelines in 2009 that were implemented through the voluntary “Green Energy Supply Certification Scheme”. Initially a number of suppliers were certified through this scheme. However, an increasing number of tariffs with environmental claims remain uncertified, and consumers are often unclear about the benefits of these tariffs. It is important Ofgem acts to protect them. We have spoken to stakeholders throughout the process, and have commissioned independent consumer research.

We want consumers to be able to make informed choices about the renewable tariffs they may buy. We also think that suppliers should be able to compete fairly with each other. This is in line with our wider work, such as the Retail Market Review.

1. What are the proposals and why?

What are we proposing?

1.1. We are proposing changes to electricity supply licences that affect environmental claims on tariffs that supply renewable electricity to domestic customers (see Appendix 3).⁴ “Environmental claim” means a claim made in the course of marketing, billing, or other customer communication that says, or may lead a customer to believe, that choosing the particular tariff is delivering an environmental benefit based on the supply of renewable electricity.

1.2. We are proposing three key principles that these tariffs will need to follow:

- **Additionality:** When consumers buy a tariff based on renewable supply, they expect that they are benefitting the environment by supporting renewable generation. Additionality means that this benefit happens as a direct result of the consumer buying the tariff, and not just because of subsidies or obligations. In order to encourage flexibility and innovation amongst suppliers we are not prescribing how to meet this principle.
- **Transparency:** Suppliers must be clear to consumers about the environmental claims they make about renewable tariffs. This includes publishing an annual report explaining how the tariff delivers additional environmental benefits. Suppliers need to clearly tell consumers if a renewable tariff doesn't offer additional environmental benefits.
- **Evidence of supply:** Suppliers must have evidence that verifies where the electricity supplied in the tariff comes from. This means that they must show they have enough Renewable Energy Guarantees of Origin certificates (GOs) and have retired any renewable Levy Exemption Certificates (LECs) to account for the renewable supply in the tariff.

Why are we changing it?

1.3. We think these policy changes will help consumers make more informed decisions about buying tariffs based on renewable supply. We are encouraging consistency across the market. We hope this will give consumers confidence in renewable tariffs from suppliers. This may help to encourage support for new renewable generation.

⁴ In our previous consultation, we proposed distinguishing between renewable and green tariffs. Following feedback and further consideration we have decided that this would be confusing.

1.4. We conducted a review of the market because of concerns about the split into a certified and non-certified market. This included independent consumer research, talking to our stakeholders and publishing a consultation.

1.5. We commissioned independent consumer research⁵ into the awareness, experiences and expectations of domestic consumers. This research showed that consumers have low levels of understanding about green tariffs and that there is confusion about what makes tariffs “green”. A common theme in the research was that consumers expect that they are supporting investment in renewable generation and the supply of renewable generation by buying one of these tariffs. Other findings that came out of our consumer research into expectations of “green” tariffs were:

- Consumers want clear communication about what their money is spent on.
- The investment should be in addition to that already covered by government subsidies and obligations.
- They would like to see a compulsory scheme across the market.

1.6. We have discussed this with stakeholders over the past year. We published a consultation⁶ in December 2013 on our thinking. Most respondents agreed that the three principles outlined above should be mandatory for all tariffs that make environmental claims. Further detail about stakeholders’ views is covered in the later sections.

1.7. Our transparency guidelines intend to make tariffs clearer to consumers. We have recently introduced changes to the retail market to make it simpler, clearer and fairer for consumers in our Retail Market Review.⁷ There are specific problems with environmental claims that are not covered by these changes, which we address with the policy changes we outline in this document. The changes we are introducing on evidence of supply and additionality aim to allow for fair competition between suppliers, restrict double selling of renewable supply and encourage suppliers to meet customer expectations.

1.8. The Advertising Standards Authority⁸ and guidance from the Department for the Environment, Food and Rural Affairs (Defra)⁹ also protect consumers in this area. For example, their rules and guidance suggest that vague terms should be avoided

⁵ <https://www.ofgem.gov.uk/publications-and-updates/research-consumers-perceptions-green-tariffs>

⁶ <https://www.ofgem.gov.uk/ofgem-publications/84969/consultationonimprovingconsumerprotectioninthegreenandrenewableenergyoffersmarket.pdf>

⁷ <https://www.ofgem.gov.uk/gas/retail-market/market-review-and-reform/retail-market-review>

⁸ <http://www.asa.org.uk/>

⁹ <https://www.gov.uk/environmental-claims-and-labels-guidance-for-businesses>

and that claims should be as specific as possible. We urge suppliers to adhere to these rules and guidance to ensure their claims are not misleading.

1.9. Our proposals will introduce standards across all suppliers for these tariffs. If there is support in the industry for an additional certification scheme, for example to audit additionality claims, this remains possible.

1.10. We will continue to monitor the market and intend to review these new arrangements in 2017 to see how effective they have been.

Who do these changes apply to?

1.11. These changes are relevant to suppliers who make environmental claims about tariffs based on the sale of renewable electricity to domestic customers. The changes don't cover tariffs that make environmental claims based on non-renewable sources, such as nuclear, although it remains important that suppliers make clear claims about these tariffs to consumers.

1.12. We are not prohibiting suppliers from offering bundles that provide environmental benefits not linked to supply. An example of a permitted bundle could be a clearly identified donation to an environmental charity. Suppliers need to market these products clearly and specifically, so that consumers can make informed decisions. Under RMR, suppliers are not allowed to offer a bundle if it is directly related to electricity supply, such as buying renewable energy certificates.¹⁰

1.13. These changes apply to suppliers and their representatives. Suppliers are responsible for ensuring that their representatives comply with our policy. Ofgem manages the Confidence Code, which is a code of practice that governs independent energy price comparison sites. We are currently in the process of reviewing the terms of the Code. As part of this review, we will consider whether changes to the Code would be beneficial in ensuring information about renewable tariffs is displayed appropriately.

How will these changes affect consumers?

1.14. Consumers should be able to understand suppliers' messages around these tariffs more easily in future. Our policy means that environmental claims will be in line with consumer expectations, as shown in our independent consumer research.

1.15. Some consumers and consumer groups would like us to take a more prescriptive approach. We don't think this would be proportionate as this is a small

¹⁰ <https://www.ofgem.gov.uk/ofgem-publications/39350/retail-market-review-final-domestic-proposals.pdf>

section of the market. Costs for consumers could increase if we took further action. This would have a greater regulatory impact on suppliers.

1.16. Our changes could affect consumer choice in this market. Our policy changes aim to improve consumer trust in this area, which may lead to an increase in demand for these tariffs. This could lead to a wider choice of such tariffs. On the other hand, suppliers may decide not to promote renewable tariffs as a response to tighter rules.

1.17. Some consumers may see a change in the price of renewable tariffs that make environmental claims but don't meet our Green Supply Guidelines. Suppliers offering these tariffs have the option of modifying the claims they are making to prevent this.

1.18. Our proposals are unlikely to have a disproportionate effect on vulnerable consumers. Most tariffs, including standard tariffs, will not be affected by our changes.

1.19. Tariffs covered by the current scheme have reduced carbon emissions by around 130,000 tonnes over three years. Continued support for these tariffs may lead to further reductions in carbon emissions. Increasing consumer trust in this area supports the sustainability agenda and may encourage further investment in renewable generation. This can help protect the interests of future consumers, particularly reducing greenhouse gas emissions.

1.20. In our consultation we proposed extending these regulations to non-domestic consumers, in particular micro businesses. As we are adopting a mandatory approach, we are not proposing to include business customers. We do not have sufficient evidence that such a mandatory approach is needed for this group. Suppliers are able to offer tariffs based on our principles to non-domestic businesses. Also, if industry decided to create a voluntary certification scheme, then they could choose to include non-domestic customers.¹¹

How will these changes affect suppliers?

1.21. Our proposals will affect suppliers to varying degrees. There will not be any significant changes for suppliers who already offer tariffs certified by the Green Energy Supply Certification Scheme (GESCS).

¹¹ Defra is currently reviewing its guidance on greenhouse gas reporting for companies. <https://consult.defra.gov.uk/climate-change/ac04ad33>

1.22. We are aware that these tariffs are mostly offered by small suppliers. Our mandatory approach means that suppliers can compete fairly with each other. We are not being prescriptive about how suppliers provide additional environmental benefit. This means suppliers can be innovative and flexible in their approach.

1.23. Consumers may change their behaviour because of our proposals. They may be more likely to purchase a tariff based on the supply of renewable energy because the benefits are clearer. On the other hand, suppliers might lose consumers because of the clearer information requirements we are proposing. If this happened, it would show the importance of clear information when consumers decide to buy a green or renewable tariff.

1.24. We note that there will be a financial impact for some suppliers if they currently sell renewable supply that is not backed by LECs and continue to market their tariff as renewable supply. Assuming a LEC trading value of £5 and an average annual consumption of 3.2MWh, the cost for suppliers would be in the order of £16 per customer per year. This would only be for suppliers that make renewable claims not backed by LECs. Suppliers can take steps to avoid this financial impact by adjusting renewable claims, although this could lead to a loss of customers.

1.25. Costs for affected suppliers might also increase because they are providing environmental benefits. As with evidence of supply, suppliers can avoid this by adjusting their claims and by being clear that their tariffs are not providing environmental benefits.

When will the changes happen?

1.26. We expect that these changes will be in place fully by 1 April 2015. Subject to responses to this consultation, we currently expect to issue a statutory consultation on our proposed licence changes in Autumn 2014. If appropriate, this will be followed by a final decision to modify the licence in time for it to be in effect by April 2015. In the intervening period, the Green Supply Guidelines will continue to have effect. We are not proposing specific transitory arrangements for fixed-term tariffs as we are not aware of any such tariffs. We would be happy to discuss this further if suppliers have specific concerns around this.

1.27. Suppliers will need to produce an annual report on additionality. Ideally this would be in line with standard licence condition 21 for fuel mix disclosure, so a report would be published by 1 October for the previous year (1 April – 31 March). Other reporting periods could be justifiable but the report should not be published later than six months after the end of the reporting period.

1.28. Ofgem will continue to monitor compliance in this area. We have taken a principles based approach to regulate additionality. This means companies have discretion to find the most effective way for their organisation to achieve the regulatory outcome. We will continue to engage with suppliers and where relevant share insight to create positive outcomes for consumers.

2. Additionality

When consumers buy a tariff based on renewable supply, they expect that they are benefitting the environment by supporting renewable generation. Additionality means that this benefit happens as a direct result of the consumer buying the tariff, and not just because of subsidies or obligations. In order to encourage flexibility and innovation amongst suppliers we are not prescribing how to meet this principle.

Our proposal

2.1. We propose placing obligations on suppliers to make sure that a customer's choice to purchase a tariff results in an additional benefit to the environment, above and beyond existing subsidies, obligations and schemes. They must publish an annual report explaining to their customers how they are meeting this obligation, as described in chapter 3. If they are not offering additionality, they will need to make this clear to consumers.

2.2. We don't propose defining what should be considered as additionality. Instead, to allow for innovation, we are taking a principles-based approach to additionality, and want suppliers to engage appropriately with their consumers about what they expect.

2.3. The environmental benefit should be as closely related as possible to the actual claim. Under the Standards of Conduct all suppliers are obliged to embed fair treatment of consumers into every level of their organisation. This extends to how they fulfil the principle of additionality.

Why are we proposing this?

2.4. Within the UK, renewable generation is supported by a system of levies, subsidies and tax breaks. All GB bill payers contribute towards subsidies as part of their bill. This means all consumers are supporting renewable generation. Our consumer research showed that once consumers are made aware of this fact they expect that when they purchase a renewable tariff, something is happening in addition to this.

2.5. Consumers also expect that these tariffs should be doing something good for the environment. Our research showed that they think buying a green tariff should support an increase in investment in renewable generation, in addition to the existing support from the government.

2.6. This issue is addressed in different ways in different European countries. While some countries have no dedicated rules in place, other countries, such as Germany and Ireland, do not allocate Renewable Energy Guarantees of Origin certificates to generators that have received subsidies. This means that renewable claims cannot be made based on subsidised domestic generation in those countries (though

certificates can be bought from abroad). We do not consider this an appropriate policy for GB at this stage as a market for these tariffs has already developed.

2.7. It is important that our involvement in this area is proportionate, particularly as it is currently a small area of the market. For example, if we introduced a mandatory certification scheme, costs to consumers would increase. Also, a prescriptive approach would be unlikely to work for all companies and their respective business models. Our suggested approach gives industry scope to innovate and to change in the future. Our non-prescriptive approach balances these issues with the needs of consumers.

Stakeholder feedback

2.8. Most stakeholders agreed with the definition of additionality in the previous guidelines and the levels of carbon dioxide reduction required under the scheme. Several expressed concern about the ability of suppliers to meet the principle through purchasing carbon offsets. This included a consumer group, who expressed a preference for demonstrable programmes rather than offsetting.

2.9. Several stakeholders supported a more flexible approach, to allow for innovation and future changes in the energy system. On the other hand, some were keen for Ofgem to provide further guidance or to highlight examples of additionality. Some consumer groups suggested that all renewable tariffs should be certified. We feel that the mandatory principles based approach allows for this flexibility whilst still protecting consumers.

2.10. Additionality was discussed in depth at our stakeholder workshop on 9 May 2014.¹² Stakeholders agreed that it is a difficult issue and there is not an easy method of implementation. They discussed a range of possible approaches to additionality, from a prescriptive approach to not regulating this at all. The complexity of additionality means that a prescriptive approach could be very resource intensive and would be unlikely to work for all suppliers and their respective business models. This may prevent suppliers from developing innovative ideas. We considered not requiring this principle, but found that this would go against consumer expectations and the consensus of our stakeholders. Suppliers do not need to offer additionality under our proposals, but they will then need to make this clear to consumers.

2.11. One supplier criticised our independent consumer research as being based on a very small statistical base and not targeting green consumers. They said that their customers are actively engaged and aware of the benefits of their tariffs and alternatives available. Our study provided qualitative insight into a range of consumer views, including both those of current green tariff customers and others who may consider a green tariff. Given the complexity of the topic and a need to

¹² <https://www.ofgem.gov.uk/ofgem-publications/87486/minutesfromstakeholdermeetingongreenandrenewableoffers9april2014.pdf>

understand expectations and preferences in-depth, a face-to-face qualitative methodology (and not a statistically valid quantitative approach) was the most suitable approach. This means that it had an appropriate sample size and structure for a study of this nature. We welcomed any further consumer research that stakeholders could provide.

3. Transparency

Suppliers must be clear to consumers about the environmental claims they make about renewable tariffs. This includes publishing an annual report explaining how a tariff delivers additional environmental benefits. Suppliers need to clearly tell consumers if a renewable tariff doesn't offer additional environmental benefits.

Our proposal

3.1. Suppliers need to clearly communicate to consumers the environmental benefits of a tariff. We are proposing a licence condition that outlines the information suppliers must provide. We have also drafted additional guidance for suppliers on this (Appendix 4).

3.2. We propose that suppliers provide three different levels of information.

- If a tariff does not meet the additionality principle, suppliers and their representatives must indicate clearly that signing up to a tariff won't lead to additional environmental benefits.
- Suppliers and their representatives must provide certain information at the point of sale. This includes the supplier's fuel mix, a description of the additionality of the tariff (if relevant) and a link to further information.
- Suppliers need to make further information publicly available on their website or in printed materials to put the environmental claim into context. This may include:
 - o further detail on the supplier's fuel mix and what this means
 - o explanation of how the electricity system and subsidies works.

3.3. Suppliers should produce an annual report, showing consumers the relationship between their tariff and the environmental impact. This will need to explain, in a relevant and accessible way, how the tariff is providing additionality. For example, they could explain how they have saved a certain quantity of carbon dioxide per consumer. See Appendix 4 for further guidance.

Why are we proposing this?

3.4. Our research showed that consumers are confused about green tariffs and many have low levels of trust in the market more broadly. Many consumers may also believe that the energy they receive at their house will come directly from renewable sources if they sign up to such a tariff. We hope to improve consumer understanding by putting in place these measures to enhance transparency. They are based on the current voluntary guidelines that underpin the existing GESCS.

3.5. Consumer awareness and understanding of government schemes and subsidies is low. Our consumer research and most of the responses to our consultation supported introducing a requirement for clear messaging for tariffs that do not offer benefits in addition to subsidised energy.

3.6. We recently commissioned further independent consumer research on additionality and related messaging. This included consumers who identified themselves as open to, or passionate about, green issues. Our research found that:

- There is a low level of knowledge and understanding in this area.
- When consumers were informed about subsidies and obligations, they said that they assumed that by buying a tariff that makes renewable claims it would be driving an environmental benefit over and above existing obligations.
- If a tariff making an environmental claim did not offer this additionality, consumers felt it was important this is very clear at the point of sale, especially if the tariff is more expensive than a standard tariff.
- Consumers wanted easy access to clear information about what they already pay for, differences between tariffs, benefits and limitations. However, they also said that because they were previously unaware of these complexities they were unlikely to actively seek out or check for such information.

3.7. The principle of transparency is in line with the Standards of Conduct, which introduced an obligation for suppliers (and their representatives) to treat consumers fairly in all interactions. This includes providing information that is clear, accurate, complete, appropriate, relevant and not misleading.

Stakeholder feedback

3.8. Most of the respondents to our consultation broadly agreed with our initial proposals on transparency. The majority supported increasing transparency around the sale of renewable energy tariffs that do not offer additionality. Reasons for

supporting included the importance of the relationship between consumers and suppliers and improving trust and creditability in energy markets. Some stakeholders highlighted that consumers shouldn't be burdened with complex information and that suppliers would need adequate time to prepare and publish details.

3.9. Some stakeholders were concerned that if the disclaimer at the point of sale is common, this could lead to increased customer confusion and may damage the reputation of renewable tariffs. Our consumer research has shown that, when subsidies have been explained to consumers, they expect that renewable tariffs will be providing something additional. Consumers mostly agreed that if these tariffs remain in the market there needs to be a clear message or label that acts as a disclaimer close to the actual environmental claim at the point of sale. Although they noted the issue of subsidies is a complex area that most consumers are unfamiliar with, they felt this information would be preferable to consumers mistakenly buying a tariff believing it provided additional environmental benefit when it did not.

3.10. Some stakeholders argued that the recent changes under the Retail Market Review (RMR) should deliver and drive increased transparency that will improve consumer protection. We agree that RMR will bring improvements, but there are specific issues about green tariffs, such as consumer expectations about additionality and the complexity of renewable certificates, that makes a proportionate, principles-based approach to regulation necessary.

3.11. One stakeholder questioned the need for greater transparency, arguing that there is currently no problem in how green tariffs are marketed to consumers. The same stakeholder stated that their customer base engages with energy and environmental issues and is aware of the nature of the tariff they are on, the environmental benefits it provides, and the alternatives on offer. This view is not consistent with the two independent research studies commissioned as part of this review.

4. Evidence of Supply

Suppliers must have evidence that verifies where the electricity supplied in a tariff comes from. This means that they must show they have enough Renewable Energy Guarantees of Origin certificates and have retired any renewable Levy Exemption Certificates to account for the renewable supply in the tariff.

Our proposal

4.1. For all the energy that a supplier sells to customers on affected tariffs, they must hold the required amount of Renewable Energy Guarantee of Origin certificates and retire the associated Levy Exemption Certificates. We propose to implement this through a licence condition.

Why are we proposing this?

4.2. There are different certificates that are granted for generating a unit of renewable electricity:

- Suppliers use Renewable Energy Guarantee of Origin certificates (GOs) to claim that they are selling renewable power to domestic customers.
- Suppliers sell power to non-domestic customers that is backed by Renewable Levy Exemption Certificates (LECs). Businesses can use these certificates as part of the evidence required to get exemptions from paying the Climate Change Levy for purchasing renewable electricity.

4.3. Our proposals ensure that domestic customers who buy renewable power can be sure that the renewable characteristics of the same unit of energy are not sold to other customers as well. We have also taken into account Defra's recent consultation on greenhouse gas reporting of renewable electricity supply for businesses.¹³

4.4. These proposals are already a requirement under the current voluntary scheme. Introducing this change will mean suppliers are competing more fairly.

4.5. As outlined in paragraph 1.25, there could be a financial impact for some suppliers if they currently sell renewable supply that is not backed by LECs and continue to market their tariff as renewable supply.

4.6. We will not require LECs for fuel mix disclosure purposes more generally. This is because not all suppliers use their renewable proportion of their fuel mix to make

¹³ <https://consult.defra.gov.uk/climate-change/ac04ad33>

claims to customers when selling a tariff. It would not be proportionate to interfere in this area (which is based on EU regulations) more generally at this point.

Stakeholder feedback

4.7. Most consultation responses supported our proposal.

4.8. One response suggested that Renewable LECs do not represent renewable supply and are only used to show that customers are exempt from the climate change levy (CCL). Renewable LECs are not simply an instrument to get a tax exemption as the CCL exemption is for buying renewable power. Her Majesty's Revenue and Customs (HMRC)¹⁴ sets out that: "The exemption works on the basis that renewable source electricity is acquired by an electricity utility and offered for sale to a business or public sector consumer under the terms of a renewable source contract." By not requiring the retirement of LECs for renewable claims for domestic customers, this renewable sourced electricity can be sold to non-domestic customers as well for the same unit of energy.

4.9. One supplier argued that LECs can be traded independently of energy and suppliers can therefore source power generated using coal plants and buy certificates to sell this as renewable supply. We note that LECs should be traded with the physical energy for tax purposes. There are rules and regulations in place by HMRC around how CCL exemptions can be claimed and what records need to be shown. Further, we are not proposing to require LECs instead of, but in addition to, (tradable) Guarantees of Origin. The same supplier suggested backing up claims with two Guarantees of Origin. It is unclear to us how this would solve the issue of double selling and what benefits it would bring (apart from being a cheaper option for suppliers). It is also unclear how this would address the suppliers concern around the tradability of certificates, given that Guarantees of Origin can be traded.

4.10. One stakeholder said that it would be inconsistent not to require the retirement of Renewable Obligation Certificates (ROCs) for evidence of supply purposes. We note that ROCs are a subsidy instrument and are not used as evidence of supply and to make claims to consumers. There is no issue around triple selling of renewable attributes to consumers for the same unit of energy. ROC-backed supply is not sold in the absence of other certificates (GOs, LECs) to consumers as renewable supply. So whilst we do not mandate the retirement of ROCs, suppliers remain able to do this.

¹⁴http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageLibrary&propertyType=document&id=HMCE_CL_000281

Appendices

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Appendix 1 - Consultation Response

1.1. Further work on this policy will now focus on the legal drafting of the supply licence and the associated guidance required to implement this final proposal. Thus, we are seeking comments on the legal drafting. Whilst we remain open to representations on our final proposal more generally, we would not expect to change our high-level policy decision unless there is material new information.

1.2. Responses should be received by 28 July 2014 and should be sent to:
Sustainable.Energy@ofgem.gov.uk

1.3. Unless marked confidential, all responses will be published by placing them in Ofgem's library and on its website www.ofgem.gov.uk. Respondents may request that their response is kept confidential. Ofgem shall respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

1.4. Respondents who wish to have their responses remain confidential should clearly mark the document/s to that effect and include the reasons for confidentiality. It would be helpful if responses could be submitted both electronically and in writing. Respondents are asked to put any confidential material in the appendices to their responses.

1.5. Having considered the responses to this consultation, Ofgem intends to undertake a statutory consultation on the licence changes. Any questions on this document should, in the first instance, be directed to:

Natasha Smith
Ofgem, 9 Millbank, London, SW1P 3GE
Tel: 020 7901 7000
E-mail: Sustainable.Energy@ofgem.gov.uk

Appendix 2 – Impact Assessment

When we consider and reach decisions, it is important that we act in the manner best calculated to protect existing and future consumers. This means balancing the benefits of any action we take against the associated costs that may be imposed on consumers as a result.

Impact Assessment (IA) is a tool to help us consider and explain the effects and impacts of regulatory proposals on consumers, industry participants, and on social and environmental issues. Our IA guidance¹⁵ sets out a rigorous, consistent and transparent process to help inform the development of our proposals, as well as providing stakeholders with a means of understanding and engaging with our draft policies.

Our approach to assessing the impacts of this decision

In preparing our previous consultation document¹⁶ we took a view that an Impact Assessment was not necessary. In reaching this view, we considered section 5A of the Utilities Act 2000 and our Impact Assessment Guidance (2013) and concluded that:

- the proposals set out in the consultation document did not involve a major change in the activities of the Authority
- nor did they have significant impacts on the environment, the general public, gas or electricity market participants or those engaged in related commercial activities.

We judged that the proposals contained within the consultation document were unlikely to cause a major change or significant impact in the electricity retail market due to 'green tariffs' forming a relatively small section of the market. Our proposals will affect industry participants to varying degrees within this section of the market, and we have drawn out these impacts in this document where applicable.

However, we invited views on whether stakeholders would find a more formal Impact Assessment a useful and/or necessary development. We also undertook an analogous process of considering a range of customer engagement, transparency, tariff design and environmental issues to help inform our proposals. This qualitative analysis can be found in Appendix 3 of the previous consultation document.

Following the consultation period, we reviewed the responses received and undertook further analysis (e.g. stakeholder engagement, market and consumer research) in particular in areas that may significantly impact consumers and competition, to help

¹⁵ <https://www.ofgem.gov.uk/publications-and-updates/impact-assessment-guidance>

¹⁶ <https://www.ofgem.gov.uk/ofgem-publications/84969/consultationonimprovingconsumerprotectioninthegreenandrenewableenergyoffersmarket.pdf>

develop our final position. This process did not reveal or require any changes to the nature of the issues being considered, and we therefore maintain the view that a formal Impact Assessment (under Sec 5A of the utilities Act 2000) is not required.

However, we did elect to use the steps and stages of the IA guidance to inform our approach to evidence gathering and analysis, and to help structure a process of continuous policy development in this area.

To help demonstrate this – and to ensure consistency and transparency – the following cross-referenced table helps signpost where we have considered impacts on consumers, industry, society and the environment. Where we have not assessed certain factors, our reasoning is provided.

How we have undertaken an integrated assessment of options, including consideration of competition and consumers

Factors considered	Page / para	Commentary	Integrated assessment and conclusions
Positive, indeterminate or negative cost benefit analysis (CBA) outcome <i>(if CBA applied to options)</i>	1.11-1.25	Overall, we expect our policy to have a positive impact on our statutory duty to protect the interest of current and future consumers. The policy ensures that tariffs are more in line with consumer expectations, robustly evidenced, and that tariffs support the country’s sustainability agenda (unless clearly stated).	
Distributional effects	1.17 -1.19	We concluded that our changes are unlikely to significantly affect consumers in vulnerable situations and will not affect non-domestic consumers.	
Strategic and sustainability considerations	1.19	The current scheme has reduced carbon emissions by around 130,000 tonnes over three years. Continued support for these tariffs may lead to further reductions in carbon emissions in particular if these tariffs provide “additionality”. Further, renewable generators could benefit from our evidence of supply proposal as they receive the LECs that would be required	

		to back up renewable claims.	
Consumer interests	1.14 – 1.20, 2.4 – 2.5, 3.4 – 3.11, 4.3	The reforms should enhance consumer protection for example by ensuring that crucial information is communicated clearly by suppliers, that tariffs carry environmental benefits (unless clearly stated), and that renewable energy is not “double sold” to different consumer groups. Consumers on tariffs that are not currently compliant could see a rise in prices if the supplier prefers to become compliant with the new rules rather than adjust their environmental claims.	A more prescriptive approach would have ensured that we are more likely to meet consumer expectations. However, given that it is currently a small area of the market dominated by small suppliers and the potentially adverse impact on competition, we have opted for a more proportionate approach by not introducing a mandatory certification scheme or adopting a more prescriptive approach for additionality.
Competition effects (domestic and EU)	1.7-1.9, 1.20 – 1.24, 2.6 – 2.10, 4.4 – 4.6	Our proposals will affect suppliers to varying degrees. There will not be any significant changes for suppliers who already offer tariffs certified by the GESCS. The proposals will create a level playing field for all suppliers. There will be a financial impact for some suppliers if they are currently non-compliant with the voluntary guidance and want to keep making environmental claims.	

Post-implementation arrangements

The introduction of the supplier annual report obligation for additionality by 1 April 2015 will provide an ongoing and proportionate means of gathering data on tariff performance in this area and supplier compliance. This information will be produced on 1 October for the previous year (1 April-31 March).

Ofgem will continue to monitor compliance in this area. Principles-based regulation, which we are introducing for the additionality component of these tariffs, requires a focus on outcomes and companies have discretion to find the most effective way for their organisation to achieve the regulatory outcome. We will review the performance of these arrangements (with a view to policy continuation, amendment and/or expiration) in Autumn 2017.

Appendix 3 – Draft change to suppliers’ licence condition

Condition 21D. Tariffs with Environmental Claims

21D.1 Conditions 21D.2 to 21D.13 apply to a licensee who offers a Tariff to Domestic Customers to which it attaches an Environmental Claim.

Evidence of supply

21D.2 The licensee must, at midday on 1 July immediately after a disclosure period as defined in SLC 21 and after it supplies electricity under a Tariff to which it attaches an Environmental Claim to the effect that some or all of the electricity supplied under that Tariff is generated from renewable sources:

- a) hold the requisite number of Guarantees of Origin (GOs) to support the volume of claimed renewable supply, and,
- b) retire any associated Levy Exemption Certificates (LECs).

21D.3: For the use of Guarantees of Origin issued outside of Great Britain, the same rules and procedures apply as set out in SLC 21.12.

Additionality

21D.4: If the licensee makes an Environmental Claim in connection with a Tariff, either:

(a) the licensee must ensure that the claimed environmental benefit is a result of consumers choosing to purchase the Tariff in question and not solely brought about as a result of subsidies, obligations or other mandatory mechanisms; or

(b) if the licensee cannot comply with (a), publish a statement in accordance with paragraphs 6 and 7.

Transparency

21D.5: The licensee must provide the following information to customers.

Tier 1

21D.6: If paragraph 4 applies, the licensee must publish a clear statement to the effect that purchasing the tariff in question will not produce an environmental benefit.

21D.7: The licensee must ensure that the statement required by paragraph 6 is published prominently and in close proximity to the Environmental Claim.

Tier 2

21D.8: Before it enters into a Domestic Supply Contract with a Domestic Customer for a Tariff that is the subject of an Environmental Claim, the licensee must take all reasonable steps to communicate the following information to the Domestic Customer:

- a) A Fuel Mix Disclosure chart illustrating the relevant fuel mix of the licensee in line with SLC 21.
- b) If paragraph 4 does not apply to the tariff, a description of the environmental benefit that is, or will be, delivered as a result of the Domestic Customer choosing the Tariff, expressed where applicable in tonnes of CO² equivalent.
- c) A link to, or information on where the Domestic Customer can obtain, the information required by paragraph 9

Tier 3

21D.9: To put the environmental claim in context, the licensee must make further information available to Domestic Customers from a publicly accessible resource such as its website (including information on additionality, government support for renewable supply, and how electricity is physically distributed).

Responsibility for Representatives

21D.10 The licensee must take all reasonable steps to ensure that its Representatives comply with the obligations in paragraphs [21D.6 to 21D.9].

Annual reporting obligation

21D.11: For each Tariff it offers to which paragraph 6 does not apply, the licensee must publish a report annually to outline the environmental benefit derived from the tariff.

21D.12: The licensee must comply with guidance on the interpretation of condition 21D which, following consultation, the Authority may issue and may from time to time revise.

Definitions for condition

21D.13 In this condition:

“**Environmental Claim**” means a claim made in the course of marketing, billing, or other customer communication that asserts, or may lead a customer to believe, that choosing the particular tariff is driving an environmental benefit based on the supply of renewable electricity.

“**Guarantee of Origin**” means a certificate issued by the Authority or by any other competent body that is recognised by the Authority under the Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) Regulations 2003.”

“**LEC**” means a renewables levy exemption certificate (in units of one megawatt hour each) issued by the Authority or its appointed agent as evidence that one megawatt hour of renewable electricity is wholly exempt from the Climate Change Levy;

“**Climate Change Levy**” means the levy of that name introduced pursuant to the Finance Act 2000 and subordinate legislation, including the Climate Change Levy (General) Regulations 2001 (SI 2001/838), as amended from time to time.

Appendix 4 – Draft guidance on transparency

1. Aims of the guidelines

1.1 The key aim of these guidelines is to provide clarity to customers about tariffs make environmental claims based on the supply of renewable electricity.¹⁷ These guidelines are underpinned by licence condition 21D. Whilst the licence condition sets out requirements for evidence of supply, transparency and additionality, this guidance focuses on transparency only.

1.2 Tariffs need to be clear and consistent with public understanding and expectations. This includes clarity around the source of electricity supply and additionality. It also includes a clear use of terminology to describe the tariff. Customers should have easy access to specific information regarding the tariff as well as more general information regarding the way that the electricity market, supplier obligations and these tariffs interact.

1.3 All the information provided to consumers needs to meet our requirements regarding plain and intelligible language and presentation as set out in SLC 31E.6

2. Provision of information on a tiered basis

2.1 In recognition of the different needs of consumers regarding the provision of information, suppliers must provide information to consumers on a tiered basis. The first tier of information applies to tariffs without additionality. The second tier will outline some of the key information which consumers should be aware of in advance of signing up to a tariff making environmental claims. The third tier of information will provide general contextual information regarding renewable supply, additionality and the electricity market.

Tier 1 information (for tariffs without additionality)

2.2 For tariffs that do not provide additionality, suppliers are required to set out clearly that signing up to the tariff in question does not drive environmental benefits. Suppliers and their representatives should include this information in close proximity

¹⁷ “Environmental Claim” means a claim made in the course of marketing, billing, or other customer communication that asserts, or may lead a customer to believe, that choosing the particular tariff is driving an environmental benefit based on the supply of renewable electricity.

to the environmental claim. The supplier should also include this information on its website and in all marketing material when making such environmental claims.

2.3 We are not prescribing the wording of the message as long as it clearly conveys the message that signing up to the tariff does not drive environmental benefits. We recommend this includes information such as:

- the rationale for the environmental claim made by the supplier and what that means for consumers;
- an explanation that all consumers already contribute to renewable energy through their bills;
- a message that consumers signing up to this tariff do not drive additional environmental benefits compared to choosing a standard tariff;
- an explanation of the environmental benefits that this tariff is not providing, in particular reducing carbon emission or driving additional investments in renewable energy.

Tier 2 information

2.4 Suppliers and their representatives must provide tier 2 information to customers at the point of sale, before a customer enters into a contract for a green tariff. It would be good practise for suppliers to also include tier 2 information on their websites and in all relevant marketing material. This information must include:

- a Fuel Mix Disclosure chart illustrating the relevant fuel mix of the supplier¹⁸ which shows the different energy sources used and the percentage of each source making up the fuel mix. This will provide an indication to customers of the environmental credentials of the supplier. This requirement is in line with legal obligations on active suppliers to provide information to each customer that has received a bill or statement, in the 12 month period commencing 1 October, regarding the contribution of each energy source to the total amount of electricity purchased for supply by the licensee;¹⁹
- if the tariff contains additionality, an additionality description, briefly outlining the environmental measure/activity that the supplier is undertaking on behalf of the customer to demonstrate additionality and the scale of this (eg the amount of abated Carbon Dioxide equivalent emissions);

¹⁸ If a supplier has multiple licences then it must use the FMD chart specifically related to the relevant licence.

¹⁹ The requirement is contained at paragraph 4(a) Standard Supply Licence Condition 21

- a link or other reference to tier 3 information (including on switching sites).

Tier 3 information

2.5 The third tier of information must be available from a publicly accessible resource (eg the supplier's website) or in printed materials. This is to provide general contextual information regarding renewable supply and the electricity market. As such it the information should include:

- the key messages that the fuel mix chart is seeking to convey;
- how the electricity system works in practice including that purchasing renewable energy will not change the electricity delivered to the consumer's home, which will always represent a mix of sources regardless of which tariff a consumer chooses;
- an explanation of the evidence of supply requirement (GOs and LECs) that underpins the tariffs and how it was met. Where this includes generation from non-GB sources, a description of where the generation is coming from. Where REGOs have been bought independently of the underlying energy, a description of this fact and the scale;
- the government's ongoing aim to encourage an increased amount of electricity to be generated from renewable and other low carbon technologies;
- the average amount that all domestic customers are already contributing to renewable energy as a result of various subsidy schemes.


Annual reporting requirement on additionality

2.6 For tariffs that contain additionality, suppliers must publish a report annually to outline how this principle was met.

2.7 The report should ideally be published in line with SLC 21 for Fuel Mix Disclosure, ie by 1 October for the previous period beginning on 1 April the previous year and ending on the following 31 March. Other reporting periods could be justifiable but the report should not be published later than six months after the end of the reporting period.

2.8 The licensee shall ensure that the information is accessible and easy to find for customers.

2.9 As much as reasonably practicable, the licensee should include in every report:



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- How it has met the additionality obligation;
- why the environmental benefit would not have occurred in the absence of customers choosing the relevant tariff;
- the scale of the environmental benefit on a per customer basis for example in terms of costs as well as avoided Carbon Dioxide equivalent (CO₂e) emissions;
- any other information that is of relevance and any additional text the licensee considers necessary to ensure that the contents of the report are not misleading.

Appendix 5 - Feedback Questionnaire

Ofgem considers that consultation is at the heart of good policy development. We are keen to consider any comments or complaints about the manner in which this consultation has been conducted. In any case we would be keen to get your answers to the following questions:

1. Do you have any comments about the overall process, which was adopted for this consultation?
2. Do you have any comments about the overall tone and content of the report?
3. Was the report easy to read and understand, could it have been better written?
4. To what extent did the report's conclusions provide a balanced view?
5. To what extent did the report make reasoned recommendations for improvement?
6. Please add any further comments.

Please send your comments to:

Andrew MacFaul
Consultation Co-ordinator
Ofgem
9 Millbank
London
SW1P 3GE
andrew.macfaul@ofgem.gov.uk