

Kiera Schoenemann  
Retail Markets  
Ofgem  
SW1P 3GE

Ecotricity Group Ltd  
Unicorn House  
Russell Street  
Stroud  
GL5 3AX

14<sup>th</sup> March 2016  
Ecotricity Reference No.: 571  
[Emma.Cook@ecotricity.co.uk](mailto:Emma.Cook@ecotricity.co.uk)  
01453 769301

**The Renewable Energy Company Ltd (Ecotricity)**  
**Feedback on The Future of Retail Market Regulation**

Dear Adhir and Kiera,

Ecotricity is an independent renewable energy generator and supplier, with around 180,000 gas and electricity customers. At Ecotricity, we have three principal attractions: the greenest energy with the emphasis on investing in new sources of renewable energy; the best customer service as demonstrated by the lowest level of complaints in the industry; and an ethical pricing policy that means every customer gets our best price, regardless of payment method. It is this focus on ethics and principles of excellent customer service that's key to our growth.

We offer our responses to the questions below:

## **Reforming the rulebook**

**Question 1: In what circumstances do you think that prescriptive rules are likely to be most appropriate? Which specific SLCs/policy areas should remain prescriptive in nature?**

We believe prescriptive rules are still necessary and useful in regard to means of customer payment. Prepayment is also an important area as customers with these meters are the most open to exploitation.

**Question 2: Should we supplement the principle of "treating customers fairly" with any other broad principles? If yes, please outline what these should be and why.**

It may be useful to draw a parallel to the Financial Conduct Authority's principles for business, albeit not all 11 principles are transferable to the energy market. Fairness alone is subjective as it could mean treating all customers equally or taking into account their individual circumstances. Each approach would have dramatically different results.

**Question 3: Where might narrow principles be more appropriate than broad principles or prescription?**

Narrow principles are most appropriate for the treatment of vulnerable consumers. For example, Ofgem's final proposals for the Priority Services Register strike a suitable balance in striving towards principles based regulation, but being prescriptive enough to make expectations clear to suppliers and entitlement clear to consumers.

**Question 4: What are your views on the potential merits or drawbacks of incorporating consumer protection law into licences?**

Consumer protection law and supply licences should be kept separate, as both will change over time.

**Question 5: How should we use principles and prescription to most effectively protect consumers in vulnerable situations?**

Please see answer to question 3. In addition we would like to receive clear guidance to be given in relation to this.

**Question 6: Do you agree with our proposed approach to guidance?**

We welcome it.

**Operating the rulebook: engagement and monitoring activities**

**Question 7: How can we best engage with suppliers in the context of principles?**

We would request clear communication alongside extra guidance when requested. This would ensure consistency amongst suppliers and reduce risk.

**Question 8: What specific support may be needed for new and prospective entrants?**

Guidance and examples of best practice would be useful.

**Question 9: Do you have any views on how best to approach monitoring in the context of principles? Specifically, which indicators and approaches should we use to catch potential problems early?**

We believe accurate industry data is the best indicator that a supplier is doing something correctly or incorrectly. Levels of erroneous transfers, cancellations and objections should be available to Ofgem as they indicate if a supplier's sales and marketing activities need investigating.

**Question 10: Do you have any views or comments on the following proposals?**

- **We will expand our engagement with suppliers to enhance our understanding of their businesses and help them better understand our rules so they can get things right first time.**

We welcome this.

- **We will collaborate closely with the Citizens Advice Service and the Ombudsman Services: Energy to ensure we maximise the effectiveness and impact of the monitoring activities across our organisations.**



We welcome this.

### **Operating the rulebook: compliance and enforcement**

#### **Question 11: Do you have any views on how best to approach compliance in the context of principles?**

We agree the onus should be on suppliers to demonstrate principles such as fairness have been considered. They should be able to demonstrate why they have taken the approach they have chosen.

#### **Question 12: Do you have any views or comments on the following proposals?**

- **We will retain our current flexible and discretionary approach to escalating issues to enforcement. We will prioritise compliance activities where possible and appropriate.**
- **We will increase the links to the level and impact of harm when deciding whether to open a case.**
- **Engaging early with Ofgem may reduce the likelihood of later enforcement. Information from engagement and monitoring activities may be shared with enforcement where appropriate.**
- **We will continue to apply our full range of enforcement tools to principles-based rules.**
- **We will make it easier for all suppliers to learn lessons from enforcement outcomes.**
- **Enforcement action will continue as usual throughout the transition to principles**

We welcome these proposals.

### **Managing the transition effectively**

#### **Question 13: How would you like to engage with us on our proposals and the broader work programme?**

We would welcome open two way guidance. This would ensure consistency allowing suppliers to know where they stand.

#### **Question 14: Do you agree with our proposal to take a phased, priority-driven approach to reforming the supply licences.**

A phased approach would mean that any problems with the approach are identified and corrected on route to a complete rollout.

#### **Question 15: Which areas of the licence should we prioritise? In particular, please provide examples where existing prescriptive rules may be causing problems or where market developments are leading to new risks to consumers**

Existing prescriptive rules are acting to the consumer detriment in respect to bills. Under the current requirements bills are homogenous, dense, stifle innovation amongst suppliers and are impenetrable to customers.

#### **Question 16: Can you provide any initial views on potential costs and benefits (eg avoided costs) of regulation via principles versus prescription to your organisation? Please explain which parts of our proposals (eg rulebook, operations) these costs relate to.**

With the right guidance we expect reduced costs following the following the change in approach.

## Exploring priority areas for reform

### **Question 17: Are the existing provisions of SLCs 25.1 and 25.2 the right ones for regulating sales and marketing activities (or are any additional principles needed)?**

The principles contained in SLC 25.1/2 are sufficient in demonstrating the expected behaviour of suppliers. They are complete enough to be difficult to circumvent, whilst broad enough to allow suppliers to offer unique marketing strategies.

### **Question 18: What, if any, prescriptive rules are needed in addition to the principles in SLC 25 to deliver good consumer outcomes?**

Please see the answer to question 17. Any additional prescriptive rules would need to be simple to avoid loop holes.

### **Question 19: What engagement and monitoring process might be required to best operate SLC 25?**

As per question 9, Industry data such as erroneous transfers, cancellations and objections should be available to Ofgem. These can be indicators that supplier's sales and marketing activities need investigating.

## Conclusion

Principles-based regulation has been successfully implemented in other industries. The energy industry is slow moving and stagnated by excessive prescription. Employing principles that have enough substance to make expectations clear and aren't vague enough to deter innovation are necessary precursors to these benefits.

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 Ryan Wilkins on 01453769392 or [ryan.wilkins@ecotricity.co.uk](mailto:ryan.wilkins@ecotricity.co.uk)

Yours sincerely,



Emma Cook  
Head of Regulation, Compliance & Projects