

The Social Market Foundation-Written evidence (ONZ0018)

About the Social Market Foundation

The Social Market Foundation (SMF) is Britain's leading cross-party think-tank, standing proudly in the centre-ground of politics since 1989. The Foundation's main activity is to publish original papers on key topics in the economic and social fields, with a view to stimulating public discussion on the performance of markets and the social framework within which they operate. The SMF is a registered charity (1000971) and a company limited by guarantee. It is independent of any political party or group and is funded predominantly through sponsorship of research and public policy debates. The SMF is overseen by a Board of Trustees and Chair.

About this evidence

This evidence contains research and survey data from a 2021 Social Market Foundation report on building consumer trust in Net Zero, with a specific focus on the energy market. A full copy of the report is available upon request.

Q1: What role should Ofgem play in the transition to net zero? What changes, if any, should be made to its remit, responsibilities and resources?

- Developing and maintaining consumer trust is an essential ingredient of any well-functioning market economy. This is particularly important in the context of the transitioning to a more sustainable economy and society. Reaching the UK's Net Zero 2050 target depends upon creating trusted consumers markets for green products and services – markets which will help engender more sustainable consumer habits and help steer us towards a consumption-based emissions approach. If these markets prove to be marketing or selling products with misleading environmental credentials or which are perceived as placing the burden of cost decarbonisation on the consumer, this risks undermining our pursuit of a greener economy and a possible backlash against the broader Net Zero agenda. We have already witnessed early signs of this in recent media coverage on the decarbonisation of home heat.ⁱ
- As the energy market regulator, Ofgem exists as one of the most important actors for protecting consumers and creating fair market conditions and ensuring the success of the UK's Net Zero ambitions.

We therefore believe that Ofgem should play a leading role in ensuring delivering a trusted, transparent and environmentally sustainable energy market at pace.

- We outline below two changes to Ofgem’s remit and responsibilities – which may need to be supported with additional resources and legislation – designed to help the regulator build and sustain trust in the energy market. These are:
 1. Reforms to green energy tariff accreditation scheme
 2. Considering whether Ofgem’s remit should cover intermediaries

Reforms to the green energy tariff accreditation scheme

- There has been a rapid growth in the number of green energy tariffs on offer in recent years. *Which?* Research has found that more than half of the 355 tariffs on sale in June 2019 claimed renewable electricity credentials, compared to 9% three years prior – a market share increase of over 450%.ⁱⁱ
- Survey data commissioned for the SMF¹ identifies considerable confusion amongst consumers about what is meant by a green energy tariff, suggesting that amidst the proliferation of green energy tariffs, Ofgem may need to act to boost transparency and trust:
 - 39% said they did not know enough to decide what a green energy tariff is out of a list of options.
 - 13% correctly identified that a green energy tariff relates to certificates that the energy source is renewable, under Ofgem’s current accreditation framework.
 - While nearly half of respondents (47%) wanted to know more about the sources of green energy, just one in five (22%) agreed that information about their tariffs is clear and transparent enough to help them make a decision.
 - Nearly half (47%) of C2DE respondents said they do not know enough to decide what a green energy tariff is out of a list of options, compared to a third (32%) of ABC1 respondents, indicating that lower-income consumers may be more likely to feel misled by the green energy transition.

¹ Polling commissioned by the SMF from Opinium in early 2020. Whilst this survey was conducted prior to the Coronavirus outbreak, we do not believe that the pandemic will have had a statistically significant impact on the results.

- There is a growing concern across the industry that not all green energy tariffs are as environmentally sound as they may appear.ⁱⁱⁱ Ofgem itself (and the Energy Ombudsman) has raised concerns about whether energy suppliers are being transparent enough with the information they provide to consumers to support their '100% renewable' claims.^{iv} Meanwhile the Government's new Energy Retail Market Strategy commits to "ensur[ing] consumers are accurately informed about their personal contribution to Net Zero, with an initial focus on 'green tariffs'".
- Where consumers are misled on the environmental attributes of a business, product or services, this is known as greenwashing. In the energy market, greenwashing principally results from the nature of the green tariff accreditation framework, whereby the certification of renewable energy (Renewable Energy Guarantees of Origin) can be sold separately from the electricity itself, creating a secondary market for certificates that suppliers can purchase without necessarily sourcing renewable energy. Some suppliers, who do not generate their own power but buy their electricity on the wholesale market, may purchase REGOs or similar European certificates (GoOs), which are then recognised by Ofgem and legal to market as 100% renewable. This accreditation scheme is 18 years old, and our stakeholder engagement work – including a recent private roundtable with experts, officials, and parliamentarians – indicates a broad consensus that the scheme needs updating.
- If the purpose of green energy tariffs is not only to meet consumer demand for generating renewable energy but also to meet Net Zero targets, then policymakers should ensure that tariffs marketed as '100% renewable' have legitimate and continued environmental benefits. In line with this, tariffs – and the corresponding accreditation scheme – should incentivise the development of the market through direct private investment in UK renewable energy infrastructure and generation. This may be by awarding 'greener' credentials to tariffs where suppliers can substantiate their investment. As a result, consumers who are willing and financially able to choose a green tariff can trust that their purchase is supporting genuine and timely climate action.
- In keeping with consumer trust principles of transparency and simplicity, an accreditation framework or badging scheme may therefore look more like a graded rating of renewable tariff options (such as the Teaching Excellence Framework ratings of Gold, Silver or Bronze), rather than a binary of 'green' or 'not green'.
- Despite concerns over the limited success of previous green badging schemes, we recommend that Ofgem move urgently and decisively

to create a new badging scheme for renewable energy tariffs. The regulator should look to publish a comprehensive impact review of the successes and failures of previous schemes, and apply the lessons learnt to a new accreditation framework. This new scheme should look to accredit tariffs where they provide a direct environmental benefit – such as an investment in the UK’s renewables infrastructure – and communicate this to consumers through a simple and identifiable badge. Where the regulator identifies varying degrees of environmentally beneficial practices, the badging scheme should convey this in a Gold, Silver or Bronze-style ranking to empower consumers with sufficient information that is easy to digest and understand. This will also reduce the potential for suppliers to mislead consumers with ostensibly green credentials.

- If and where powers to implement such a scheme are outside of Ofgem’s remit, the regulator should inform BEIS, and policymakers should urgently update the relevant legislation.

Assessing the role of intermediaries in the energy market

- As consumer demand for green products grows over time, as anticipated^v, it is likely that there may be a growing market for Price Comparison Websites (PCWs) to digest complex and ambiguous information from businesses into simple, consumer-friendly ratings. This poses both opportunities and challenges for regulators.
- PCWs have the opportunity to increase consumer trust by empowering consumers with simple information to compare tariffs or other green goods and make a decision they are happy with. This not only saves consumer time and money (where they can easily find the cheapest options), but it also allows less engaged consumers to participate in markets for green goods more easily.
- The challenge of PCWs is that if they grow and begin to develop their own accreditation frameworks separate from regulators’, consumers may then feel overwhelmed by different rating systems, which could make comparing green products more difficult. (Our evidence above highlights the existence of considerable confusion about green energy tariffs amongst consumers.)
- Furthermore, it is unclear whether PCWs fall within regulatory remits for action, if they are found to be promoting misleading information about green goods. Ofgem currently uses an accredited badge for 11 PCWs that abide by the regulator’s voluntary code of conduct, The Confidence Code. Although, given its voluntary nature, this raises questions around the practices and accountability of energy PCWs who do not take part in this code. ^{vi}

- PCWs have become fundamental to the functioning of the energy retail market, and have the potential to both build or damage consumer trust in this market. It is therefore essential that regulators consider PCWs and ensure that their recommendations are benchmarked against a fair green standard, such as the new green energy tariff accreditation scheme recommended in this report.
- The advertising regulator, ASA, states that while PCWs are regulated under the CAP code, this primarily occurs where brands pay a premium for prominence or preferential positioning within the listed results; or where the website is closely connected to the companies it purports to compare. However, 'natural' un-paid results listed by the PCW are not considered advertising, and therefore outside of the ASA's remit.^{vii} This means that the regulation of energy PWCs is more likely to be a consideration of Ofgem.
- In August 2021, the Government began consulting on the role of third-party intermediaries (TPIs) in the retail energy market, specifically seeking to understand whether consumer detriment experienced from engagement with TPIs like PWCs might require regulatory intervention and how a new regulatory framework might be designed. We believe that given the increasingly important role PCWs are likely to play in the energy retail market, the Government and Ofgem should consider whether a reasonable interpretation of its regulatory remit already includes PCWs, beyond the promotion of a voluntary code of conduct. If the remit does not allow for the regulation of PCWs – and the consultation reveals evidence of harm or risk of harm resulting from TPIs – the Government should urgently consider expanding the regulator's powers in order to protect consumers in the domestic energy market.

Q6: Is the current system of governance for the UK energy market appropriate to secure the transition to zero? What improvements could be made and what role should Ofgem play?

- Across the UK regulatory framework, there are a number of separate regulators and public bodies involved in addressing misleading claims. In the energy retail market there are at least three: Competition and Markets Authority (CMA), Advertising Standards Authority (ASA) and Ofgem, each with their own remit for action. While not a regulator, the Energy Ombudsman also plays a critical role in supporting energy consumers. Additionally, Ofgem's remit and the legislative framework it acts upon is set by the Department for Business, Energy, and Industrial Strategy.

- Evidence from our roundtable discussions and stakeholder engagement suggests that where these remits differ and overlap in places, there is potential for misleading business practices to go unaddressed. Representatives from all of the bodies listed above expressed a recognition of the challenge and implications of greenwashing and a commitment to addressing it.
- Concerningly, it was noted that some representatives felt that the action they are taking is sufficiently in line with existing standards and remits, and that the responsibility for further action laid with other regulators or bodies, raising concerns that existing governance structures are leading to a culture of 'passing the buck' on Net Zero policy.
- Effectively addressing misleading environmental claims within the energy sector and across other consumer markets will likely require a more joined up approach across the various regulators and bodies involved, led by Ofgem, to inform BEIS where legislation may need to change.

ⁱ <https://www.thesun.co.uk/news/15068214/net-zero-boiler-ban-britains-poorest-cold/>

ⁱⁱ <https://www.which.co.uk/news/2019/09/how-green-is-your-energy-tariff/>

ⁱⁱⁱ <https://www.which.co.uk/news/2019/09/how-green-is-your-energy-tariff/>

^{iv} <https://www.ft.com/content/09852350-e938-4bfb-9a18-ed72c062b091>

^v CMA (2021) Draft guidance on environmental claims on goods and services, https://assets.publishing.service.gov.uk/media/60a66a9cd3bf7f73893a8e1f/Draft_guidance_on_environmental_claims_on_goods_and_services-.pdf

^{vi} Ofgem (2015) Confidence Code: Code of practice for online domestic price comparison services, <https://www.ofgem.gov.uk/publications/confidence-code-code-practice-online-domestic-price-comparison-services>

^{vii} <https://www.asa.org.uk/advice-online/remit-search-engines-and-price-comparison-websites.html>

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