The Renewable Energy Consumer Code
Appeal Panel Hearing

In the matter of

Big Green Company Ltd

held on

16 December, 2014

at

1 Wood Street, London

Panel Members:

Keith Richards (Chair),

Gretel Jones,

Elizabeth Stallibrass.

In attendance:

Andrew McIlwraith (panel secretary).

Renewable Energy Consumer Code ("RECC") representation:

Lorraine Haskell, RECC,

Sian Morrissey, RECC.

Big Green Company Ltd representation:

Managing Director, Big Green Company Ltd.

Appeal to be heard

The Appeal Panel convened to hear the appeal of Big Green Company Ltd ("the Member") against the determination of the Non-Compliance Panel hearing held on 14 October, 2014.

Under Bye-Law 9 of the Renewable Energy Consumer Code ("the Code"), a Member can appeal the decision of the Non-Compliance Panel on the grounds that the decision or part thereof was irrational, based on a fundamental error of fact or on a clear misinterpretation of the Code or the RECC Bye-Laws, or a serious procedural irregularity, or if the penalty/remedial steps or Conditions imposed are not in reasonable proportion to the findings made by the Non-Compliance Panel.

The chairman of the Appeal Panel invited the Member's representative, Mr M to clarify the grounds on which the Member was bringing this appeal. Mr M confirmed that it was in relation only to the monitoring arrangements, and the position on advertising material had been resolved through clarification from RECC, in a letter of 13 November 2014, prior to the hearing.

Verbal representations
The Panel exercised its discretion to receive verbal representations from Mr M on behalf of the Member and from Ms Morrissey and Ms Haskell on behalf of the Regulator.

Evidence before the Panel
The Panel had before it all the evidence provided to the Non-Compliance Panel at its hearing of 14 October 2014, together with the Non-Compliance Panel's determination, a transcript of the hearing, and the Member's statement of appeal of 6 November 2014. It also heard verbal representations from the Member and from the RECC ("the Regulator").

Mr M made a preliminary statement before addressing the grounds of his appeal. He said that, following the panel hearing in October 2014, the Member had reappraised its business model, and would no longer be using self-employed sales staff. The company had previously used 60 to 100 self-employed sales staff. There was now a small nucleus of employed sales staff, currently four. These staff were trained by the company, supervised by a manager and attended fortnightly meetings at the company's head office. It was therefore possible to monitor their activities closely. Mr M then addressed the points of the appeal.

Mr M confirmed that, in view of the changes the company had made to its sales force, the Member no longer objected on the grounds of cost to the scale of the monitoring exercise imposed as a condition of the determination of 24 October 2014.

The Member was extremely concerned that if it had no input into the monitoring process, it would adversely affect customer perceptions of the company, and could prompt potential customers to find the NCP determination on the RECC website, and this could lead to cancellations.

The Member felt it was essential that it had some input into the monitoring process, and suggested it should be able to send the customer feedback questionnaire out with a covering letter on the company's headed paper. He suggested that the letter would have a "softening" effect for customers. He did not object to the questionnaire itself being from RECC.

In relation to the enhanced monitoring Mr M asked whether there would be a "trigger point" from the results of the feedback from the questionnaires which, if poor, would lead to further disciplinary action or, if good, would lead to a shortening of the monitoring period.

Ms Morrissey, on behalf of the Regulator, said that there was no "trigger" point. All Members were liable to disciplinary action if they transgressed the Code at any point. However, she clarified that it was the general trend that was important, not any odd anomalous result.

In respect of the period of monitoring, Ms Morrissey said she felt that six months was not excessive and would cover a period long enough to cover fluctuations in demand and customer interest. Attention was drawn to paragraphs 7 and 8 of the determination, which state that any problems would be notified to the Member immediately, and feedback more generally would be shared with the Member on an ongoing basis for the duration of the monitoring period.

On questioning by the Panel, Mr M accepted that if the Panel agreed with his request to insert a covering letter from the company with the questionnaire, its wording would need to be approved by the regulator. Ms Morrissey said she would not object to the inclusion of such a covering letter in principle, but the Regulator would need to approve the wording.

Appeal Panel's decision

In reaching its decision the Panel considered the points of Appeal as outlined in the Member's statement of appeal, and the representations made by both parties before it.

In particular the Panel gave weight to Section 9 subsection 15 of the Bye-Laws, in respect of the statement Mr M had made in relation to the change in the company's use of self-employed sales staff.

The Panel did not feel that any of the conditions of Section 9 subsection 16 of the Bye-Laws had been fulfilled, and therefore upheld the determination of 24 October 2014. Therefore all the conditions within the determination stand. However, in light of the representations before it, the Panel decided to add the following condition:

The Member may send the RECC feedback questionnaire out to customers with a covering letter on company headed paper, subject to the Regulator approving the wording of such a letter. If the Regulator does not approve the wording of such a letter, the questionnaire must be sent without a covering letter.

Costs

There were no applications for costs

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