

**The Renewable Energy Consumer Code
Non-Compliance Panel Hearing**

In the matter of

Big Green Company Ltd

held on

16 July 2013

at

21 Dartmouth Street, London

Panel Members:

Mary Symes (chair),

Amanda McIntyre,

Alan Wilson.

In attendance:

Andrew McIlwraith (panel secretary).

Renewable Energy Consumer Code (“RECC”) representation:

Virginia Graham, Chief Executive, RECC.

Big Green Company representation:

Also present:

Lorraine Haskell, RECC,

Sian Morrissey, RECC.

Charges

The Charges were set out in full in a letter dated 20 June 2013 from RECC to Big Green Company Ltd ("the Member"). At the start of the hearing the charges were, with the agreement of both parties, read as follows:

1. The Member is alleged to have been in breach of Section 5.1 of the Renewable Energy Consumer Code ("the Code") in that promotional material they had produced in the form of a 'free solar pack' card contained misleading information. Section 5.1 of the Code states that "Members must make sure that any advertising materials they produce or use are legal, decent, honest and truthful".
2. The Member is alleged to have been in breach of Section 5.2 of the Code, from information obtained during RECC mystery shop exercises in Summer 2012 and Spring 2013, and complaints received between March 2012 and January 2013 from potential customers, in that sales representatives had engaged in various non-compliant practices, including providing misleading information, excessively long sales visits, and offering substantial discounts to sign on the day. Section 5.2 states that "Sales employees and representatives... must not use any selling techniques designed to pressurise the consumer into making an immediate decision."
3. The Member is alleged to have been in breach of Section 4 of the Code, in that they have produced misleading advertising material, and used pressure-selling techniques during home sales visits, in breach of Sections 5.1 and 5.2 of the Code. Section 4 states that "Members will not act in any way that might bring the Code into disrepute".

Determination of Charges

Mr M on behalf of the Member admitted all the charges. The Panel therefore found the facts proved.

Determination of Breaches

Ms Graham on behalf of RECC stated that the matters came to the attention of the regulator in March 2012 and from then until January 2013 they had received 14 complaints from consumers, most of whom had not signed a contract, which was unusual. Concerns were raised about the method of selling, the amount of time spent in the consumer's home, the discounts offered and the Feed-in Tariff (FIT) calculations. The complaints were backed up by a mystery shopping exercise undertaken in summer 2012.

Ms Graham also stated that consumers had picked up a card from the Member in garden centres, offering a "free solar pack" ("the card"). The card contained misleading figures and it also contained a statement that it would not to be used for marketing purposes, but complaints revealed that it was.

Ms Graham also referred the panel to a particular complaint in November 2012 that she stated showed that the Member's prices were excessive.

Ms Graham accepted that a further mystery shopping exercise in Spring 2013 showed a better picture of compliance.

Mr M on behalf of the Big Green Company gave his own background and the background of the company. The company was started in 2009 in a shed in a garden centre with one member of staff. There was an explosion in the renewable energy market and six months later the company had 40 staff and, in his words, more business than they could handle.

Mr M accepted that last summer there had been issues with the Member's methods of selling. Mr Morris pointed out to the panel that they were not informed of the problems until January 2013 and suggested that if they had been informed sooner they may have avoided progressing to this stage.

The panel has decided that the facts amount to a breach of Sections 5.1, 5.2 and 4 of the Code.

The panel finds that in relation to the breach of Section 5.1, the card was not honest and truthful in that it was clearly used for marketing purposes despite a statement to the contrary. The Member used the personal details that consumers had provided on the card to follow-up with a sales phone call.

In relation to Section 5.2, the panel finds that the Member's sales techniques breached the Code in the following ways: sales staff stayed at consumers' homes for more than two hours, offered discounts to sign on the day, provided inaccurate FIT calculations and dates for the changes to FIT, and withheld the price until the end of the sales visit. The panel is also concerned about the tactic used by sales representatives of making calls to the sales manager at the office while in the consumer's home and the additional pressure that this placed on consumers.

In relation to Section 4, the breaches of Sections 5.1 and 5.2 have brought the Code into disrepute. The panel particularly notes that the complaints were from consumers

who had not signed a contract with the Member but were sufficiently concerned about sales tactics to bring the matter to the attention of the regulator.

The panel does accept that the Member had grown rapidly to accommodate consumer interest in renewable energy. However, that can never be an excuse for not being compliant with the Code.

Determination of level of Seriousness

Ms Graham stated that RECC accepted that they had had no complaints about the Member notified to them in 2010 and 2011. RECC was of the view that in 2012 the Code had slipped down the order of importance in the Member's decision making. She reminded the Panel that the explosion in the market primarily existed between November 2011 and March 2012 but the majority of the problems in this case followed that time. She accepted that there had been a positive response from the Member when the problems were notified to them in January 2013, but that there had been two further complaints, both of which RECC accepted were from former sales representatives.

Ms Graham accepted that, if there were any problems remaining, they were less serious than in 2013, but RECC remained concerned about the underlying culture and ethos of the Member.

Mr M... drew the Panel's attention to the number of complaints relative to the number of consumer enquiries received. He stated that they receive around 1000 enquiries per week and therefore 14 complaints in the context of the total enquiries was small. He accepted the validity of each complaint and did not in any way seek to diminish their importance. He believed that the latter mystery shopping exercise backed up his assertion that there had been huge improvements in compliance with the Code.

The Panel finds the breaches to be serious. The Panel accepts that the relative number of complaints to the number of enquiries was small. However, the nature of the complaints was such to give great concern to the Panel that, during the period concerned in 2012, the Member lost sight of the purpose of the Code and applied high-pressure selling tactics that were wholly inappropriate.

Determination of Sanction

Ms Graham reminded the committee that purchasing solar PV was a one-off purchase and systems were expected to last 25 years. She suggested that there was a clear need for the regulator to be confident that high-pressure selling tactics have been eradicated from the ethos of the Member.

During the course of mitigation, Mr M... provided details about the compliance systems and policies that have been introduced since 2013. He stated that all front-line staff were retrained in January 2013 on all aspects of the Code and pricing policy, and were required to sign papers indicating their understanding and agreement to comply. Further, sales representatives attend monthly training meetings. He also explained sales visits were closely monitored and sales managers must sign off on each sale. The data in relation to sales visits was collected and reviewed on Mondays on a weekly basis by himself and other senior managers. If there were any concerns at all, further meetings with sales representatives would take place. Mr M... also said that a number of sales representatives had left, as they were unable to work within the Code. In addition, the Member phones a sample of customers to validate the data produced by sales representatives and to ensure that customers are satisfied. He went on to say that introducing a tighter system of compliance has improved sales.

The Panel considered whether it should impose individual sanctions in relation to each individual breach. It accepted that the Member expressed a long-term

commitment to remain within the industry and to comply with the Code. It would be appropriate in this case to impose a single sanction designed to ensure that the Member is fully compliant and working within the provisions of the Code.

The Panel considered that a Notice of Breach would not be sufficient because the breaches were serious.

The Panel has decided to impose the following condition on the Member's ongoing Code membership:

1. Between the date of this determination and 16 October 2013, on a maximum of two occasions of RECC's choosing, without notice, RECC will require the Member to produce within three days all CRM data for the previous week. In addition the member will produce records of any sample phone calls made to validate the data.
2. The data will be reviewed by an auditor, appointed by RECC for this purpose. If there are two requests for data, the auditor should be the same person on each occasion.
3. The Member will answer any questions raised by the auditor and may provide any explanation of actions taken by the Member arising from its own review of the data produced.
4. The cost of audit(s) will be paid, in full, by the Member.
5. Any matters of serious concern to RECC arising from the audit(s) will be referred to a further meeting of the Non-Compliance Panel.

All data produced under this condition must comply with the Data Protection Act.

Appeal Period

Under Bye-Law 8.1 the Member may appeal this determination within 14 days of the date of the determination.

17 July 2013