BETTER BUILDINGS PARTNERSHIP

Response to Reforming the Business Energy Efficiency Tax Landscape Consultation

November 2015

The Better Buildings Partnership (BBP) is a collaboration of 26 of the UK's leading commercial property owners, representing over £180bn worth of assets under management, who are working together to improve the sustainability performance of existing buildings.

Our aim is to enable market transformation through sustainability leadership and knowledge sharing across the commercial property industry. We do this by demonstrating leadership, promoting innovation and delivering practical guidance that overcomes common sustainability challenges. As such, we are not a lobbying organisation.

We would be delighted to expand upon any aspect of this response and to provide further supporting information. Please contact in the first instance: Chris Botten, Programme Manager via c.botten@betterbuildingspartnership.co.uk

1. Do you agree with the principle of moving away from the current system of overlapping policies towards a system where a single business/organisation faces one tax and one reporting scheme? Please provide evidence on level and types of benefits of an approach like this.

In principle we agree with the proposal of moving towards a system where a single business faces one tax and reporting requirement. The current regulatory landscape is particularly complex, resource intensive for organisations to comprehend, as well as comply, and overlapping in terms of its policy aims and compliance requirements.

However, rationalisation does not automatically translate into smarter regulation. In moving towards a single tax and single reporting system, we believe that these two individual elements should be very much viewed separately as the taxation and reporting have very different purposes. It is crucial that, as part of the review, the Government considers the policy aims and objectives of the taxation and reporting elements separately, and then selects and combines the effective elements of each of the policies under review. For example, some of these policy aims and objectives may be:

Taxation:

- Simple for business to administer
- Simple for business to understand
- Incentivises business to reduce energy consumption (i.e. align with operational control/energy management)
- Provides long term clarity and certainty to allow businesses to forecast energy efficiency investments
- Improves UK energy security

Reporting:

- Simple for business to administer
- Simple for business to understand
- Provides transparency, visibility and comparability internally within an organisation and externally to stakeholders
- Disclosure of information for total business operations (i.e. align with financial control)

We feel it is important to appreciate from the offset that the most effective taxation framework will not necessarily automatically align with the most efficient reporting and disclosure framework. It would be counter intuitive to follow a 'lowest common dominator' principle and forcing a combined single tax and reporting system would be of no use to business and would not achieve the desired policy objectives.

2. Do you agree that mandatory reporting should remain as an important element of the landscape in driving the uptake of low carbon and energy efficiency measures? If not, why not?

Consistency and transparency in reporting is important and we agree that it should remain mandatory. Not only do organisations need to understand their impacts and liabilities in order to manage them but they also need to be able to track performance over time. Investors and external stakeholders also need to be able to easily assess a company's performance on a series of common indicators in order to make informed business decisions.

Whilst we believe reporting is an important requirement, it is extremely challenging to create a single framework which provides meaningful analysis and breakdown of a company's environmental impacts given the diverse nature of business in the UK. The main driver for sustainability reporting is not only legislative demands, but more importantly stakeholder pressure which has resulted in the proliferation of more relevant, sector specific reporting requirements. Within the real estate sector examples include the European Public Real Estate Association (EPRA) and Investors in Non-Listed Real Estate Vehicles (INREV), as well as broader reporting frameworks including sector specific supplements such as the Carbon Disclosure Project (CDP) and the Global Reporting Initiative (GRI). Government should therefore appreciate that any reporting requirement they set will act as the lowest common denominator form of reporting and likely be less useful than any sector specific reporting framework.

Therefore, we feel any reporting framework should be complementary and not stifle sector specific existing reporting practices that are not derived from legislation and go beyond simple metrics that provide detailed breakdown of performance specific to that given sector. Mandatory Greenhouse Gas Reporting already has this arrangement built-in, wherein organisations are permitted either to follow the Defra Greenhouse Gas Reporting Guidelines preferred approach or to adopt a recognised industry reporting standard in order to complete their report, provided that the required disclosures are made. We feel this is a principle Government should adopt in any mandatory reporting requirement i.e. provide the option of reporting to a generic basic requirement or select an approved sector specific reporting methodology.

3. Should such reports require board level sign-off and should reported data be made publically available? Please give your reasons.

We strongly believe board level (or equivalent) sign-off and public disclosure should remain a mandatory part of any reporting scheme. From experience within our membership, board-level sign-off on environmental reporting is crucial in ensuring:

The Board of Directors are aware of their organisational environmental impacts and associated tax liabilities, as well as providing visibility at the highest level of decision making;

The correct downstream processes, with appropriate level of priority, are implemented to reduce impacts and minimise risks for the business.

Where there is no legal requirement for Board level to be aware of the associated impacts and liability, the process of implementing change and gaining senior management buy-in can be significantly more challenging.

In order to ensure a board remains aware of performance over time, and is able to set targets, any reporting framework should also require the reporting of historical performance which will allow decision makers to assess trends.

It is also important to appreciate that a board does not always exist for many investment vehicles (particularly true for the fund management sector) therefore appropriate alternatives need to be considered for such instances.

4. Do you agree that government should develop a single reporting scheme requiring all ESOS participants (and potentially the public sector (see paragraphs 4.21 – 4.23) to report regularly at board level? If so, what data should be included in such a report?

We agree with the Government's intention in principle but are unsure as to whether it is possible to develop a single reporting scheme for all organisations across the economy that is useful and does not result in simply being a burden on business. It is critical that the reporting requirement developed is an effective tool for business. We do not view ESOS as a reporting framework and to use ESOS for that purpose would require creating a new reporting framework that does not yet exist.

As discussed in Question 3, we feel that any reporting framework should be complementary and not stifle sector specific existing reporting practices. We strongly recommend that Government allow businesses the option of selecting an appropriate sector specific reporting framework (e.g. EPRA, INREV, GHG Protocol) as a compliance option, in an alternative to any basic 'one size fits all' framework Government may develop.

5. The government recognises the importance of ensuring market actors have access to transparent, reliable and comparable information to support financing and investment in energy efficiency and low carbon measures. How best can a streamlined report achieve this? To what extent does your response apply to other large companies (as defined in the Companies Act) that are not listed companies?

The challenge of providing the level of detailed information required to invest in energy efficiency and low carbon measures is that it needs to be granular and at an individual operational site level. For large organisations that operate over multiple sites, a high level audit at a whole company level will not provide the level of information required to identify energy efficiency or low carbon measures unless audits are conducted across those individual sites.

We believe the investment in energy efficiency / low carbon measures is dependent on three key aspects:

1. Benchmarking: understanding performance and as a result where efforts should be best targeted
2. Technology: understanding what energy efficiency and low carbon technologies and measures exist within the market and are most appropriate at any given operational site.
3. Finance: understanding the appropriate business models and financing opportunities to fund energy efficiency measures and low carbon technologies.

With regards to benchmarking, we believe the understanding and reporting of operational 'in-use' energy data is the most useful way in identifying poor performing sites and targeting those to make reductions. Within our membership we collect annual energy consumption data of some 700 commercial properties a year through our Real Estate Environmental Benchmark project. Over the course of 5 years those buildings have reduced their energy intensity by approximately 27%, demonstrating what can be achieved through the reporting and understanding of operational performance data.

The collection of such data is resource intensive, but there is no reason why this couldn't be rolled out at a national level and with significant efficiencies made as can been seen in other geographies. There is an opportunity for Government to model a system such as Portfolio Manager in the US whereby data from utility meters is send by utility companies to a centralised database and counterparties to their bill gain access and use the data for reporting initiatives as well as benchmarking performance to identify energy efficiency investment opportunities. This initiative has been hugely successful in the US and led to the proliferation of sector specific benchmarking initiatives as well as city-wide mandatory disclosure schemes. Such a scheme in the UK could provide similar opportunities, particularly with a move to providing greater regional powers, and would also provide Central Government with a detailed data set of the energy performance commercial buildings which in turn can be used to support the development of evidence based policy making.

In relation to technology, whilst this will be largely market driven, Government could look to support business in understanding what energy efficiency options are available to them as well as the measures which are typically being installed in the market. This could be through the requirement of reporting audit recommendations and those installed to a central register. Voluntary initiatives like this already exist, such as The Curve, which Government could look to support.

In relation to financing, again this will be largely market driven, but Government can support the market through the standardisation of information for financiers much like the Investor Confidence Project, as well make finance available through the Green Investment Bank.

6. Do you agree that moving to a single tax would simplify the tax system for business? Should we abolish the CRC and move towards a new tax based on the CCL? Please give reasons.

We believe that moving to a single tax system which involves abolishing the CRC would be a great simplification as it would significantly reduce the administrative burden to business. Using the CCL has the benefit of costs being able to be paid through the existing energy billing infrastructure, as well as already being in place, and therefore simple for business to administer. This approach also has the benefit of following the 'polluter pays principle' whereby the final user of the energy is the one that pays the carbon tax, and removes the current uncertainty experienced with the CRC between owner and occupier and who's responsibility it is to pay.

It is important that such a tax does not become 'business as usual' and companies treat it as simply higher energy costs. One of the greatest benefits of the introduction of CRC was that it created dialogue between owners and occupiers on energy consumption and carbon emissions. We feel there must therefore be a requirement for utilities to clearly report the CCL tax element of the bill to their customers, for that tax element to be reported at board level and a requirement for the landlords to pass on that information to occupiers when they purchase the energy on the occupiers' behalf.

Looking beyond the CCL, the payment of various business taxes (particularly large multinational organisations) is high on the Government's agenda. If Government was so inclined it could look at the options of requiring businesses to report total taxes paid (including VAT, Corporation Tax, PAYE etc.) against turnover to demonstrate their contribution to the UK which in turn could act as a measure of the tax burdens imposed on different industry sectors.

7. How should a single tax be designed to improve its effectiveness in incentivising energy efficiency and carbon reduction?

As mentioned in Question 6 we feel the CCL is the most appropriate mechanism for a single tax based system as it can be administered and complied with through the existing energy billing infrastructure. This would reduce the administrative burden for business and ensure high levels of compliance.

In order to ensure an effective uptake of energy efficiency and carbon reduction through a single tax based system we believe the Government should consider the following points:

- Materiality: setting the tax high enough to have a material impact on business and therefore incentivise them to make reductions.
- Trajectory: providing a clear trajectory of future tax levels to allow business to forecast future costs and therefore plan energy efficiency investments. An escalator could be applied over time to ensure it incentivises the right behaviour in the timescales government desires, however should be subject to continued 'political tinkering' over time.
- Transparency: Ensuring the cost of that tax is clearly stated separately in any utility invoices and signed off at board level.

There was disappointment that CCL exemptions are no longer applied to renewably generated electricity. Whilst the reasons behind this move is understood, we would welcome a change so that UK generated renewables was exempt from CCL to encourage the installation of new UK renewable generation capacity.

We believe that there would be less opposition to an energy efficiency/carbon tax on energy consumption if that funding was ring fenced and used to support energy efficiency or improving UK energy security etc. I.e. providing funds for the Green Investment Bank or establishment of a new energy efficiency fund.

8. Should all participants pay the same rates (before any incentives/reliefs are applied) or should the rates vary across different businesses? For example, do you think that smaller consumers and at risk Energy Intensive Industries (EIIs) should pay lower rates?

We recommend that all participants pay the same rate for the following reasons:

- Administrative simplicity
- It follows the polluter pays principle
- Setting the levels of a tiered rates system would be arbitrary and businesses could move between those thresholds between years making it challenging to predict and forecast tax liabilities.
- A tiered rates based system in the private rented sector would not translate into fair apportionment of costs for users. For a significant portion of the real estate sector users of buildings to not directly procure their own energy. In the private rented sector energy is often procured by the owner or the managing agent and recharged to the occupier. If it was the Government's intention to provide lower rates for SME's often those SME's would not receive that benefit as they would not be procuring the energy directly themselves. Conversely, if the Government wanted to increase rates for large consumers of energy, for large commercial property owners, that energy would be paid for by their occupiers. Many of which who could be SME's and therefore would be unfairly penalised.

We do, however, appreciate the need to protect UK Energy Intensive Industries (EIIs) and ensure they are not put at an economic disadvantage in comparison to international competitors.

9. Do we currently have the right balance between gas and electricity tax rates? What are the implications of rebalancing the tax rate ratio between electricity and gas? What is the right ratio between gas and electricity rates?

The consultation provides little information on the current taxation levels and receipts received for gas versus electricity which makes answering the question challenging.

For the commercial real estate sector electricity is the dominant form of energy use compared to gas (approx. 75% of energy consumption). In addition, gas use is largely seasonal and highly dependent on geography i.e. businesses located in the North use more gas than businesses located in the South. Therefore, any additional tax rate increases on gas would result in northern based businesses paying disproportionally more.

We believe the levels of taxation should largely be based around the aims of the taxation policy. I.e. If the aim of this policy is to be a:

- Carbon tax then the level of taxation should be based on relative carbon intensities of the energy type. Current DEFRA carbon intensity factors state that electricity (0.49 kg CO_2e per kWh) is 2.7 times higher than that of gas (0.18 CO_2e per kWh).
- Energy efficiency tax then the level of taxation should be based on wider issues such as protecting energy security, capacity of the national energy infrastructure, direction the government wants to move the UK's energy mix to etc. and encourage efficiencies in the energy type government feels is most important at a national level.

10. Do you believe that the CCA scheme (or any new scheme giving a discount on the CCL or on any new tax based on the model of the CCL) eligibility should only focus on industries needing protection from competitive disadvantage? If so, how should government determine which sectors are in need of protection?

NA to BBP membership therefore not in a position to comment.

11. Do you believe that the CCA scheme (or new scheme) eligibility should focus only on providing protection to those EIIs exposed to international competition and at risk of carbon leakage? If so, how should the government assess which CCA sectors are at risk of carbon leakage?

NA to BBP membership therefore not in a position to comment.

12. Do you believe that the targets set by the current CCA scheme are effective at incentivising energy efficiency? Do you believe that the current CCA scheme is at least as effective, or more effective, at incentivising energy efficiency than if participants paid the full current rates of CCL? How could CCAs be improved? Are there alternative mechanisms that may be more effective?

NA to BBP membership therefore not in a position to comment.

13. Do you agree that incentives could help drive additional investment in energy efficiency and carbon reduction? Please explain why you agree or disagree.

We believe well targeted and considered incentive schemes can result in positive responses from the market. This is exemplified by the feed-in-tariffs as a 'carrot' approach and the Landfill Tax as a 'stick' approach.

We believe the greatest driver to invest in energy efficiency at a large scale will be a 'stick' based approach and this should take the form of an escalating tax level over time, much like the landfill tax which is arguably the most successful environmental policy ever introduced for the built environment. Such an approach, though a penalty, will provide the necessary information to make an investment case based around energy efficiency.

14. What is the best mechanism to deliver incentives for investment in energy efficiency and carbon reduction (e.g. tax reliefs, supplier obligations, grants, funding based on competitive bidding)? Are different approaches needed for different types of business? If so, which approaches work for which business types? What approaches should be avoided?

If Government would like an incentive scheme to be open to all UK businesses then they will need to appreciate the complexities of the Non-Domestic Private Rented Sector where in multi-let buildings commercial property owners typically procure the energy for the building and pass on that cost to occupiers. Therefore, who receives any incentive and how easily that incentive can be received by the intended party are crucial considerations.

Of the approaches set out within the consultation document, we are most strongly in favour of a grant based funding for energy efficiency measures. If a portion of the tax revenues were placed by HM Treasury into an energy efficiency fund, that fund could then be administered by Government or an independent organisation to provide match funding for energy efficiency measures recommended as part of any ESOS audit. We feel this is the most appropriate option because it:

- Is the most simple and universally applicable form of incentive for businesses to apply for;
- Is low cost and simple for Government to administer;
- Has flexibility in terms of the technologies, type of business that can be favoured at any given time;
- From a real estate perspective can target specific buildings i.e.
    - Rewarding those which have already undertaken all low and no cost measures, by having an entry level operational rating, such a Display Energy Certificate (grade E or above required to access grants);
    - Supporting those buildings which are least energy efficient such as those falling below the Minimum Energy Efficiency Standard of an E rated Energy Performance Certificate;
- Cannot overspend on budget.

With regard to the other incentive mechanisms suggested within the consultation we feel they have the following limitations:

- Innovative tax relief and rebate based systems are typically extremely complicated and resource intensive for companies to administer due to the various tax based systems that exist for different corporate entities (e.g. REITs and real estate funds). As well as the issue of administering who should receive any tax relief in a multi-let building where energy efficiency measures can be funded jointly by multiple occupiers but forward funded by the owner;

- Feedback from our membership is that the ECA scheme is considerably time consuming and complicated therefore rarely applied for;
- Funding based on competitive bidding such as the Electricity Demand Reduction Pilot has its benefits, however, again is resource insensitive for a business to apply for. This therefore disincentives SMEs from applying and results in only 'large' organisations from receiving the incentive. Such a scheme is also more resource intensive to administer for Government.

15. What impact would moving to a single tax have on the public sector and charities?

NA to BBP membership therefore not in a position to comment.

16. How should the merged tax be designed to improve its effectiveness in driving energy and carbon savings from the public sector and charities?

NA to BBP membership therefore not in a position to comment.

17. Should a new reporting framework also require reporting by the public sector?

We believe that as the public sector represents a significant portion of the real estate market and thus a significant energy consumer it should also be required to report on its energy consumption.

Every public sector building over 250m2 that is commonly visited by the public is already required to obtain a Display Energy Certificate. We believe this is an appropriate framework to report and benchmark energy performance of the Government Estate. However, we would question the rate of compliance and how that performance information is aggregated and publicly reported on.

Disclosure and transparency can be the driver for the public sector to make improvements in energy efficiency, yet information from the Landmark Register is particularly challenging to acquire and there is little analysis published by the Government on how public sector buildings are improving performance. As a significant owner and occupier of commercial property we believe the public sector should play a leading role in demonstrating what can be achieved in improving energy efficiency and sharing best-practise with the private sector.