



 ORKUSTOFNUN

Assessment of Potential Double Counting of Guarantees of Origin in Iceland

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Executive summary

The Association of Issuing Bodies suspended exports of Guarantees of Origin (GOs) issued out of the Icelandic registry in April 2023. The suspension was lifted in June of the same year on the condition that a report, assessing the potential issue of double claiming of Guarantees of Origin, would be produced later that year.

The concerns regarding double claiming are largely due to power intensive users claiming to use renewable energy for their production while Icelandic producers export the majority of the Guarantees of Origin they produce. The Icelandic Energy Regulatory Authority (ROE) has investigated this and found that none of the power intensive users have Guarantees of Origin to fully back these claims, as of 2022; yet many of them make claims, in their marketing material, websites and more, that they use renewable energy. However, this does not constitute a breach of AIB's framework nor EU rules as those only deal with disclosure of the origin of electricity by the electricity supplier to the consumer, but not statements made by the consumer, although Regulation 757/2012 does place an obligation on the consumer to base all statements,

regarding the origin of electricity consumption, on disclosed origin supplied by their energy suppliers. The power intensive users are therefore in breach of an Icelandic regulation but not AIB's framework nor EU rules.

Disclosing and double counting are clearly defined in European Energy Certificate System (EECS) rules and there is no evidence to indicate that double counting is taking place in Iceland. Further, disclosure of origin in Iceland is in line with EECS rules. Double claiming is neither defined in the rules nor specifically prohibited so double claiming that is taking place in Iceland cannot be a breach of these rules.

The issue of double claiming is not a uniquely Icelandic problem and while this assessment shows that it is taking place in Iceland, nothing indicates that it is not taking place elsewhere as well. ROE therefore concludes that if it is the desire of AIB or the EU to prohibit double claiming, it should be the role of a competent EU body to do so on a pan-European level to ensure a unilateral European framework for all member states.

Background

On the 28th of April 2023, the Association of Issuing Bodies (AIB) suspended the exports of Guarantees of Origin issued by Landsnet out of the Icelandic registry. The suspension was due to suspected double claiming of energy attributes in Iceland. The suspension has been lifted as of the 2nd of June 2023 on the condition that Landsnet will supply AIB with a report on potential issues as well as outline actions to remedy them. AIB states in their lifting of the export ban that:

“Assessment Panel will be asked to review this report and to assess the following:

- ▶ Whether market-based reporting, based on the cancellation of Guarantees of Origin and the use of the national residual mix, is correctly applied by market parties;
- ▶ Where location-based reporting is used, that Guarantees of Origin issued for the consumption at such locations are cancelled upon issuance;
- ▶ Where ex-post rectifications were deemed necessary, that such rectifications were effectuated;
- ▶ Whether identified enforcement possibilities have been put in place;
- ▶ And most importantly, whether double counting and double claiming is effectively avoided”

As the issuing body, Landsnet is responsible for providing the necessary information to AIB. However, given the role and expertise of the Energy Regulatory Authority (ROE), an independent unit within the National Energy Authority, Landsnet and The Ministry for Environment, Energy and Climate requested assistance from ROE to execute the evaluation.

ROE is responsible for monitoring the electricity market in accordance with the provisions of the Electricity Act no. 65/2003. The legal basis for requesting information from energy producers is based on the provisions of the Electricity Act, and given the supervisory role of the Regulatory Authority it was considered appropriate that the responsibility for reporting should lay there.

This document is the assessment by ROE and Landsnet.

Objectives of the Guarantees of Origin system

Confirmation of Renewable Energy Origin

The guarantee of origin for electricity can be described as a public confirmation that a specific amount of electricity has been generated using energy sources defined as renewable. In essence, the Guarantees of Origin is a transparency certificate for electricity. Transactions involving Guarantees of Origin are based on the idea that these certificates can be used independently of the electricity it originally belonged to. Electricity buyers can thus purchase the renewable origin in the form of a Guarantee of Origin and pair it with the electricity they receive. This way, consumers can support the production of renewable energy even if they do not have the option to purchase such energy themselves.

The European Union established the system of Guarantees of Origin in 2001. The purpose of this system was to increase the production of renewable energy in Europe, in an effort to combat climate change. The underlying concept of the system is fundamentally simple: if there is an accurate record of the quantity of renewable energy entering the

common electricity grid system of Europe, it is possible to separate physical energy on the one hand and its renewable attributes on the other, selling them as two separate products. This enables electricity suppliers to find buyers willing to pay a higher price for renewable energy, thus creating economic incentives for such production.

Those who purchase Guarantees of Origin certificates have a stake in the renewable origin and are allowed to reference it in their communication with customers in relation to their production or services. To ensure that the system achieves its goal, it is crucial that no one else has the authority to disclose the same renewable origin for the same units of energy. To prevent double counting of renewable origin, sellers of Guarantee of Origin certificates must modify their electricity sales information to reflect the sale of renewable origin. This ensures that the system functions correctly, meaning the number of Guarantees of Origin certificates in circulation corresponds to the actual quantity of renewable energy corresponding to these certificates.

Legal framework

Iceland and the European Union

The agreement on the European Economic Area (EEA) came into effect in Iceland on January 1, 1994. This agreement is considered one of the most comprehensive international cooperations to which Iceland is a party. Directives from the European Union (EU) in energy matters are incorporated into the EEA agreement, and the European Free Trade Association (EFTA) countries have adapted to the single European energy market. Even though Iceland is not directly connected to the European electricity market through interconnectors, it has adopted EU directives in energy matters. As energy is a harmonised area under the EEA Agreement, the EEA EFTA States (Iceland, Liechtenstein, and Norway) participate in the Internal market for energy and are subject to the rights and obligations under EU energy legislation as EU Member States when the legislation is incorporated into the EEA Agreement. A key element of the EEA EFTA States undertaking the same rights and obligations as EU Member States is that they are included within the meaning of the terms "Member States" in EEA legal acts. RED II is EEA relevant and is currently undergoing procedures for incorporation into the EEA Agreement. RED II repeals and replaces RED I (Directive 2009/28/EC of the European Parliament and of the Council), which is incorporated into point 41 of Annex IV to the EEA Agreement. Until the incorporation of RED II into the EEA Agreement, RED I is binding on all EEA Contracting Parties.

Legal implementation of EU rules regarding Guarantees of Origin

Act No. 30/2008 on Guarantees of Origin was introduced to promote the use of renewable energy sources for electricity production and to establish conditions for trading Guarantees of Origin for electricity produced from renewable energy sources. The legislation was enacted to implement Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market of the European Economic Area. Subsequent amendments to Act No. 30/2008 incorporated provisions from Directives 2004/8/EC and 2009/28/EC, providing for the mutual recognition of Guarantees of Origin between Member States. In RED I it is specified in Article 15, Paragraph 1 that all EU and EEA member states shall ensure that consumers are informed about the origin of energy and the proportion or quantity of renewable energy sources in the final energy supply (energy mix). In Article 15, Paragraph 2 of Directive 2009/28/EC on renewable energy, it is stated that Guarantees of Origin are not linked to whether EEA member states meet the objectives for the share of energy from renewable sources, as outlined in Article 3, Paragraph 1 of the RES Directive. In other words, Guarantees of Origin are solely intended to show consumers the proportion of renewable energy in the energy mix provided by the respective electricity supplier, as stated in Article 15, Paragraph 1 of the

directive. According to Article 15, Paragraph 8 of Directive 2009/28/EC (RED I), electricity suppliers are required to align the amount of energy from renewable energy sources that corresponds to Guarantees of Origin sold to a third party. Sold Guarantees of Origin shall be deducted from the share of energy from renewable energy sources in the composition of energy supply, cf. Article 3, Paragraph 6 of Directive 2003/54/EC, with the sale of Guarantees of Origin.

When Guarantees of Origin are issued for electricity generated in Iceland and are sold within the EEA area, the information must be adjusted accordingly. This adjustment is made by deducting the total quantity of exported Guarantees of Origin from the Icelandic production mix and replacing it with an equal quantity from the European residual mix. The cancellation in fact reflects the connection to the delivered energy in the respective country where the Guarantees of Origin are used.

RED II is currently under consideration in the EFTA/EEA working group and will likely be incorporated into Icelandic law in the coming years.

Article 19 of RED II contains rules on Guarantees of Origin for energy from renewable sources, entailing obligations for Member States to follow in the issuing of such Guarantees of Origin and a two-tiered regime for the recognition of such guarantees issued by

other Member States, on the one hand, and by third countries, on the other. Pursuant to paragraph 9 of Article 19, Member States shall recognise Guarantees of Origin issued by other Member States in accordance with RED II except where they have well-founded doubts about their accuracy, reliability, or veracity. Conversely, pursuant to paragraph 11 of Article 19, Member States shall not recognise Guarantees of Origin issued by a third country except where the Union has established an agreement with that third country on mutual recognition of such guarantees and where there is direct import or export of energy. Article 15 of RED I already provided for the mutual recognition of Guarantees of Origin between Member States.

References to third countries refer to states which are not Contracting Parties to the EEA Agreement. Discrimination is forbidden under the EEA Agreement and the EEA EFTA States may only be subjected to treatment as third countries where the EEA Agreement explicitly authorises it¹.

RED II is an EEA-relevant act and therefore binding, for EEA EFTA States² and EU Member States, and effectively includes Iceland in the Guarantees of the Origin market. Guarantees of Origin that are issued by an EEA Contracting Party in conformity with the applicable Directive are subject to mutual recognition by the other EEA Contracting Parties.

¹ For example, point 3b(b) of Chapter XIX of Annex II to the EEA Agreement where in EEA Contracting Parties are permitted to subject products exported from Liechtenstein to third country border controls according to Articles 27-29 of Regulation (EC) No 765/2008.

² Except for Liechtenstein for which the Directive does not apply.

The competent authority's role

Issuing body

Act No. 30/2008 designates Landsnet, as the transmission company under the Electricity Act No. 65/2003, to issue Guarantees of Origin for electricity produced from renewable energy sources. In addition, Landsnet is responsible for ensuring that the electricity for which it issues Guarantees of Origin meets the conditions laid down in the law, thereby allowing for the issuance of Guarantees of Origin for renewable energy production. Guarantees of Origin issued by Landsnet shall be recognised within the European Economic Area, as stipulated in Article 3, Paragraph 3 of Act No. 30/2008 and in accordance with Article 15, Paragraph 9 of Directive 2009/28/EC.

Landsnet monitors the sale of Guarantees of Origin, but the company cannot distinguish between whether they have been sold directly on the market or whether energy companies are fulfilling contracts. The company has the ability to track where the Guarantees of Origin have been sold, but not at what price.

Landsnet hf. ensures that the electricity for which it issues Guarantees of Origin is indeed generated from renewable energy sources or through the combined production of electricity and heat "in accordance with criteria that are objective, transparent, non-discriminatory, and approved by the Energy Authority," as stipulated in Act No. 30/2008.

In accordance with its role according to Act No. 30/2008 and to facilitate Icelandic electricity producers in trading Guarantees of Origin for electricity, Landsnet became a member of the Association of Issuing Bodies (AIB), which has developed a standardised system for Guarantees of Origin in Europe, the European Energy Certificate System (EECS).

According to the EECS rules, on which the AIB certification system is based, all members, as issuing bodies, must ensure that no other methods than issued Guarantees of Origin are used to demonstrate that electricity is produced from renewable energy sources within the meaning of Act No. 30/2008 on Guarantees of Origin for electricity produced from renewable energy sources, etc.

National Competent Authority for Energy Disclosure

In connection with the sale of Guarantees of Origin from Iceland, Regulation No. 757/2012 on the disclosure of information related to electricity origin was implemented. The aim of this regulation is to ensure the publication of reliable information on the origin of electricity for consumers, to avoid any ambiguities regarding the consideration of Guarantees of Origin for each unit of electricity. Article 1 of the Regulation states that its objective is to ensure that the same unit of energy from renewable sources is taken into account only once. Under the regulation, ROE is responsible for publishing, once a year, information on the origin of electricity, taking into account the export of Guarantees of Origin and overseeing the accuracy of declarations from electricity companies. These publications cover both the national mix of energy consumption in Iceland and the mix of individual suppliers that want the origin of their electricity certified. ROE receives data from suppliers about supplied volume in calendar year and takes the necessary steps to ensure that the information provided by suppliers to final customers is reliable and is provided at a national level in a clearly comparable manner. ROE computes all disclosure figures for the suppliers in Iceland and publishes these on the ROE website. These disclosure figures have in principle been used directly by suppliers towards their final customers through bills and marketing materials for customers.

According to Article 4, electricity suppliers must inform their consumers annually about the origin of the supplied electricity and information on the environmental impact, at least in terms of CO₂. This information should be displayed on invoices or in marketing materials for end consumers and should be based on data compiled annually by ROE on the final composition of energy sources in Iceland for the purpose of selling Guarantees of Origin. Regulation No. 757/2012 also suggests that this information should be presented in the annual statements of energy companies, which can be either standardised or customised.

In Article 7 of Regulation No. 757/2012, entitled „Uses of declarations by electricity consumers”, requirements are imposed on both electricity producers and electricity consumers to base their information disclosure on declarations regarding the origin, energy sources, or other aspects of electricity production or consumption. End-consumers must therefore rely on information in such statements or invoices when they themselves provide information about the origin, source of energy or other characteristics of electricity production or electricity use. Icelandic law therefore already goes further than EU law in imposing obligations on end users.

The Regulatory Authority generally does not have supervisory authority over electricity consumers, and neither Regulation No. 757/2012 nor the Electricity Act No. 65/2003 provides the Regulatory Authority with the legal basis for supervision or enforcement actions towards electricity consumers regarding this information disclosure obligation. There are no specific provisions on how to deal with cases where electricity consumers, who do not purchase Guarantees of Origin, refer to the location rather than

declarations from electricity companies regarding the origin of the electricity they use.

Electricity consumers are therefore not authorised to market their electricity as green or renewable unless they buy Guarantees of Origin. The location of generation or consumption does not matter in this context. This issue has been discussed repeatedly in the media, both domestically and internationally. Therefore, it seems necessary to define this obligation more clearly and ensure appropriate supervisory and enforcement measures by the authorities. The Regulatory Authority has taken this position forward with the Ministry of Environment, Energy and Climate.

The role of the Consumer Agency

The Consumer Agency monitors trade practices and marketing activities in accordance with Act No. 57/2005. The law primarily aims to protect the financial interests of consumers and safeguard businesses from unfair competitive practices related to advertising or similar commercial methods that may influence demand.

The law grants the Agency the authority to demand all necessary information related to the investigation of individual cases. After completing administrative procedures and determining a violation of the law, the Agency can issue directives to parties to cease their actions or impose fines.

Act No. 57/2005 is not limited to specific product or service markets or particular activities. Marketing and targeting of consumers, regardless of where it occurs, its origin, or its nature, may be subject to the provisions of the law. The Consumer Agency's Interpretation suggests that the law could

potentially be applied to marketing aimed at business-to-business (B2B) customers, even though it is not explicitly designed for such cases.

Regarding disputes involving the interests of businesses due to the actions of their competitors, the Consumer Agency typically relies on reports or complaints from the affected companies rather than initiating investigations on its own. However, if the agency receives an appeal or complaint that involves consumer interests, it is possible for the agency to consider such cases.

ducer informed their customers of the origin of their electricity. All producers supplied this information.

- ▶ Information on whether all consumers have an opportunity to acquire Guarantees of Origin and how this is communicated. All producers supplied this information.

ROE also based its evaluation on web research, including on energy consumers' claims and information from consumers themselves, which Landsnet gathered as a part of this investigation.

Data requests and market participant cooperation

ROE requested information from the three major power producers in Iceland in May. The information requested was the following:

- ▶ Contracts with power intensive users, specifically any mention of where the electricity for the user would be produced. Two of the three power producers supplied all the requested information, but the third refused to supply its contracts with power intensive users given their confidentiality, despite repeated requests. Instead that power producer provided a general terms contract and a third-party review of the content of the contracts to inform on the matter.
- ▶ How and in what form the electricity pro-

Assessing information received

Contracts

Some of the contracts are old long-term contracts that were made before the Guarantees of Origin system was implemented in Iceland. Some of these contracts specify that the power producer will build a specific power plant to increase their generation capacity to meet the contracted demand. In most cases these plants were built to supply electricity to the power intensive users.

The Guarantees of Origin system was implemented in Iceland over a decade ago and the power producers informed their customers about the changes this would entail. An example of this is a letter, sent by Landsvirkjun to their power intensive users in late 2012, which states:

“At the beginning of September 2012, a regulation on the obligation to provide information regarding Guarantees of Origin was implemented in Iceland and it ensures the publication of reliable information related to transactions on Guarantees of Origin. According to it, energy producers/retailers who sell Guarantees of Origin in Iceland must publish a specific statement about the origin of the electricity, otherwise they must publish a standardised statement issued by the National Energy Authority on the overall composition of electricity in Iceland, taking into account trade in Guar-

antees of Origin to other countries in Europe. This duty of information and the role of public bodies is to prevent double counting of the same energy units in the issuance and sale of Guarantees of Origin. [...] The purchase of Guarantees of Origin is optional for each customer and there is no obligation to purchase such certificates. Buyers of Guarantees of Origin are usually those electricity consumers who see a benefit in receiving certification of their specific support for electricity production from renewable energy sources. In this way, companies can strengthen their image in the marketing of a product or service in Europe with their purchase of Guarantees of Origin. In this way, companies can strengthen their image in the marketing of a product or service in Europe with their purchase of Guarantees of Origin.”³

While this letter does not specifically state that the consumer can no longer claim to use renewable energy it is implied by the statement that “[b]uyers of Guarantees of Origin are usually those electricity consumers who see a benefit in receiving certification of their specific support for electricity production from renewable energy sources. In this way, companies can strengthen their image in the marketing of a product or service in Europe with their purchase of Guarantees of Origin.” ROE has not received any data suggesting that the power intensive users have made an effort to claim the Guarantees of Origin associated with their consumption since the system was implemented.

³ (Original Icelandic text: “Í byrjun september 2012 var reglugerð um upplýsingaskyldu varðandi upprunaábyrgðir innleidd á Íslandi og tryggir hún birtingu áreiðanlegra upplýsinga tengdum viðskiptum á upprunaábyrgðum. Samkvæmt henni skulu orkusalar sem selja upprunaábyrgðir á Íslandi birta *sértæka yfirlýsingu* um uppruna raforkunnar, ella skuli þeir birta *staðlaða yfirlýsingu* sem Orkustofnun gefur út um heildarsamsetningu raforku á Íslandi að teknu tilliti til viðskipta á upprunaábyrgðum til annarra landa í Evrópu. Þessi upplýsingaskylda og hlutverk opinberra aðila er til að koma í veg fyrir tvítalningu sömu orkueininga í útgáfu og sölu á upprunaábyrgðum. [...] Kaup á upprunaábyrgðum eru valkvæð fyrir hvern viðskiptavin og engin skylda að kaupa slík vottorð. Kaupendur upprunaábyrgða eru yfirleitt þeir raforkunotendur, sem sjá hag sinn í því að fá sértækan stuðning sinn til raforkuframleiðslu frá endurnýjanlegum orkugjöfum vottaðan. Þannig geta fyrirtæki styrkt ímynd sína í markaðssetningu á vöru eða þjónustu í Evrópu með kaupum sínum á upprunaábyrgðum.”)

Acquiring Guarantees of Origin and communication

All three companies state that all their consumers are offered the opportunity to acquire Guarantees of Origin. Until recently, all households and small and medium-sized businesses (that is those that do not qualify as power intensive users according to Icelandic law) had Guarantees of Origin cancelled for their consumption. Most power intensive users do not have Guarantees of Origin cancelled for their consumption, although there are a few exceptions to this.

As stated above, when the system was initially implemented in Iceland, the three companies each approached their existing power intensive customers to explain the system and what changes it would involve. All the companies therefore seem to have done their part when implementing the system. Since then, all three companies have offered their power intensive consumers the opportunity to buy Guarantees of Origin, see Figure 1 from Landsvirkjun below.

Confidential

Guarantees of Origin Indicative nonbinding proposal

Long term

- › If [redacted] is interested in securing Guarantees of Origin for all its energy usage in the long term Landsvirkjun can [redacted] of the year ahead market from 20[redacted]-20[redacted].

Short term – smaller requests

- › For smaller requests Landsvirkjun can [redacted] from spot prices of Nordic hydro GOs as shown on Greenfact.



Figure 1: Example of a proposal for a power intensive user to buy Guarantees of Origin from Landsvirkjun.

Informing consumers of their energy mix

Each of the three companies sends a breakdown of the origin of the electricity consumed by their users at least annually. ROE has received copies of invoices where this information is displayed and is satisfied that

this information is supplied to all consumers (see the example below). The power intensive users are therefore informed of the origin of their electricity and are aware that, in most cases, it is not 100% renewable. Below is an example where 21% is renewable energy, 59 % is fossil fuels and 20 % is nuclear energy (see Figure 2).



Reikningur
Númer
Kennitala
Vsk. númer
Dagsetning 30.6.2017
Eindagi
Síða: 1 af 1
Kennitala viðskiptavinar

Vörunúmer	Lýsing	Magn	Eining	Einingarverð	Upphæð

Viðskiptalegur uppruni raforku á Íslandi eftir orkugjöfum árið 2016: Endurnýjanleg orka 21%, jarðefnaeldsneyti 59%, kjarnaorka 20%. Birt skv. reglugerð 757/2012 .
Frekari upplýsingar má finna á vef Orkustofnunar. Sjá <http://os.is/gogn/Vefur/OS-yfirlýsing-2016-A4-Stodlud.pdf>

Figure 2: Example of annual disclosure to an end consumer.

Translation of bottom text: *Market based origin of electricity in Iceland by energy source in 2016: Renewables 21%, Fossil fuels 59%, Nuclear 20%. Published in accordance with regulation 757/2012. Further information is available on the NEAs' website. See [Link]*

Consumer claims

AIB's suspension was due to suspected double claiming of energy attributes in Iceland. ROE has investigated this and found claims on the origin of electricity from many of the energy intensive users. Out of the 9 companies investigated, 6 had a direct claim on their website; one had an indirect claim by stating that production of aluminium is environmentally friendly, especially where renewable energy is used to produce it; and two do not seem to have any claim.

While energy intensive users in Iceland claim to use renewable energy, none of them have Guarantees of Origin to fully back such claims, as of disclosure for 2022. Some users, however, have Guarantees of Origin to back part of this claim and as such seem to be making an effort to acquire Guarantees of Origin to back these claims.

Legitimacy of claims

ROE tasked Landsnet with contacting the power intensive users to give them an opportunity to explain the basis of their claims. The replies can be broken down into two main arguments.

The first is that Iceland has been advertised as a country of renewable energy and almost all electricity (99.9%) is produced using renewable sources. As such, these claims are based on the origin of the energy produced into the grid. Some users claim that this is in

line with what their electricity supplier has claimed and advertised.

The second argument only applies to older contracts from before the implementation of the Guarantees of Origin system in Iceland. Many of these contracts state that a power producer will build a specific power plant to increase production to meet the contracted demand. They argue that this is the basis for claiming the origin of the electricity and they can therefore claim that 100% renewable energy is used.

Lack of common understanding of contracts

ROE research indicates that in some cases there may be a lack of common understanding regarding the origin of contracted power. It is neither the role of Landsnet nor ROE to resolve such potential contractual disputes. Potential disputes regarding the interpretation of energy sales agreements in this regard might be resolved according to the provisions of the agreements on dispute resolution and Icelandic laws.

There are examples of producers' employees communicating that the electricity consumed by the power intensive industry is fully renewable, despite that same producer stating otherwise on invoices sent to these consumers. This includes communicating publicly that "the carbon footprint of

aluminium production in Iceland is the lowest in the world, in part because the aluminium is produced using renewable energy⁴ and that “the carbon footprint of the Icelandic renewably produced aluminium was a tenth of the Chinese coal-produced, aluminium”⁵. Such statements do not support the credibility of the Guarantees of Origin system in cases where the energy producer is not fully informed about the amount of Guarantees of Origin the consumer holds, and may constitute a breach of Article 7 of Regulation 757/2012.

ROE would like to emphasise the importance of fairness in processes such as this. In ROE’s opinion, Icelandic energy producers have followed the rules set out in Icelandic legislation and the EECS rules fully and as such should not be punished for the claims made by consumers. Statements in consumers’ marketing material can currently not be enforced by member states but those consumers are the ones that are more likely in violation of what the EECS rules should state, but currently do not. Power producers must be careful to not promote their buyers using renewable energy unless they have full information that they have Guarantees of Origin to back up such statements.

Double claiming not double counting

ROE has not been able to find any evidence of double counting taking place in Iceland as there is no evidence that Guarantees

of Origin from any production are being disclosed twice. All electricity suppliers in Iceland fulfil the obligation to provide a statement or invoices and marketing materials for end consumers that indicate the share of every energy source and waste material for the previous year. The Invoices from electricity suppliers to end consumers firstly state the mix of commercial origin of electricity in Iceland between different sources for each respective year. The invoices then refer explicitly to Regulation 757/2012 as basis for the information disclosure, as described in detail below. Double counting only takes place if an electricity supplier sells Guarantees of Origin to one customer and provides information on renewable qualities for the same amount of power to another customer. In ROE’s fact-finding process, no errors have been found in the electricity disclosure system that lead to the conclusion that there is double counting of renewable electricity in the Icelandic Guarantees of Origin system.

Based on its investigation, ROE has however found potential incidents of double claiming taking place. Namely that power intensive users are claiming to use renewable energy, citing contracts or location-based disclosure; at the same time the power producers are selling Guarantees of Origin corresponding to this consumption.

Claims of renewable energy sources or energy attributes contained in marketing materials prepared by end users of electricity in cases where no Guarantees of Origins were acquired constitute a breach of the provisions of Regulation No. 757/2012.

⁴ <https://www.visir.is/g/20212154640d/lofts-lags-bod-ordin-thrju-minni-neysla-baett-nyting-og-endur-vinnsla>

⁵ <https://www.visir.is/g/20212159499d/sjalf-baer-orku-fram-tid>

In this regard, we highlight that double claiming, in the sense of claims contained in marketing materials prepared by end users of power, or in the end users' reporting of emissions in accordance with the Greenhouse Gas Protocol, e.g., using location-based methods, does neither constitute a breach of EECs rules nor a breach of disclosure obligations in the relevant EU/EEA directives. This is because a unilateral claim made by an end-user neither constitutes a proof of origin nor disclosure in the legal sense of that term under the EESC Rules or other relevant EU/EEA directives.

ROE highlights that it has not been able to find any evidence that authorities in member states or EEA countries exercise this kind of supervision of end consumers.

Cancellation vs not publishing

In its press release on the 1st of June, AIB states that the Assessment Panel will review "[w]here location-based reporting is used, that Guarantees of Origin issued for the consumption at such locations are cancelled upon issuance". According to EECs rules it is outlined that: "[a]n EECs GO shall only be issued in respect of Outputs which has not been and is not being otherwise disclosed" This rule is intended to protect the systems credibility but only addresses disclosure, not claims.

In this context it should be considered that cancelling Guarantees of Origin as opposed to not issuing them has very different outcomes. Requiring Guarantees of Origin to be cancelled when a claim exists the system is requiring suppliers not to sell Guarantees of Origin to Company A, when Company B is claiming to have obtained the renewable qualities from the same energy citing a

location-based method. This would punish the supplier due to a third party's unilateral action. This can set an example.

Separation of Guarantees of Origin system and Greenhouse Gas protocol

Discussion has taken place on whether double counting is taking place as power intensive users use a location-based approach to their Greenhouse Gas (GHG) disclosure. ROE would like to emphasise that the GHG Protocol and the Guarantees of Origin system are independent systems and making claims within the GHG disclosure that is not backed by Guarantees of Origin is currently not forbidden. Location-based scope 2 GHG emission disclosure can therefore not be seen as claims within the Guarantees of Origin system.

Necessary additions

As mentioned before, the Regulatory Authority generally does not have supervisory authority over electricity consumers, and neither Regulation No. 757/2012 nor Electricity Act No. 65/2003 provide the Regulatory Authority with the legal basis for supervision or enforcement actions towards electricity consumers regarding this information disclosure obligation. There are no specific provisions on how to deal with cases where electricity consumers, who do not purchase Guarantees of Origin, refer to the location rather than declarations from electricity companies regarding the origin of the electricity they use. If such surveillance is to take place in Iceland, the legal framework must be in place.

However, ROE has not received any information indicating that monitoring of information disclosure to end users is being carried

out in other European countries. *The monitoring of end user information disclosure and enforcement needs to be unilateral within the European Union to ensure that the same requirements and legal framework apply to parties operating within the EU market.*

Amendments so far

Landsnet

Landsnet is amending the current issuing process with the following improvements:

- ▶ An annual internal audit on the existing producers and mapping with respect to end user marketing claims. Escalation of false marketing claims to ROE which would then:
 - Verify marketing claims made by new end users entering the market and intentions with regards to Guarantees of Origin.
 - Map contractual claims of end users with producers of renewable energy with regard to Guarantees of Origin.
- ▶ Offering automatic Direct Cancelling of issued Guarantees of Origin for contract-based consumption.

The Icelandic Energy Regulatory Authority

To increase the transparency of the Guarantees of Origin system in Iceland, ROE intends to set up a portal where the origin of electricity can be checked for individual companies. A similar portal, called Green check, exists in the Belgian electricity market⁶ for consumers to confirm the validity of disclosure by their energy supplier.

⁶ <https://www.vreg.be/nl/controleren-hoe-groen-uw-stroom-groencheck>

Conclusion

ROE concludes that there is no evidence that double counting of Guarantees of Origin is taking place in Iceland as no evidence has shown that the same unit of energy is being disclosed more than once. Further, the assessment finds that disclosure of origin is in line with EECs rules and Icelandic law. As such, Iceland is in compliance with EECs rules.

The assessment does however find that some consumers claim to use renewable energy in their marketing material while producers sell the Guarantees of Origin corresponding to this consumption. This double claiming does not constitute a breach of EECs rules as the rules do not address end user claims or statements.

The system for Guarantees of Origin is based on harmonised European rules, such as the EECs rules. Action is needed at the European level to address systematic deficiencies such as double claiming. ROE and Landsnet would welcome the initiative of AIB and competent EU bodies in framing such regulatory reform and are ready to contribute to the establishment of such a framework.



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