



**Mr Keith Mason**

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23 November 2012

Dear Keith

**CONSULTATION ON OFWAT'S SECTION 13 PROPOSALS TO MODIFY COMPANY LICENCES**

1. Thank you for your letter of 26<sup>th</sup> October 2012, together with the consultation on Ofwat's Section 13 proposals to modify company licences. Please pass on my thanks to Ingrid Olsen, for her e-mail of 16<sup>th</sup> November 2012, containing Ofwat's answers to the supplementary questions submitted by Water UK, and to Regina for attending our Board meeting on 21<sup>st</sup> November 2012, and for the additional clarifications provided on 20<sup>th</sup> November 2012.
2. We should say – first and foremost – that we welcome the movement in these proposals relative to those issued in December 2011. In particular, we welcome the reinstatement of the link to RPI on the face of the licence, and the efforts that Ofwat has made to explain why it believes that the flexibility it is seeking is a proportionate response to the issue it has identified.
3. However, having given the matter very careful consideration, we are at present unable to accept the Section 13 Notice. The Board is concerned that Ofwat's proposals give rise to unnecessary uncertainty and risk over a prolonged period. They therefore appear to be contrary to customers' and investors' interests, and thus at odds with section 2 of the Water Industry Act 1991.
4. We accept that the industry faces significant challenges and that the current licence restricts reform of the price setting framework. But we are currently not persuaded that the degree of flexibility embodied in the current proposals is necessary or justified.
5. As matters currently stand, we see no reason why the modifications to the licence need to extend beyond those needed to make the changes to the price setting framework that are required for the period 2015 to 2020. Such an approach would allow customers to benefit from the reforms envisaged for 2015 to 2020, and without prejudice to the development of subsequent reforms.

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6. That said, we also recognise that the uncertainty in Ofwat's current proposals could, in principle, be addressed by modifying those proposals, e.g. to restrict (in this licence modification) the types of activities that could be unbundled and to define clearly how the RCV would be adjusted in the event that activities were unbundled. It follows that if Ofwat elected not to make an immediate reference to the Competition Commission, we would be very keen to continue to engage with Ofwat in a constructive manner to re-examine whether there are other solutions that could be found that meet the key objectives of all parties. Indeed in the light of Ofwat's clarificatory statement of 20<sup>th</sup> November, we have already begun work on how Ofwat's proposal might thus be modified, and the most effective process for further engagement.
7. In summary, we find ourselves unable to agree to the Section 13 notice, yet fully supportive of further engagement.

Yours sincerely

A handwritten signature in black ink, appearing to read "Nick Fincham". The signature is written in a cursive, slightly slanted style.

**Nick Fincham**  
**Director of Strategy & Regulation**