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Dear Sirs

LICENSING AND POLICY ISSUES IN RELATION TO THE OPENING OF THE NON-HOUSEHOLD RETAIL MARKET – A CONSULTATION

This letter forms our response to the above consultation. It summarises our main response points for each of the chapters in the consultation. Our response to each of the specific consultation questions is included in the attached Appendix.

At the end of this letter we draw out some further considerations which we consider are important to ensure the new retail non-household market opens successfully and gives a good experience to customers, retailers and wholesalers.

Overall, we are supportive of the licence proposals. With regards to the additional tariffs and charging points raised in the consultation, we consider there are some matters that require further discussion which we highlight in this response.

Proposals for the new water supply licences

Separate licences

We agree with the proposal to have separate 'modular' licences for water and sewerage retail. In our opinion there should not be any difference in the licence between water and sewerage except where there is a specific issue driven by legislation or level playing field issue e.g. for wastewater retailers to pay towards the cost of meter reading.

We also agree with the proposal that enables "the switching on" and "switching off" of the standard licence conditions to create licences with the correct "modules".

Arm's length condition

The consultation asks specifically if the proposed Water Supply and Sewerage Service Licence (WSSL) should maintain the obligations with regard to arm's length transaction conditions and non-discrimination. We agree with this proposal and consider it is vital for the

market to operate with a level playing field. The proposal is necessary and should accompany the proposed changes in Condition R of the Instrument of Appointment, including the specific requirement to seek Ofwat approval for each arms length retail transaction arrangement with an associate licensee.

Proposed amendments to the Instrument of Appointment

This section of the consultation sets out changes to the Licence of Appointment. The most important of these, in our opinion, in terms of both timing and effective market operation is around the principle of equivalence and Condition F and Condition R changes.

Arm's length trading

The consultation proposes amending the wording on Arm's Length Trading (Condition F), amending wording on access codes and the removal of the in-area trading ban (Condition R). We agree with these proposals.

Non-household licence fee

The consultation also raises the issue of whether there is a need for a non-exited non-household licence fee. For the purposes of transparency and equivalence we consider this should be included in the revisions to Condition N of the Instrument of Appointment.

Licence Condition on market readiness

The consultation asks specifically whether there should be a new condition in current licences and Instruments of Appointment with regard to market participants being ready. We are not convinced that a general obligation to carry out any activities required to introduce the market is necessary.

Wholesalers have existing legislative and licence duties that include all of these obligations – in particular to furnish information Ofwat require under Condition M.

If there is a specific reason why Ofwat need additional enforcement powers for market readiness, for instance because of the point at which the market codes will have statutory effect, then a specific time limited licence clause to this effect is likely to be appropriate. We think it would be useful for Ofwat to set this out as part of the final proposals.

Changes to the application process and intended timeline

Application process

The consultation sets out five areas that would be assessed in applying for a future WSSL. The five areas are sensible. On market accession, we think this must be contingent on successful achievement of the market entry assurance requirements set out in the Market Terms and Code Subsidiary Documents. This helps to ensure there is transparency of process and ultimately a level playing field in the market.

The WSL existing licence process sets out a requirement for a sponsor for the applicant. We do not think there is a need to maintain a sponsor since the proposed market arrangements – including the market entry assurance – fulfils this role.

Other licensing matters

WSL transition and fees

The consultation proposes a transition approach for existing WSLs and the use of a simplified application process. We agree.

The consultation states there would be a substantial discount to the application fee for existing licence holders. We agree. Given the existing variation application fee is £550 to £1,350, we wonder whether any additional payment could be de-minimis, recognising the internal cost to the WSL holder of re-application.

Industry codes

Auction for Supplier of Last Resort

The consultation proposes an auction style process for an interim supplier (supplier of last resort).

There is insufficient detail presented on how this would operate – is this a price auction or service or both? The scale of the water market is also significantly different to energy. There is also a potential level playing field issue, as this process may inadvertently favour incumbents at market opening because of their scale and hence ability to bid in an auction compared to new entrants. With a simple allocation of unserved customers this issue may not arise.

We also question whether this additional process is a priority for the initial market. In our opinion given the existing arrangements in place, and the current amber status of the programme we think this topic can be re-opened once the market is operational and understood more fully unless there is a clear requirement for the activity.

Tariffs and charges

Special agreements

The consultation proposes to make the retail element of special agreements contestable. We agree. South West Water has already separated out the retail and wholesale elements of its special agreements for 2015/16 charges.

Publication of draft wholesale charges

The consultation proposes early publication of wholesale charges. We agree on the need, but the July date proposed is not practical or appropriate. The practical issues are:

- such charges can only be done after financial year end accounts are finalised and published. For most companies this will be in July and hence there is not the time to produce assured charges in July.

- such wholesale charges cannot just be set for non-household customers alone. They have to be done in conjunction with household charges and the relevant end-user tests that will be needed to assess incidence effects and other constraints supporting the price controls.

- with the retail revenue controls that are driven by customer numbers, monitoring customer numbers in the year is important. July is too soon to have a view of the year average position. For wholesale and non-household retail controls, information on demand after the summer period will also affect subsequent year tariff forecasting.

Instead, we suggest October is a reasonable balance between early publication and delivering other requirements. October would also be consistent with existing licence requirements on access charging. This is an approach that we took for 2015/16 charges and found it to be workable.

We suggest that early January is appropriate for the final wholesale charges publication.

Other considerations

Programme through to market opening

The timing of changes to licences is important over the coming months. The timeframe for this consultation has not allowed for consideration of proposals by the South West Water Board. We do not however, forsee any specific problems in achieving consensus across the industry and we think the proposals, subject to the specific issues raised in this latter, should be non-contentious.

Our Board will formally consider the detail of the proposed licence changes when Defra and Ofwat consults on the specific drafts later this year.

Future approach

The consultation ends setting out the approach to licence reforms. In our opinion, we consider the most sensible approach is:

1. Identify the priority order in which changes are needed.

   We consider the priority is: New Water Supply Licences and specific changes to Instrument of Appointment on Condition F and R for these two to align; this is then followed by all other matters.

2. Where possible we suggest that a Section 13 process is the most appropriate route.

3. But if there is consensus, or if certain non-contentious points need to be implemented sooner rather than later, then Section 55 could be an appropriate route.

Access pricing

An element not considered in this consultation is in relation to access pricing and payment terms in the market. At present, companies produce just one set of wholesale access prices, which is consistent with the operation of the Market Operator Settlement system. Section 8.1 of the consultation sets out the potential to have a menu of different credit terms. In principle this leads to a menu of different access prices depending on the retailer. Work is needed to align access price thinking and the credit terms.

Further charging issues

Ofwat also raise in the consultation the issue of standardising elements of charging between wholesalers, for instance vacant properties. We agree with the consultation that there are pros and cons to standardisation. The Open Water systems design will force some degree of

standardisation (e.g. vacant properties) where this is necessary for the market settlement systems. Other issues that should be addressed in the forthcoming charging consultation include:

- approach to and standardisation of wholesale leak allowances

- building water – we do not currently agree that this service should be included through the Open Water market and should instead be considered a wholesale developer services

- highway drainage charges – it has been suggested by Ofwat that these should be separated from other sewerage charges. However we note that this is not government policy and the settlement systems will work equally well whether or not companies disaggregate highway drainage within wholesale charges.

I hope this response is helpful. This is a detailed consultation with many questions so we have sought to keep our answers succinct. If you have any questions on the points above or in the detailed response please contact Iain McGuffog (imcguffo@southwestwater.co.uk).

Yours faithfully

Iain Vosper
Regulatory Director

APPENDIX A – Consultation Question Responses

Q1 Do you agree with the proposal to have separate licences covering water and wastewater retail? If not, please explain how you envisage that a single licence for water and wastewater would differ?
Yes we agree. We do not think there should be any difference between the licences unless there is a specific legislative or level playing field issue; e.g. wastewater retailers paying towards the cost of meter reading by the water retailer.
Q2 Do you agree with the proposed amendments to standard conditions for the new water supply and sewerage service licence (WSSL)?
Yes.
Qu 3. Do you think any of the proposed amendments listed in Table 3 are non-routine and require additional discussion? If so, why?
No.
Qu 4 Do you agree with the proposed approach to maintaining customer protection in the future WSSL?
Yes. However, Ofwat need to consider what information over that collected by the market operator is needed to help them monitor retailer performance. Reading across from other sectors, an example, may be complaints on mis-selling.
Qu 5 Do you agree with the proposed approach to Market Arrangements Code enablement?
Yes
Qu 6 Do you have any specific comments on the legal drafting?
Yes. Two points: 1) Condition Y, para 1.1.2 could be problematic. It states that parties “must take all steps within their power”. This is therefore wider than just the MAC itself. We think a much simpler licence requirement is probably appropriate, that merely states that the party will ensure that it follows the MAC principles in its dealings and engagement with the MAC. This will be less circular than 1.1.2 as drafted and will convey its intention clearly. 2) There is a later section (Section 1.5) that is entitled “interpretation”. This is not a standard feature in the Instrument of Appointment and requires more consideration.
Q7 Do you agree with the proposed approach to include requirements on arm’s length transactions and non-discrimination?
Yes.
Q8 Do you have any other comments on our proposed conditions in this area?
A point of detail is that consideration is needed on how arm’s length transactions are considered and monitored between the different possible structures e.g. non-separated vs. legally separated retail
Q9 Do you have any other observations about our proposals on changes to the standard conditions for the new Water Supply Licence?
No.
Q10 Are there any areas not covered in the proposals in which you consider changes are required?
No.

Q11 Do you agree with our proposals for the conditions within Table 5? Please respond separately on each of the three Appointment conditions (Q, G and I) discussed.
Condition Q – Yes Condition G – Yes Condition I – Part. The leakage process needs to remain part of the wholesale customer policies. Current policies in this area vary across companies. Leak allowances are not currently standardised in the Wholesale-Retail code and therefore some form of protection for non-household customers should remain. Therefore we do not object to the wording as written for householders, but we are unsure how this interacts with the Wholesale Retail code and protection for non-households on leak allowances. It may also be an exception to an otherwise consistent modular approach to the licences.
Q12 Do you agree with our proposals for the conditions within Section 5.1.2 on equivalence? Please respond separately on each of the eight conditions discussed.
F6 (arm's length trading) – Agree. A requirement for arms length trading between non-household retail and wholesale is appropriate, and would equally apply to the associate WSSL following the amendments to condition R proposed. F62A (certificate of adequacy) – the principle of equivalence applies so it is appropriate to have a separate certificate for NHH retail whether or not they have separated from the wholesale business. The incumbent requirement in most company licences to maintain an investment grade credit rating should equivalently not apply to the NHH retail business unit. For the avoidance of doubt, the need for the non-household retail business to have access to sufficient resources would not require funds to be earmarked to that business within the overall incumbent's licence. R1-3 (access code for WSL) – we question whether the combined obligation is needed. Subject to transition (section 7.1.2). R5.1 (in area trading ban) – we agree with the removal of this ban. R5.3 (relationship with licensee) – we consider this should be removed, especially given the certificate of adequacy requirements. R7-9 (information sharing with WSL) – agree S (customer transfer protocol) – agree Condition N (licence fee) – we consider that a separate licence fee should be charged to non-exited non-HH retail. This gives transparency and ensures the principle of equivalence is maintained. As a general comment, we consider that the Condition R elements and WSSL changes are the priority areas for changes to licence of appointment as it is these that are needed to have the framework in which the market can operate.
Q13 Do you agree with the draft condition set out in Appendix A to enable the Market Arrangements Code? Are there any reasons why this condition should differ between the Appointment and the standard conditions of the WSSL?
In our opinion, a simple cross reference in the Instrument of Appointment and the WSSL to the market arrangements code requiring adherence is all that is needed. The principles themselves are not needed in the licence. Ofwat retain a veto over the MAC principles and on changes to the code so this prevents the need to change the licence if the code changes.

Q14 What are your views on the proposed 'stapling' condition set out in Appendix B requiring the company to adhere to the Wholesale Retail Code in its interactions with its own retail business? Does the proposed condition work alongside Schedule 8 of the Market Arrangements Code?
We agree with this approach. Some consideration is needed on timing however. For example, if the licence change is made on 1st April 2016, with the market opening on 1st April 2017 a transitional arrangement will be needed to cover the intervening period
Q15 Do you consider that the proposals will achieve the objective of equivalence, with the same obligations and opportunities for all retailers? If not, what additional suggestions do you have?
Yes with regard to licence conditions. In practice incumbents will need to ensure that they meet their wider Competition Act duties, to provide access to essential facilities and data, considering the operation of an efficient retailer. We would expect a link between the Licence proposals and these competition concepts to be made in Ofwat's forthcoming Level Playing Field consultation.
Q16 Do you have any other observations about our proposals on changes to the conditions for the Instruments of Appointment?
There is a need to consider the timing of licence changes to ensure they are delivered in the correct order and are compatible. Further consideration is needed on timing so that company Boards can sign off on the Defra consultation when this occurs.
Q17 Are there any areas not covered in the proposals in which you consider that changes are required?
Some consideration is needed on how access price requirements will develop. This is in light of a menu of future credit terms for the Non-HH retailer which in principle would require separate access prices for each.
Q18 Are there any areas in your Appointment in which you think differences from the examples used will require detailed consideration in future work?
Condition F is where there is a difference between our Instrument of Appointment and other companies e.g. need for a credit rating, cash lock-up arrangements. This will require some specific consideration.
Q19 Do you agree that we should retain the three basic elements of financial stability, managerial competency and technical competency in assessing future licence applications?
Yes. It may also be appropriate that it also includes managerial and technical competency to comply with the market operator systems? It would be helpful for this to be made clear.
Q20 Do you agree that gaining a retail future WSSL licence should be conditional on successfully completing market accession testing? Are there any aspects of the licensing process that could be further simplified to avoid duplication/overlap across the two processes?
Yes, it should be contingent on market accession testing. This helps with principle of equivalence and level playing field. On duplication, the only point of note is on training. In Scotland this is done by Scottish Water as the wholesaler and is a requirement once the licence is obtained. The Market Operator should consider this process for E&W to avoid duplication.
Q21 Do you have any comments on the proposal that licence applications for the future market should include the provision of a completed certificate of adequacy?
No.
Q22 Do you have any comments about the coverage of wastewater in the licence application process and the role played by the Environment Agency?
Trade effluent is the main area for potential overlap with the Market Operator and the EA. The EA

should be consulted as part of the process to protect customers.

Q23 Do you consider that the role of any sponsor should be maintained, limited or removed entirely? What are your reasons for this view?

We think it should be removed entirely. Ofwat may want to consider financial stability tests (through stress testing potentially) as part of the assurance process, but we do not think a sponsor is needed. The on-going certificate of adequacy removes the limited role that the financial sponsor theoretically currently plays.

Q24 Do you have any comments about the proposals to include coverage of customer facing systems in the managerial competency tests?

We agree with the approach. In our opinion the key test will be how the retailer interfaces with the wholesaler on customer facing data and wholesale issues to ensure that customers see no derogation in service.

Recognition also needs to be given to the scale of the retailer. Small retailers may be adequately served by simple, more manual systems.

Q25 Do you agree that the scale considerations are better dealt with via the certificate of adequacy rather than additional testing in the licence application process?

We believe that the applicant's business plan should have already be tested for scale and financial stress tests to an extent as part of the application process. This is part of testing the technical and commercial risks that may exist from the applicant. For on-going consumer protection, the certificate of adequacy will be more effective, but we do not see these options as mutually exclusive.

Q26 Do you agree with our proposed transition approach for current retail only WSL?

We agree with the use of a simplified process. As the new WSSL includes sewerage we think a reapplication is necessary from a process perspective but can be a simplified process.

We would agree with Ofwat that the cost would be discounted and consider that the net amount may be de-minimis. This would also recognise the internal cost to the WSL holder of having to reapply.

Q27 Do you agree with our proposed approach to transition current combined supply WSL?

Yes. See Question 26. We do however think that combined supply indicative access prices do not add value going forward and are disproportionate to the market given the activity in this area.

Q28 Do you agree with our proposed approach for creating self-supply licences?

Yes.

Q29 Do you agree that there should be a new condition in current licences and Instruments of Appointment to underpin the required preparations?

We are not convinced that a new condition is required. Wholesalers have existing legislative and licence duties that include all of these obligations – in particular to furnish information Ofwat require under Condition M.

If there is a specific reason why Ofwat need additional enforcement powers for market readiness, for instance because of the point at which the market codes will have statutory effect, then a specific time limited licence clause to this effect is likely to be appropriate. We think it would be useful for Ofwat to set this out as part of the final proposals.

Furthermore, if a new condition is needed we would suggest this is not linked to specific obligations or provisions in the transition plan as plans may change. Rather it should examine more generic points that affect customer experience; such as the ability to switch a customer or any reasonable activities to support market opening.

As a point of legal drafting, we would suggest that "any reasonable activities" rather than "any activities" would be better wording, as good practice would be for Ofwat enforcement to consider what was reasonable in the circumstances.

Q30 If you agree that there should be a condition, should it cover both a general obligation and a specific link to a formal transition plan?
See Q29.
Q31 Are there any additional provisions that you think it would be helpful to include in a licence condition on company readiness or any other comments/concerns you would make?
See Q29. As a minimum any condition, if required, should be time limited.
Q32 Do you consider that implementing an auction style allocation process similar to the one that Ofgem has adopted ahead of a backstop allocation process would be the best approach to protecting customers in the event of the failure of a retailer?
There is insufficient detail presented on how this would operate – is this a price auction or service or both? The scale of the water market is also significantly different to energy. There is also a potential level playing field issue, as this process may inadvertently favour incumbents at market opening because of their scale and hence ability to bid in an auction compared to new entrants. This issue that does not arise with the current market codes. We also question whether this additional process is a priority for the initial market. In our opinion given the existing arrangements in place, and the current Amber status of the programme we think this topic can be re-opened once the market is operational and understood more fully unless there is a clear requirement for the activity.
Q33 Do you have any suggestions about the best approach to ensuring that the new market arrangements are proportionate for a) smaller wholesale companies and b) small retailers.
None that we can think of other than keeping activity needed to the minimum to ensure a successful market opening with equivalent treatment of all participants.
Q34 Do you have any suggestions about the best approach for companies operating wholly or mainly in Wales?
None.
Q35 Do you have any comments about the circumstances in which a retail supplier should be able to opt out of Supplier of First Resort('SoFR') arrangements?
We agree with the proposed approach and this is consistent with the discussions that Defra conducted as part of the retail exit proposals. A retailer should not be required to be a Supplier of First resort in a region or market segment they do not wish to operate in. They should be allowed to opt out as their business plan requires and as it changes.
Q36 Do you agree with our proposed approach for the developer services market and the related process proposed within MAP3?
Yes. The 'retailer of developer services' is separate to non-household retail, and thus non-household retail exit. In our opinion, undertakers need to bear in mind the points Ofwat raise in the consultation. For information, SWW publishes a separate Developer Services Charging Scheme with standard unit or event charges. This shows for transparency the wholesale and retailer of developer services element of the charges where this is relevant.
Q37 Do you agree with our assessment of the interactions between the various parties?
Partly. There may be circumstances where a new entrant or third party may wish to deal with the customer facing incumbent of developer services. This would not be an issue if that is what the retailer wanted to do. This reflects that the retailer of developer services is a contact handling activity and is not a material area of commercial negotiation or risk.

Q38 Do you agree with principle that Special Agreements should be contestable and the current thinking on the details of the approach outlined in section 9.2.5?
We agree that special agreements should be contestable. We are of the view that the retail elements must be contestable in preparation for the market, and this was reflected in our view that retail default tariffs for special agreements were required at PR14. Therefore our special agreements have already been disaggregated into wholesale and default retail components wherever possible. This was reflected on the special agreement register that we submitted for 2015/16. We have previously discussed the issue of non-default tariffs and retail special agreements with Ofwat. This discussion differs from the presentation in the consultation. The WIA91 is specific that the special agreements apply to the appointed business. Ofwat have defined non-default tariffs as non-appointed activities and therefore these do not, in principle, include special agreements. We raised this question due to the obligation in the Water Act 2014 from July 2014 to register new special agreements for Ofwat approval in advance of them applying, which risked limiting the development of non-default tariffs. The consultation states that in 2014-15 175 special agreements were reported. This sounds a very low number compared to the number historically been registered by companies. For instance, the SWW register reports 79 agreements and it is difficult to believe that we account for more than 40% of the industry total. This will not include any informational special arrangements or non-default tariffs. Historically the special agreement registers have not included all special agreements, for instance below a certain level of water usage. We are unsure that wholesale informational special agreements (and the examples listed in the consultation) are in fact a special agreement. Wholesalers should supply relevant information to retailers to supply to customers. Where there is a cost to this then a special agreement in terms of charges should apply, and in future should be charged to the retailer in a wholesale charges scheme. Special agreements in terms of customer information should therefore be seen as part of the default or non-default levels of service, depending on how the incumbent retailer has defined these. The wholesaler will need to provide the same information and level of service to the new-entrant retailer on the same terms. Having an account manager/data logger is a retail service which should be in the retail default tariff or should be provided under a non-default tariff. The customer therefore has choice now about whether to receive this service and new entrant retailers can adapt their product offering accordingly. The retailer should know and be able to request what information the customer wants in acquiring that customer. The customer may not value that service and be happy not to receive it – and if the wholesaler does not charge for this service currently as a tariff component then there should be no charge to the retailer for this information service to the end customer. We do not agree therefore that informational special agreements can be added to the special agreement register as wholesale information in the way described. The premises data required from wholesalers for the market includes details such as data loggers and specific quality/ information requirements for the site. In our view it is preferable for the market data to include such information rather than duplicating this within a special agreement register, particularly as this will change on a frequent basis. For instance, would it include special customer information (which already has separate market / contact requirements)? We understand the proposal for the special agreement register to include the percentage by which the special agreement differs from the normal wholesale charge. Unfortunately special agreements and wholesale charges are not that straightforward. Discounts will apply to fixed and variable components (or £ deductions from a total charge) depending on the special agreement. The section under 9.2.5 in the consultation recognises that special agreements will relate to wholesale activities where there is no exit and relates to the wholesale and retail component (which will grow in number) where an undertaker has not exited. We do not agree with this approach. We

think in both cases only the wholesale special agreement component and the retail component where there is a wholesale special agreement should be published. Non-default tariffs where there is no wholesale special agreement discount do not need to be registered as special agreements under s142(2)(b) WIA91 and doing so would limit development of new tariff and retail service offerings.

We do accept however, as the consultation suggests, that non-exited incumbents need to publish standard non-default tariff charges where these are applicable to a group of customers, and publish a form of non-default tariff register where these are different.

We think the approach needs to be considered further in light of the information presented above.

Q39 Do you agree with the principle that there should be early publication of wholesale charges and the current thinking on the details of the approach outlined in section 9.3?

Timing

We agree that it is important that draft wholesale charges are published early.

But early publication by July is not practical or appropriate.

It is important that wholesalers meet their competition compliance rules to ensure that charges remain cost reflective, given the 31 March financial year ends and regulatory accounts publications in mid July.

DEFRA and Ofwat charging principles and guidance are likely to include end user customer incidence effects, amongst a wider range of other analysis wholesalers and end household retail service incumbents will need to do. As such, wholesale charges cannot be set just for non-household customers in July.

Equally, with retail revenue controls driven by customer numbers, monitoring numbers of customer during the year is also relevant to the following years charges. October is a reasonable balance for publishing draft wholesale charges as this will give sufficient time for retailers to consider and communicate their charges, whilst also allowing time for wholesalers to consult with retailers and stakeholders such as CCWater about wholesale charges, both of which are Licence and charging guidance requirements.

Assurance

Ofwat also need to consider what Board assurance expectations will be required over these draft wholesale charges – this will need to be reflected in the timescale accordingly. The more accuracy and assurance that is expected, the nearer towards the start of the following Charging Year will be necessary.

Inflation

The consultation implies that final wholesale charges can be published very shortly after publication of the November RPI figures, which is always in the week before Christmas. We think publication of wholesale charges in early January (end of the first complete week is appropriate) is achievable with the full Board governance processes that charges require, but this will remain a tight timetable which cannot be accelerated to the end of December as MAP3 suggested.

It is not a simple matter to adjust charges for actual RPI data from the forecast in order to ensure compliance with the full range of charging rules and requirements that are imposed on this industry. The consultation does not reflect the reality of this given the extensive external assurance and Board governance statement requirements. This has to be completed before wholesale charges are published, even when the prior approval of end user charges by Ofwat is no longer required and the charges assurance statement is included within the annual reporting and assurance process. There is too much risk for companies in terms of compliance with revenue controls, which companies rightly take meeting their obligations seriously, for Ofwat to make such statements such as “we do not consider it would take long to adjust for any discrepancy between forecast and actual”. This entirely depends on the company specific situation.

Earlier publication deadlines also risks the development (including in response to retailer requests) new and amended wholesale tariff structures.

We think companies should be able to use (and state) their own forecast of RPI.

Q40 Do you agree that wholesalers should only levy charges that are in their wholesale charges schemes or published as special agreements? If not, please provide arguments as appropriate to support your position.

We agree with this approach for standard water, sewerage and trade effluent charges. We think this is also appropriate for event charges that are within their charges schemes.

However, there are a variety of other situations where this will not be practical or desirable. It clearly cannot apply to all developer services provided by wholesalers as there are customer specific services that will be one-off and bespoke. There is also the potential for retailers to contract for service provisions with wholesalers that could be bespoke arrangements.

Therefore where there are wholesale charges that are outside of revenue controls or are non-appointed activities, it is important these are not captured by any rules covering the completeness of wholesale charge schemes.

Laboratory services, search fees and tankered waste are services that do not have to be published in wholesale charges schemes, but references and charges may be included in end user charges schemes now for the purposes of customer information.

Ofwat have always been clear they only approve appointed standard charges and not all charges included in charges scheme, and the equivalent charges should be considered to be covered within wholesale charges schemes.

We think further dialogue is necessary and the development of the wholesale charges scheme document requires debate. We can include information in other charges scheme documents (for instance we have a separate developer services charges scheme document now) and we publish these documents in separate places on our website that are appropriate to the main audience – for instance the wholesale non-household charges scheme is published with WSL access codes on a dedicated page for retailers. End user non-household charges schemes is on a business customer page etc.

We would not want to see rules that meant that customer communication (including for the wholesale business, retailers as their B2B customer) being less clear and usable than the approach that we have developed based on customer and stakeholder dialogue.

Q41 Do you agree with our proposed approach to implement these licence changes? If not, how should we go about making these changes?

The consultation ends setting out the approach to licence reforms. In our opinion, we consider the most sensible approach is:

1. Identify the priority order in which changes are needed.

   We consider the priority is: New Water Supply Licences and specific changes to Instrument of Appointment on Condition F and R for these two to align; this is then followed by all other matters.

2. Where possible we suggest that a Section 13 process is the most appropriate route.

3. But if there is consensus, or if certain non-contentious points need to be implemented sooner rather than later, then Section 55 could be an appropriate route.

Without consensus, a Section 13 or Section 55 approach should be accompanied by a statement from Ofwat and/or DEFRA as appropriate as to why this approach is necessary. It is the

communication of the benefits from the changes rather than the changes themselves which we hope will be the focus of the implementation stages of Licence reform.