United Utilities response to the Ofwat Consultation:

Licensing and policy issues in relation to the opening of the non-household retail market

United Utilities welcomes the opportunity to comment on the Ofwat consultation: Licensing and policy issues in relation to the opening of the non-household retail market – a consultation. We believe that this consultation principally focuses on the change necessary for the introduction of retail competition. The majority of our feedback is intended to clarify the proposals or suggest minor changes rather than looking for extensive alterations. We therefore hope that with this additional clarity and some minor changes it should be possible for revised licence conditions to be agreed through the s13 process. Given the centrality of our licence conditions in determining how we operate we will, of course, wish to closely examine any final proposed text prior to it being applied. However, this is very much aimed at ensuring there are no unintended consequences that arise because of the specific drafting adopted and we hope and expect that prior engagement should be sufficient to ensure that any more significant concerns are dealt with at an earlier stage.

We hope to provide support to the ongoing licence change consultation and are keen to be actively involved in the working groups.

In some limited areas we consider that Ofwat should carefully consider the impact of some of the proposals set out in the consultation as, in our view, they have the potential to create unnecessary inefficiencies, which may be to the detriment of the service received by customers and could inhibit the development of the future retail market. We have provided details of those concerns both in a) responses to specific questions and b), for ease of reference, in the summary paragraphs below.

1. **Clarification of new condition on conduct of integrated undertakers**

The stated aim of this new condition of ensuring that market arrangements between companies' wholesale and business retail arms are carried out in line with the market codes is welcomed and necessary. However, the drafting of the condition is such that other broader interpretations could also be placed upon the condition. The necessary changes are principally dealt with within 1.8.4 of the proposed condition. The proposed condition can be seen as potentially requiring companies to act as separate legal entities in respect of all interactions and activities undertaken. The current proposals are not sufficiently specific to ensure that the licence condition only captures market arrangements and operational codes. We believe that the condition requires further clarity in this regard. A failure to clarify would have the potential to limit the flexibility of incumbent companies requiring them to operate as if fully separate. This is undesirable as it would result in companies being less efficient and to be required to operate in a way that is counter to the effective operation of a water company. It also amounts to the condition having a much greater impact on companies than is necessary to secure market opening.

Our view is that this draft condition should be amended to clearly define the scope of the responsibilities to those interactions relating to the market arrangements, ensuring that the market interactions between associated retail and wholesale parties are undertaken as per the market codes, on the same basis as any other retailer. We are happy to provide support to the working groups considering this condition in looking to ensure the scope for this condition is clearly reflected in the drafting.

2. The level playing field

We welcome the guidance received in relation to the level playing field, however we believe it is for companies to define how they best meet these requirements. The existing ex-post controls require companies to be cognisant of their competition law responsibilities, and necessary safeguards will be adopted by companies to ensure they meet the responsibilities.

3. Arms-length relationship between appointed retailers and associated retail licensees

Whilst we welcome the proposed removal of the in-area trading ban, we do not agree that it is appropriate to retain the arms-length (non-discrimination) requirements between incumbent company retailers and associated retail licensees. If these are not removed ahead of market opening then these obligations will serve to restrict necessary preparations for the introduction of the retail market.

Restrictions between the wholesale businesses and associated retailers are evidently necessary and desirable from a level playing field perspective. However, continued application of restrictions between the incumbent's non-household retail function and an associated WSL would ignore that the target state for many retail businesses post 2017 is likely to be a single retail entity operating both inside and outside the existing service area.

By restricting the ability of companies to organise themselves in this manner before market opening, these regulations will drive up cost, reduce retail innovation and significantly hamper companies' ability to demonstrate and deliver readiness in advance of market opening. This is because it means that companies with an active WSL will, under current proposals, need to demonstrate readiness twice and undertake duplicative investments ahead of market opening for both its appointed retail business and its associated WSL. By removing these requirements, Ofwat would be removing impediments that inhibit unnecessarily the operation of a company's retail business facilitating an efficient and effective retail market for customers.

The relaxation of restrictions between business retail functions whilst reinforcing the functional separation from wholesale would support the delivery of the retail market and the principle, that with greater separation, less regulation is required. Revocation of this element of companies' current licences would facilitate functional separation, allowing the closer integration of business retail functions whilst permitting greater functional separation between the wholesale and non-household retail business.

Given that at present the majority of licensees are associated with incumbent companies, unless the restrictions that inhibit the integrated delivery of business retail services are minimised, it will be more costly for companies to be engaged in the market.

We strongly recommend that Ofwat remove the requirement for arms-length treatment of the appointed and WSL retail activities for any company that can demonstrate sufficient functional separation between the incumbent non-household retail and wholesale functions. If it were not to do so, Ofwat would miss the opportunity to allow the most efficient transition for companies and customers into the future market with regards to retail exit to an associated licensee.

In order for a retailer to exit the market the Secretary of State has to give approval. This means that until this approval is received, both entities will have to make preparations to meet the requirements of market opening. If arms-length arrangements between the incumbent and associated retailer are required then companies would have to create two separately functioning operations in order to be able to demonstrate readiness. This approach creates abortive costs and therefore inefficiency. To enable the smooth transition of retail exit between incumbent

retailer and associated licensee, we suggest that the restrictions relating to arms-length operation need to be removed in advance of shadow operation.

Preventing incumbents from integrating business retail functions prior to retail exit also creates an inequality with new entrant retailers who would not be subject to the same restrictions. In order to have functioning competitive retailers they need to be able to build these new entities prior to any retail exit transfer to an associated company.

In preparing for retail exit to an associated licensee companies need to be able to demonstrate they can operate effectively with the market operator and other market requirements. Without the relaxation of the arms-length rules between the incumbent retail, and associated licensee in the run up to market opening it is difficult to see how companies can effectively meet the market testing requirements.

We also suggest that any reapplication process for WSL be completed well before retail exit application to avoid additional complexity.

4. Company readiness condition

We do not believe a detailed market readiness condition setting out the individual requirements of companies in the run up to the market opening in 2017 is required in support of the preparations for market reform. There are already significant reputational incentives on companies driving them to ensure necessary preparations are made. Further, in order to be proportionate and reasonable, any licence condition needs to give sufficient acknowledgement that the actual readiness or otherwise of an individual company may result from factors that are outside the company's own control.

However, in principle it does not seem unreasonable for a more general condition to be applied, assuming that it was sufficiently flexible to recognise that timetable requirements will be fluid. We suggest that any condition be time limited and removed from licences in April 2018.

On this basis we propose not to object to a general licence condition requiring companies to have taken reasonable steps, and have appropriate plans in place to prepare for market opening. This condition should be time limited and broad in nature.

Given the challenges still facing retail market opening, it is to be expected that some unanticipated issues may arise which could cause delays either to the timetable in the run up to market opening or to market opening itself. As a result, Ofwat needs to ensure that the basis of applying any penalties for failing an element of preparedness is made clear up front and also that these penalties only apply to significant failure in preparation which was within management control.

5. Assessing the competence of licensees

The processes for ensuring companies' competence to operate in the market should give confidence to all stakeholders. It is therefore important that sufficient scrutiny is applied to companies seeking to enter the market and serve customers. It is important that checks on application are thorough and effective and, likewise, that the annual processes around the certificate of adequacy are effective and provide confidence to wholesalers and other stakeholders.

We also suggest that the current processes in place in Scotland are compared to the processes proposed for England; if the Scottish system provides this confidence then harmonisation of the two approaches may be of benefit, especially given the cross-border nature of the proposed market.

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?

We foresee no substantive issues with there being separate water and wastewater retail licences. This does not provide an impediment to our operation in Scotland.

Q2 Do you agree with the proposed amendments to standard conditions for the new water supply and sewerage service licence (WSSL)?

We wish to better understand the purpose of section 7 (appendix page 11) of the proposed licence conditions. It appears that this condition could restrict legitimate operations of retailers operating in the future market. Limiting the use of information received restricts the ability of retailers to build up a knowledge base to provide innovative solutions to their customers.

Section 10 (appendix page 12) of the propose WSSL licence conditions states that companies will need to pay an annual fee that is the licensee's share of the estimated costs of the authority. We believe that the basis for this calculation should be in-line with the proposals for MO cost allocation. That being the costs being based on both number of customers and the turnover of that licensee.

Q3 Do you think any of the proposed amendments listed in Table 2 are non-routine and require additional discussion? If so, why?

The amendments set out within Table 2 appear to be routine.

Q4 Do you agree with the proposed approach to maintaining customer protection in the future WSSL?

There could be benefit in ensuring that companies have appropriate financial resources to meet the obligations of section 3. It is unclear if the certificate of adequacy provides any real protection in relation to Licensees financial situation. However if the credit terms that are being considered separately from this consultation are sufficiently robust then wholesalers should feel confident in holding little bad debt risk.

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We also suggest that the current processes in place in Scotland are compared to the processes proposed for England; if the Scottish system provides this confidence then harmonisation of the two approaches may be of benefit, especially given the cross-border nature of the proposed market.

Q5 Do you agree with the proposed approach to Market Arrangements Code enablement?

In principle we have no objections to the proposed approach.

Q6 Do you have any specific comments on the legal drafting?

No specific comments.

Q7 Do you agree with the proposed approach to include requirements on arm's length transactions and non-discrimination?

Whilst we welcome the proposed removal of the in-area trading ban, we do not agree that it is appropriate to retain the arms-length (non-discrimination) requirements between incumbent company retailers and associated retail licensees. If these are not removed ahead of market opening then these obligations will serve to restrict necessary preparations for the introduction of the retail market.

Restrictions between the wholesale businesses and associated retailers are evidently necessary and desirable from a level playing field perspective. However, continued application of restrictions between the incumbent's non-household retail function and an associated WSL would ignore that the target state for many retail businesses post 2017 is likely to be a single retail entity operating both inside and outside the existing service area.

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The relaxation of restrictions between business retail functions whilst reinforcing the functional separation from wholesale would support the delivery of the retail market and the principle, that with greater separation, less regulation is required. Revocation of this element of companies' current licences would facilitate functional separation, allowing the closer integration of business retail functions whilst permitting greater functional separation between the wholesale and non-household retail business.

Given that at present the majority of licensees are associated with incumbent companies, unless the restrictions that inhibit the integrated delivery of business retail services are minimised, it will be more costly for companies to be engaged in the market.

We strongly recommend that Ofwat remove the requirement for arms-length treatment of the appointed and WSL retail activities for any company that can demonstrate sufficient functional separation between the incumbent non-household retail and wholesale functions. If it were not to do so, Ofwat would miss the opportunity to allow the most efficient transition for companies and customers into the future market with regards to retail exit to an associated licensee.

In order for a retailer to exit the market the Secretary of State has to give approval. This means that until this approval is received, both entities will have to make preparations to meet the requirements of market opening. If arms-length arrangements between the incumbent and associated retailer are required then companies would have to create two separately functioning operations in order to be able to demonstrate readiness. This approach creates abortive costs and therefore inefficiency. To enable the smooth transition of retail exit between incumbent retailer and associated licensee, we suggest that the restrictions relating to arms-length operation need to be removed in advance of shadow operation.

Preventing incumbents from integrating business retail functions prior to retail exit also creates an inequality with new entrant retailers who would not be subject to the same restrictions. In order to have functioning competitive retailers they need to be able to build these new entities prior to any retail exit transfer to an associated company.

In preparing for retail exit to an associated licensee companies need to be able to demonstrate they can operate effectively with the market operator and other market requirements. Without the relaxation of the arms-length rules between the incumbent retail, and associated licensee in the run up to market opening it is difficult to see how companies can effectively meet the market testing requirements.

We also suggest that any reapplication process for WSL be completed well before retail exit application to avoid additional complexity.

Q8 Do you have any other comments on our proposed conditions in this area?

No comments at this time, however we are looking to provide support to this process and would welcome involvement in the working groups currently being established.

Q9 Do you have any other observations about our proposals on changes to the standard conditions for the new Water Supply Licence?

No comment at this time.

Q10 Are there any areas not covered in the proposals in which you consider changes are required?

As stated above the retention of the arms-length obligation may need to be reviewed.

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.

When the market codes were being written the intention was not that they would replace the licence obligations, rather that they were facilitating the operation of the market. Further work is required to ensure that the market codes adequately replace these obligations.

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.

We support in principle, dependant on the specific changes being proposed, the proposals for conditions F6 A2A, R1-3, R5.3, R7-9 and S. We support the proposal to remove the in-area trading ban, however proposals to retain the obligations in relation to arms-length transactions are not supported (F6 and R5.1). In response to question 7 we have outlined our thoughts on this issue.

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?

No comment at this time.

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?

The stated aim of this new condition of ensuring that market arrangements between companies' wholesale and business retail arms are carried out in line with the market codes is welcomed and necessary. However, the drafting of the condition is such that other broader interpretations could also be placed upon the condition. The necessary changes are principally dealt with within 1.8.4 of the proposed condition. The proposed condition can be seen as potentially requiring companies to act as separate legal entities in respect of all interactions and activities undertaken. The current proposals are not sufficiently specific to ensure that the licence condition only captures market arrangements and operational codes. We believe that the condition requires further clarity in this regard. A failure to clarify would have the potential to limit the flexibility of incumbent companies requiring them to operate as if fully separate. This is undesirable as it would result in companies being less efficient and to be required to operate in a way that is counter to the effective operation of a water company. It also amounts to the condition having a much greater impact on companies than is necessary to secure market opening.

Our view is that this draft condition should be amended to clearly define the scope of the responsibilities to those interactions relating to the market arrangements, ensuring that the market interactions between associated retail and wholesale parties are undertaken as per the market codes, on the same basis as any other retailer. We are happy to provide support to the working groups considering this condition in looking to ensure the scope for this condition is clearly reflected in the drafting.

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?

We do not believe that the proposals will achieve the objective of equivalence as it impedes the preparations for market opening and unnecessarily restricts the ability of non-household retail functions to co-operate, as outlined in our response to question 7.

Q16 Do you have any other observations about our proposals on changes to the conditions for the Instruments of Appointment?

No further comments at this time.

Q17 Are there any areas not covered in the proposals in which you consider that changes are required?

The interaction between shadow operation and the retail exit regulations need to be better understood. The need for a smooth transition between licensees and an effective opening of the market should be carefully considered.

Q18 Are there any areas in your Appointment in which you think differences from the examples used will require detailed consideration in future work?

No comment at this time.

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?

We support the assessment process and would emphasise the need to provide confidence that all companies in the market are competent to operate. In addition we suggest that harmonisation with Scotland be considered.

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?

No we do not believe that the receipt of a licence should be dependent on successful completion of market testing, as the timing of the testing process is likely to coincide with retail exit. However we do believe that all licensees should be subject to market accession testing. Again with the proviso that companies who are intending to retail exit to an associated company are consented to work together in demonstrating they meet the necessary accession testing.

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?

The processes for ensuring companies' competence to operate in the market should give confidence to all stakeholders. It is therefore important that sufficient scrutiny is applied to companies seeking to enter the market and serve customers. It is important that checks on application are thorough and effective and, likewise, that the annual processes around the certificate of adequacy are effective and provide confidence to wholesalers and other stakeholders.

We also suggest that the current processes in place in Scotland are compared to the processes proposed for England; if the Scottish system provides this confidence then harmonisation of the two approaches may be of benefit, especially given the cross-border nature of the proposed market.

Q22 Do you have any comments about the coverage of wastewater in the licence application process and the role played by the Environment Agency?

No comments at this time.

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

No comments at this time.

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

We support this testing as it gives confidence to all stakeholders within the market as to the competence of the participants. Some coverage of customer facing systems in the tests of managerial competency would be advisable for all participants. Again the timing of this process should be considered carefully in relation to retail exit provisions, and with the proviso that companies who are intending to retail exit to an associated company are consented to work together in demonstrating they pass the managerial competency tests.

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?

Scale consideration should not be limited to the certificate of adequacy, however it seems sensible for this to be the focal point for this consideration.

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

With the exception of timing in relation to potential retail exit the proposed transition approach appears appropriate.

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

No comment at this time.

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

We support the proposals to reduce some regulatory requirements for self-supply retailers as they are unnecessary. However we suggest that to ensure the self-supply retailer is competent to operate in the market the requirement to provide a certificate of adequacy be retained.

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

We do not believe a detailed market readiness condition setting out the individual requirements of companies in the run up to the market opening in 2017 is required in support of the preparations for market reform. There are already significant reputational incentives on companies driving them to ensure necessary preparations are made. Further, in order to be proportionate and reasonable, any licence condition needs to give sufficient acknowledgement that the actual readiness or otherwise of an individual company may result from factors that are outside the company's own control.

However, in principle it does not seem unreasonable for a more general condition to be applied, assuming that it was sufficiently flexible to recognise that timetable requirements will be fluid. We suggest that any condition be time limited and removed from licences in April 2018.

On this basis we propose not to object to a general licence condition requiring companies to have taken reasonable steps, and have appropriate plans in place to prepare for market opening. This condition should be time limited and broad in nature.

Given the challenges still facing retail market opening, it is to be expected that some unanticipated issues may arise which could cause delays either to the timetable in the run up to market opening or to market opening itself. As a result, Ofwat needs to ensure that the basis of applying any penalties for failing an element of preparedness is made clear up front and also that these penalties only apply to significant failure in preparation which was within management control. Non-delivery of requirements that are the responsibility of MOSL or Ofwat should not be covered by this proposed condition.

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?

The obligation should cover both a general obligation and a specific link to a formal transition plan. However, we think that this should be a relatively high level condition. The detail of how companies comply with the transition plan requirements should be left to companies and should not be specified as part of the condition.

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?

No, at this stage we do not want to propose any specific provisions that we think would be helpful to include in the licence condition. However, if the condition were to become more prescriptive than we would anticipate, then this position could alter. If a future licence condition were to identify specific requirements and timeframes it would need to take account of the interdependencies of delivery of the retail market.

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?

So long as the process adopted is able to allocate customers rapidly and seeks to ensure as many customers as possible are allocated via the supplier of first resort process we will support the proposed process. We will look to understand the process better at the upcoming workshop.

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.

No suggestions.

Q34 Do you have any suggestions about the best approach for companies operating wholly or mainly in Wales?

No

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?

It is appropriate for companies with a share below a certain level in a given region to be able to opt-out from obligations such as supplier of first resort and supplier of last resort.

Q36 Do you agree with our proposed approach for the developer services market and the related process proposed within MAP3?

Thank you for providing further clarity about the role of developer services and it is helpful that you acknowledge that the provision of infrastructure is a different market to the provision of water and wastewater services. The fact that developers are free to choose a retailer or wholesaler has allayed our earlier concerns in regards to our ability to fulfil our statutory obligation to connect. We would appreciate confirmation that in relation to Section 104 agreements developers would be able to contact the wholesaler directly.

Under the proposals set out in MAP3 we note that building water supplies are to be part of the market and our understanding of the situation is that developers of household premises would be required to appoint a retailer for building water and wastewater services. An issue we have identified is around the definition of building water, for example building water can be:

a) Water used in construction
b) Waster used for site cabins and welfare purposes
c) Water used in new homes following connection up until the time of occupancy (average period between 6-8 weeks), and
d) Water used during refurbishment of an empty existing house

We accept that in (a) and (b) these are non-household services and should rightly be registered with the Market Operator. However we believe that to define building water used in circumstances (c) and (d) will require homes to be registered with the Market operator for the interim period between connection of the premises and occupancy. When the home becomes occupied the premises will be de-registered with the Market Operator. This will cause unnecessary complexity and costs to the process and result in delays in the provision of new homes.

Q37 Do you agree with our assessment of the interactions between the various parties?

MAP 3 refers to an "accredited entity" as something distinct from a "self-lay organisation (SLO)" although both provide contestable services. The suggestion within MAP is that the accredited entity provide contestable services to a retailer whilst the SLO provides contestable services to a developer. It would be helpful if Ofwat would clarify these interactions within figure 6 on page 68 of your document.

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 with the principle that Special Agreements should be contestable and are supportive of the principle outlined in section 9.2.5. However, further consideration should be given as to how contractual terms held in special agreements are represented in the revised contract (or contracts) between the three parties (customers, retailer and wholesaler). In particular, it is important that wholesalers do not lose rights (for example) of modification or termination of an agreement.

Companies' NHH price controls currently set the maximum retail margins that each company can apply to special agreements. In the event that Ofwat set charging rules to cover the retail element of special agreements which conflict with the price control, companies may need to utilise the NHH retail reopener to ensure that sufficient costs and margins are allocated to the relevant default tariffs to comply with these rules. Any such charging rules should therefore be published in advance of the deadline for companies making representations on the NHH retail re-opener.

One further point worthy of note is that the requirement to publish "the percentage by which the special agreement wholesale charge differs from the specified normal wholesale charge" will not be straight forward for some special agreements e.g. some historic trade effluent arrangements are based on costs and not directly comparable to the various elements of the mogden formula.

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?

We recognise that there is justification for the early publication of indicative wholesale charges, but would suggest that this is delayed until September to ensure that any necessary review of cost reflectivity within the tariffs can be completed after the Regulatory Accounts information has been prepared and audited.

Early publication of wholesale tariffs may delay the introduction of innovative tariffs. This is primarily due to new tariffs needing to be developed and published in time for July publication rather than the following February, if the only expected modifications between the two are in relation to RPI.

Another consequence of early publication of wholesale tariffs (particularly if it is as early as July) is the impact on the company's ability to comply with the Wholesale Revenue Forecasting Incentive Mechanism (WRFIM), which penalises companies if their revenues fall outside of +/-2% of revenue levels set at the final determination. Charges set in February are capable of taking account of prior year trends in customer characteristics (customer numbers, consumption etc.) when setting tariffs, to manage compliance with the WRFIM. If wholesale tariffs are set in July, this unduly increases the risk that companies will be unable to avoid WRFIM penalties, as tariffs could then only be set using customer information from two years prior to the charging year to which the wholesale tariffs will apply. This additional risk was not raised when Ofwat consulted on the WRFIM. We therefore recommend that either:

- The penalty element of the WRFIM is removed; or
- The tolerance band before penalties apply is increased from +/-2% to +/-5% of turnover.

We agree that the use of a common forecast of RPI for setting the indicative charges is desirable. However, we suggest that Ofwat should publish the forecast RPI to be used as whilst the OBR currently publishes this information it may not always do so.

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 the principle that wholesalers should only levy charges that are listed in their charges schemes, we assume that this principle applies only to charges levied to retailers and not to other wholesalers with whom there may be bulk supply arrangements.

In addition there are instances when the wholesaler may complete an activity that is a "one-off" in nature, such that it would be difficult to calculate a charge in advance, for example charges levied for repairs for damage to our assets. We would expect that the type of activity could be listed in the charges scheme but that it is clearly highlighted that this work would be charged at cost.

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

We believe it will be possible, with steps taken to allay the concerns highlighted within this response to reach agreement under section 13. We look forward to supporting this process through engagement within the proposed working groups.