

# **VEOLIA WATER PROJECTS RESPONSE TO THE LICENSING AND POLICY ISSUES IN RELATION TO THE OPENING OF THE NON HOUSEHOLDS RETAIL MARKET CONSULTATION INCLUDING COMMENTS AND OBSERVATIONS FROM THE SMALL COMPANIES WORKSHOP HELD 14<sup>TH</sup> JULY 2015.**

## **Overarching comments and observations.**

In support of, and to reiterate comments made during the early part of the Small Companies Workshop on the 14<sup>th</sup> July, it is unfortunate and regrettable that the detailed implications of the Licencing and Policy issues, together with other impacts of the NHH Retail Open Water initiative as they affect Small Companies, Inset Appointees and similar Licensees have not been discussed in open forum until just before the Consultation Period concluded.

As a consequence this Response dwells primarily upon those items discussed at the above Workshop, and the specific Consultation questions that were raised on the day.

Where Veolia Water Projects Ltd [VWPL] has commented on these and other issues from the 41 Questions posed there is an overarching expectation and working presumption that Proportionality will influence all decisions made by the parties [OFWAT, DEFRA, PA Consulting and MOSL] in relation to Small Companies inputs into the market codes and to the information and data exchanges that are required.

The rationale behind such a presumption was well presented and rehearsed by the Small Company participants who attended the Workshop and it is hoped that the notes taken by the above parties will form at least part of the wider feed back to the Consultation. As such it is further hoped that these notes will be read in conjunction with this VWPL Response to enable a more complete picture to emerge.

VWPL were encouraged by the attitude, understanding and pragmatism shown by the parties at, what was seen as a most useful and informative Workshop session. Working from this base with the additional detail in the form of the Small Companies Responses to the Consultation, VWPL is confident that a suitable proportionate set of processes and codes designed to deliver the Customer benefits relevant to Small Companies will be formulated.

The detailed Responses to selected Questions are hopefully self-explanatory however VWPL would be more than happy to expand on any point which requires further clarification either before the Consultation is completed or at subsequent Workshops.

Where Questions do not have a specific Response in this paper this is primarily as a result of resource and of course time constraints and limitations. To reiterate earlier comments, VWPL anticipates that Proportionality will be the watch-word and will govern the overall outcome of each topic and that the absence of a specific comment or response should not be deemed as a positive approval, agreement or favourable view by VWPL at this stage.

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**CONSULTATION QUESTION RESPONSES**

Q4

Due to the small scale nature of the current VWPL Retail base – circa 88 businesses – providing we are not required to accept more Retail Customers, serial 4.3.1 indicates in its 3<sup>rd</sup> paragraph that there may be occasions when a large Customers could choose a Retailer, we are comfortable that the CoA approach would work for us and that should some, or all, of the above 88 NHH Customers be administered by another Retailer[s] and subsequently need to return to VWPL, we could absorb this influx with current resources.

Q5

Subject to the MAC reflecting the principle of Proportionality of the Small Companies inputs, VWPL agree with the approach.

Q9

There would appear to be the potential for a clash of Condition requirements and the desire for a level playing field in relation to the principles being operated by some Small Companies, VWPL included, around the Condition Statement to the effect that “Customers shall be no worse off than they would be under the incumbent”. As things stand it is not at all clear quite what comparator Small Companies with this Condition would need to follow from their “Incumbent” going forward.

Further, the Small Company Business Model would have been predicated upon the known margin at the point of Inset Appointment between that of the bulk supply costs and the Inset Appointees cost to deliver the downstream service. There will now potentially be a meaningful disconnect between the Incumbent Wholesale / Retail cost split and that which a Small Company would otherwise publish. Should these 4 cost items be in conflict, there is the potential for the Small Company to operate in the negative cash flow situation with the very real potential for them to withdraw from the Inset market place entirely.

This was discussed in some depth at the Workshop and would sit under the banner of “unintended consequences”.

Q 14

A view appears to be prevailing amongst at least some of the Small Companies to the effect that they will only practically have the choice of exiting the Retail Market or trying to satisfy whatever Competition rules are deemed relevant and opt for the Integrated approach.

Providing the administrative mechanism for this Condition to “staple” to the overall Conditions and the Integrated codes all recognise the Proportionality principles we feel the approach would work.

VWPL does not have the current ability to digest and comment upon Schedule 8 within the timeframe allowed.

**VEOLIA WATER PROJECTS RESPONSE TO THE LICENSING AND POLICY ISSUES IN RELATION TO THE OPENING OF THE NON HOUSEHOLDS RETAIL MARKET CONSULTATION INCLUDING COMMENTS AND OBSERVATIONS FROM THE SMALL COMPANIES WORKSHOP HELD 14<sup>TH</sup> JULY 2015.**

Q 16 – 18

Following on from the above point set out in Q 9 we feel it is paramount for the Regulators to state clearly and as soon as possible how the “no worse off” condition shall be met and against what criteria of an Incumbent bearing in mind the “level playing field” aspirations within the Consultation.

As this condition is the preserve of Inset Appointees, if the condition cannot be adhered to against the NHH Customers Retail Market rules in a fair and equitable manner for all involved and it has to fall away, what will replace it ? What methodology would a Small Company then use to agree its Wholesale [and / or Retail] Charges and how would the Regulators view the situation whereby only large WASCo’s could offer the economies of scale to benefit NHH Customers as the Small Companies Charges would, by definition of their small scale prove to be more costly to the customer base?

Q22

VWPL would like to understand the “consultation with the EA” in some more detail before commenting on this point. There is perhaps the potential for the Operational positioning and strategy of a Company’s dealings with the EA to be inextricably linked with the economic regulators position regarding its competency to service NHH Customers.

Q24

Inevitably the scale of the Small Companies will need to be taken into account when introducing obligations on such Retailers to set out full details of their Customer Service arrangements. Without recognition of the scale, insofar as it is not unusual for the VWPL Customer Manager or Director to personally visit both NHH and HH customers to resolve problems face-to-face, there will always be a presumption that large sophisticated IT systems that capture every facet of a problem in a Cloud based database compliant with a MAP3 process are superior to the more down to earth personal touch.

Q 25

The philosophy set out in 6.2.5 in respect of Scale could equally apply to the Small Companies overall position. The 4<sup>th</sup> paragraph of this section makes reference to adding “additional burdens for circumstances that may never arise with very little benefit in terms of customer protection”. It would seem, from the comments made at the Small Companies Workshop that this is the case for most Small Companies across much of the NHH Retail Market.

VWPL would ask that serious consideration be given to all matters concerning Code compliance and proportionality for Licence, Policy and Operational areas as they apply to Small Companies.

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The Workshop produced assurances that MOSL would be geared to deal with “low volume interfaces” defined as “the occasional e mails and minimal data exchanges” and it is hoped that this philosophy is operated under a similar logic to that expressed in 6.2.5.

Q28

Providing always that the Self Supply element of administration through MOSL is indeed Proportional and reflects the previously stated position of VWPL as an Inset Appointee, we agree with the approach.

Q33

Our response to this question asks not just for Proportionality, a word which is being used frequently to impart the impression that scalability etc will mean a minimal burden for Small Companies, but hopes to also set the scene in terms of Perspective.

With reference to the above Responses, and in particular Q24 & Q25, there seems to be agreement across the Small Companies Workshop participants that “Regulation Lite” works well in all other areas of the Regulatory oversight of Small Companies and NAVI’s.

The administrative burden of the NHH Retail Market as explained to date and discussed at the 14<sup>th</sup> July Workshop, does still appear to be fairly onerous.

We accept there will be an “up-front” burden to set ourselves up to service the NHH Retail Market, we would however be interested in the outcome of a key question posed at the Workshop asking whether other larger WOC’s and WASCo’s have been funded in any way directly, or indirectly through their Charges to Customers to prepare for this Market ?

The point was made that all such costs for the Inset Appointees will come from their “bottom line” margin. As will all fees associate with the Market going forward notwithstanding there is acceptance that MOSL Application fees have been waived for Small Companies.

The statistics submitted by all Small Companies indicate that the total number of NHH Retail Customers per Company ranges from 20 – 93, averaging at circa 50 [VWPL declares 88], and that this equates in Toto to less than 300 of the declared 1.5 million NHH Customers [ 0.02%] across the industry.

It may be said therefore that Proportionality, if applied according to the most commonly held definitions, must mean that very little of the Retail initiative administration should be used to oversee the activities of the 6 – 10 Small Companies in the Industry.

Thus this one new Regulatory initiative which impacts on average only 50 customers per Small Company / Inset, has the potential to have prescribed around it an ongoing administrative burden that dwarfs all the other “Lite Regulation” Reports and Submissions in their entirety.

Question 33 as posed, asks for suggestions around the best approach for a proportionate methodology. We cannot see an approach that tries to scale down on a truly proportional

**VEOLIA WATER PROJECTS RESPONSE TO THE LICENSING AND POLICY ISSUES IN RELATION TO THE OPENING OF THE NON HOUSEHOLDS RETAIL MARKET CONSULTATION INCLUDING COMMENTS AND OBSERVATIONS FROM THE SMALL COMPANIES WORKSHOP HELD 14<sup>TH</sup> JULY 2015.**

basis the current wider Industry process actually producing a workable system to capture, on a like for like basis, all the details deemed necessary to produce the level playing field.

One suggestion may be to consider disconnecting the Small Companies from the current Codes as drafted and crafting some form of truncated “Precis Code” under which each Small Company can formally and legally undertake to comply with the wider process on a “Best Endeavours” basis and perhaps even undertake not to be a player in the Retail Market.

In terms of the Retail / Wholesale split there is perhaps a mathematical model that could be imposed on all Small Companies a small percentage “discount” from current [“no worse off tariffs”] that relates to the loss of the Retail activities, but at the same time recognises the extra work that would be required in that Small Company dealing through MOSL.

It may even be that the simplest approach would be to consider the loss of the Retail activities is matched by the extra MOSL communications and so in the specific case of Customers within a Small Company Area wanting to switch, there is no financial benefit.

Clearly in terms of “high street names”, multi-national corporations, Government and Local Government Departments, Housing Associations etc, any Retailer responsible for such organisations will still have the wider Industry Codes within which to make their margins and give the Customers the benefits they seek.

Q36

VWPL feel the Developer Services interaction between the parties is acceptable as there is no appreciable change to current processes and there is in fact already a meaningful element of competition available to developers around self-lay and other contestable works.

Q38

Special Agreements by their very nature have grown out of bespoke arrangements between Water Companies and Customers where there is some form of mutual benefit and are many and various. The Consultation Paper dwell only on the more obvious periphery of SA’s and their benefits very closely allied to the current Industry models.

Many SA’s may have termination dates well into the future, together with clauses that only the particular Wholesaler and the Customer could possibly discern any benefit.

On the other hand it is felt that the whole thrust of the new Retail Market is for innovative new service offerings to be made between Retailers and Customers that individual Customers may find attractive. These themselves may also have termination dates into the future and the bespoke offering may only suit the Customer for that defined period.

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To publish too much detail about such innovation may only serve to increase the number of speculative approaches made to customers by new entrant Retailers trying to offer “something better”. It is not felt that such aggressive marketing would find favour with the Customers themselves who would not wish for their commercial arrangements to be in the public forum.

It is VWPL view therefore to agree that the current reporting data is adequate but that the new information requirements, whilst not onerous, do not seem to serve to inform the potential Retailer of the context of the SA offer.

**QUESTIONS NOT NUMBERED BUT POSED IN THE POWER POINT PRESENTATION AT THE SMALL COMPANIES WORKSHOP.**

Question;

Do you agree that data requirements are scalable to Company Size?

The Workshop discussed this point at some length against the 120 potential data fields per customer and some 40 fields per customer meter that the code requires. Discussions around the funding of IT systems to handle this information were also very informative.

It was clear that no Small Company will hold data in the levels of complexity envisaged by the Codes and that to format what data there is in the new Industry formats will also prove expensive. Issues around affordability reached as far as Companies questioning their very business models and thus their survival in the Inset Market place.

VWPL was comforted to learn that MOSL are to offer a “Low Volume Interface” which would consist of “occasional e mails” and “limited data sets”. However until this facet is set out in more detail we are unable to confirm that the scalability aspirations of the MO would satisfy our current concerns.

In line with our suggestions at Q33 we feel there could be a limited but mandatory set of data that is deemed as the minimum that a Small Company should hold on its Customers and their apparatus for purely practical reasons of operating and billing Customers. To hold and maintain this across < 100 accounts does not seem onerous in our view. Indeed it should vary little from the same data set that would be required for HH domestic metered customers.

Question

Do you feel that the interface requirements for small companies are proportionate?

Until the 14<sup>th</sup> July Workshop VWPL had no visibility of what the MO may even consider as proportionate. Whilst the Workshop did give glimpses of where there would perhaps be dispensations and allowances made for the Small Companies situation, it is too early to

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agree that the interface requirements are proportionate until they appear in some more detail.

Question

Are Mechanisms such as these part of your current thinking?

- Guidance and Explanation from the MO targeted as required. In responding to this line item the working presumption has to be that there will be NHH Retail “Regulation Lite”. Nonetheless the current levels of complexity related to this Market Documentation when viewed against the very limited resources available to the Small Water Companies would suggest that guidance notes specific to whatever Small Companies codes etc emerge in the final versions will be required.
- Use of Agents or intermediaries to undertake specific tasks. Following from our response to an earlier question around the funding of compliance with this initiative, we are not considering funding Agents or the like as there is no realistic prospect at this stage for recompense of such expenditure.
- Consider a case for limited derogation from some codes provisions. The response to this point is best addressed in our response to Q33. Currently VWPL have not digested the import of every code published to date. Partly due to the resource issues mentioned above and partly in the anticipation that Small Companies would actually have their own levels of code compliance.

End of VWPL Consultation Response

17.07.2015