

Customer protection for the non-household retail market: deemed contracts – a consultation

About this document

This document sets out our proposed approach to the terms and conditions that are to apply in certain circumstances where the customer is receiving a water supply or wastewater service, but no contract has otherwise been agreed between the retailer and the customer. These terms and conditions are referred to as ‘deemed contracts’.

This document should be read alongside our proposals on the proposed arrangements for interim supply ([‘Interim supply arrangements in relation to the opening of the non-household retail market – a consultation’](#)). In those circumstances, a deemed contract between the customer and the new retailer would provide the terms and conditions for that water supply or wastewater service until the affected customers are able to choose to move to a different contract or retailer.

This document forms part of a suite of planned consultations focusing on customer protection arrangements that will be necessary to ensure that the new retail market operates effectively and in the best interests of customers. We explain this in more detail in [‘IN 15/12: Opening a new retail market for non-household customers – protecting customers’](#).

At the moment only a limited number of non-household customers across England and Wales can choose their retailer. Most customers must use services provided by monopoly companies. The Water Act 2014 will allow eligible non-household customers to choose their supplier of water and wastewater retail services from April 2017. Retail services include activities such as billing and customer services. For non-household customers of companies based wholly or mainly in Wales, only those customers using more than 50 million litres of water each year are able to choose their water supplier, and this will continue.

The new market will be the largest retail water market in the world and deliver [about £200 million of overall benefit to customers and the UK economy](#). And research shows that [seven out of ten of non-household customers want this choice](#).

Customers will be able to shop around and switch to the best deal. Investors and retailers will have new opportunities for growth. And the [environment will benefit from customers using new water efficient services](#). Customers are already benefiting from [a similar market in Scotland](#).

The UK Government is committed to delivering the new market. It set up [‘Open Water’](#), a single programme of work that brings together all of the key organisations to design and deliver the new market. These include [the Department for](#)

[Environment Food and Rural Affairs](#), [Ofwat](#) and [Market Operator Services Limited \(MOSL\)](#) – a private company owned by market participants.

Opening the new market is a complex challenge but it is [on track to open in April 2017](#). The design is almost complete and work is now being carried out to deliver the technical systems, checks and ways of working that are needed to get the market right for customers. A key element of this will be to ensure that customers are appropriately protected in the retail market.

This document forms part of a suite of planned consultations focusing on customer protection arrangements that will be necessary to ensure that the new retail market operates effectively and in the best interests of customers. The recently published information notice '[IN 15/12: Opening a new retail market for non-household customers – protecting customers](#)' summarises the customer protection issues that we are currently considering. We have already consulted on proposed changes to the Guaranteed Standards Scheme to make sure that all non-household customers continue to be protected under the Scheme, and a further consultation is due to be published by the end of November on wider customer protection issues, including mis-selling and other sales and marketing issues. In November, we will also consult on the review of non-household retail price controls.

The introduction of deemed contracts will make sure that all non-household customers have contractual terms and conditions after the retail market for non-household customers opens in April 2017. Deemed contracts will set out the terms and conditions for customers in certain defined situations where they have not had an opportunity to engage with the market. We are seeking your views on our proposed approach to both the price and non-price terms and conditions for deemed contracts, as summarised in table 1 on page 11. More details are provided on these, and the situations in which deemed contract are required, in the rest of this document.

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Responding to this consultation

We welcome your responses to this consultation by 30 November. Please submit email responses to customerprotection@ofwat.gsi.gov.uk, or post them to:

Retail Market Opening Programme
Ofwat
21 Bloomsbury Street
London WC1B 3HF.

If you wish to discuss any aspect of this document, please contact John Kennedy on 0121 644 7598 or by email at john.kennedy@ofwat.gsi.gov.uk.

We will publish responses to this consultation on our website at www.ofwat.gov.uk, unless you indicate that you would like your response to remain unpublished. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with access to information legislation – primarily the Freedom of Information Act 2000 (FoIA), the Data Protection Act 1998 and the Environmental Information Regulations 2004.

If you would like the information that you provide to be treated as confidential, please be aware that, under the FoIA, there is a statutory 'Code of Practice' which deals, among other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that we can maintain confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on Ofwat.

Consultation questions

Throughout this consultation, we raise a number of questions, which we have summarised here. As well as responses to these specific questions, we welcome views from stakeholders on any of the issues raised in this consultation.

Consultation questions

Q1 Do we need provisions for deemed contracts in Supplier of First Resort situations where there has not been an exit (which will not be covered by the Retail Exit Code or the Interim Supply Code)?

Q2 Do you agree with the proposed approach to the setting of price terms for customers transferred during the retail exit process based on the lower of the default tariff and the published retail tariff in place at the point of transfer?

Q3 Do you agree with the proposed approach to setting price terms for other customers on deemed contracts – that is, that they must not be unduly onerous?

Q4 Do you agree that for interim supply any additional reasonable costs relating to the provision of the interim supply should be recoverable by the interim supplier?

Q5 Do you agree with our proposal to exclude the costs of promotional, marketing and advertising activities in the charges being levied under the deemed contracts?

Q6 Do you agree with our proposals for ways in which the deemed contract could be terminated?

Q7 Do you agree with our proposal that there should be no minimum term for customers on deemed contracts? Do you agree that a review point should be built into the arrangements so that customers have to make an active decision after a certain period on the deemed contract?

Q8 Do you agree that the customer should not be required to give notice for the termination of a deemed contract? Do you agree that three months is adequate notice if retailer wishes to terminate the deemed contract?

Q9 Do you agree retailers should not be allowed to impose termination fees for deemed contracts?

Q10 Do you agree that retailers should notify customers that they are on a deemed contract as soon as is reasonably practicable, and no later than two months from the start of the contract? Do you agree that retailers should be required to do so more quickly in an interim supply situation?

Q11 Are there certain information items that the customer would require to better understand what contractual options are available? Do you agree that it would be appropriate include information to inform customers that they are on a deemed contract, and how to switch, on the invoice?

Q12 Do you agree that customers on deemed contracts should receive bills at least twice a year?

Q13 Do you agree that customers on a deemed contract, including customers transferred as part of the retail exit process, should not be back-billed for any period before the contract began?

Q14 Do you agree that no additional non-price terms are required for smaller customers including micro-businesses?

1. Introduction

1.1 Background

At the moment only a limited number of non-household customers across England and Wales can choose their retailer. Most customers must use services provided by monopoly companies.

The Water Act 2014 will allow eligible non-household customers to choose their supplier of water and wastewater retail services from April 2017. Retail services include activities such as billing and customer services. For non-household customers of companies based wholly or mainly in Wales, only those customers using more than 50 million litres of water each year are able to choose their water supplier, and this will continue.

This document forms part of a suite of planned consultations focusing on customer protection arrangements that will be necessary to ensure that the new retail market operates effectively and in the best interests of customers. The recently published information notice '[IN 15/12: Opening a new retail market for non-household customers – protecting customers](#)' summarises the customer protection issues that we are currently considering. We have already consulted on proposed changes to the Guaranteed Standards Scheme to make sure that all non-household customers continue to be protected under the Scheme, and a further consultation is due to be published by the end of November on wider customer protection issues, including mis-selling and other sales and marketing issues. In November, we will also consult on the review of non-household retail price controls.

The introduction of deemed contracts will make sure that all non-household customers have contractual terms and conditions after the retail market for non-household customers opens in April 2017. Deemed contracts will set out the terms and conditions for customers in certain defined situations where they have not had an opportunity to engage with the market. We are seeking your views on our proposed approach to both the price and non-price terms and conditions for deemed contracts. More details are provided on our proposals, and the situations in which deemed contracts would be required, in the rest of this document.

1.2 Roles and responsibilities

The Open Water programme was set up by the UK Government to deliver the competitive market by April 2017. The key organisations responsible for delivering

the new market are Defra, Ofwat and MOSL. Defra has overall responsibility for retail market reform in England, MOSL has responsibility for market operation and we are responsible for the regulation of the market, including licences, rules for charging, and rules for behaviours and processes, including the development of the Retail Exit Code and Interim Supply Code.

1.3 Purpose of this consultation

The UK Government is committed to opening a new retail market that will provide choice and competition to all eligible non-household customers in England by April 2017. The arrangements that are currently in place for the largest non-household customers in Wales to choose their water supplier will continue unchanged. We recently issued more detailed guidance on eligibility, but broadly, for water supplies, eligible non-household customers are:

- non-household customers whose premises are supplied with water using the supply system of a water company whose area is wholly or mainly in England; or
- non-household customers whose premises are supplied with water using the supply system of a water company whose area of appointment is wholly or mainly in Wales and to which the total quantity of water estimated to be supplied each year is not less than 50 million litres (megalitres – MI).

For wastewater services, eligible non-household customers are customers whose premises are supplied with wastewater services using the sewerage systems of undertakers whose area of appointment is wholly or mainly in England. Eligible non-household customers will be able to choose between:

- new entrant retailers licensed under the new ‘retail authorisations’ (water supply and sewerage service Licences or ‘WSSLs’) introduced by the Water Act 2014; or
- existing companies that are appointed as water and sewerage companies under the Water Industry Act 1991 (WIA91) (appointed companies).

The Water Act 2014 allows Defra to make regulations to provide for retail exit – that is, for an appointed company to apply for permission to transfer all its non-household customers to a WSSL retailer, which could be an associated WSSL retailer, or an unrelated WSSL retailer. Defra consulted on its proposed [policy](#) in December 2014, and has recently consulted on the [draft Exit Regulations](#). The retail exit applications process is expected to take place in the second half of 2016, with the Secretary of State deciding on applications in December 2016.

Under the proposed Exit Regulations, Ofwat would be required to issue a Retail Exit Code, which among other things, may include provisions about the terms and conditions to be offered to customers affected by retail exit.

To prepare for the opening of the retail market, we have started to consider the customer protection issues that might arise in the new market, and what steps are needed to address those issues. This is in accordance with:

- our statutory duties to protect customers and promote effective competition where appropriate; and
- our shared vision for the water sector that customers and wider society have trust and confidence in vital public water and wastewater services.

The rest of this document focuses on certain defined situations, including retail exit, where customers would not have an opportunity to engage with the market and agree contractual terms and conditions. In those situations, a contract would be deemed to exist between the retailer and the customer, and this document sets out our proposals for those deemed contracts.

1.4 Protecting customers

At the heart of our role is our statutory duty to protect the interests of consumers, wherever appropriate by promoting effective competition. This role is particularly important for us in relation to the opening of new retail market, where the companies we regulate will engage directly with customers, the vast majority of which have not had the opportunity to engage with the competitive water retail market before.

So, we need to carefully balance the promotion of competition with the need to ensure that customers remain adequately protected. The best way to protect customers in the new retail market is to make sure that the market arrangements are effective, with high levels of competition and innovation among retailers, as well as avoiding unnecessary or onerous burdens on retailers and removing any undue barriers to entry and expansion.

Effective competition requires customers to have the freedom to switch or negotiate better deals. Making sure that a customer can choose a different retail supplier and switch to them in a simple and timely fashion provides customers with the ability to negotiate the range and quality of services that they want, at the best possible price. Having sufficient protection in place for those customers that choose not to switch retail supplier, or those that are allocated to a retailer if, for example, their existing

retailer leaves the market, will best help to maintain the trust and confidence of customers in line with our new strategy – ‘[Trust in water](#)’.

We are currently considering the appropriate customer protection arrangements that need to be put in place for when the new retail market opens. The recently published information notice ‘[IN 15/12: Opening a new retail market for non-household customers – protecting customers](#)’ summarises the customer protection issues that we are currently considering. We have already consulted on proposed changes to the [Guaranteed Standards Scheme](#) to make sure that all non-household customers continue to be protected under the Scheme, and a further consultation is due to be published by the end of November on wider customer protection issues, including mis-selling and other sales and marketing issues. In November, we will also consult on the review of non-household retail price controls.

The other aspect of customer protection, which is the focus of this consultation, covers schemes for terms and conditions that are to apply in certain defined circumstances where there is no agreed contract with a customer. These terms and conditions are sometimes referred to as ‘deemed contracts’.

1.5 Legal framework

We have separately published an overview of the [legal framework for the non-household retail market](#).

The most relevant provisions for deemed contracts are:

- the requirement in 63AF and 110O of the Water Industry Act 1991 for us to produce an Interim Supply Code (ISC), which may, among other things, set out the provisions for the terms and conditions to be included in WSSLs’ schemes for customers affected by interim supply arrangements; and
- the requirement in the [draft Exit Regulations](#) for us to produce a Retail Exit Code, which may, among other things, set out the provisions for the terms and conditions to be included in WSSLs’ schemes produced for customers affected by retail exit.

We intend to use both these Codes to provide for the terms and conditions that would form the deemed contracts. So we are consulting on our proposed policy approach to both the price and non-price terms to help us develop our approach to these. We will then produce the draft Retail Exit Code and the draft ISC, and consult on them early next year. Other aspects of the ISC such as the allocation process are set out in the separate consultation on [interim supply arrangements](#). The legal

framework for deemed contracts is relatively complex, as there are different provisions for the different circumstances. From a policy perspective, we recognise that there are some important differences, especially around retail exits, but we aim to build in enough flexibility to the arrangements for deemed contracts so that over time it would be possible to align the arrangements more closely, as the market develops and matures. We plan to review the arrangements for deemed contracts after the market opens.

1.6 What are deemed contracts?

The majority of customers in the water sector currently do not have contracts. Instead, they receive their water supply and/or wastewater services on a statutory basis from companies that are ‘appointed’ to serve a defined geographical area. In this document, we refer to these as ‘appointed companies’. When the non-household retail market opens in April 2017, customers will be able to switch to licensed retailers (WSSLs), who are not covered by the same statutory provisions. So customers of WSSLs will receive their service on a contractual basis. Normally, customers would be expected to discuss and agree the contractual terms and conditions with a retailer before they agree to begin supply. But in certain circumstances, customers will not have an opportunity to agree terms and conditions in advance of receiving supply. In those situations, we need to make sure that customers have a contractual relationship with their retailer, through a deemed contract, so that both the customer and retailer understand the price and other terms of the supply and/or wastewater service. This will help to provide certainty for both parties to avoid any unpleasant surprises for the customer, and to enable the retailer to bill the customer.

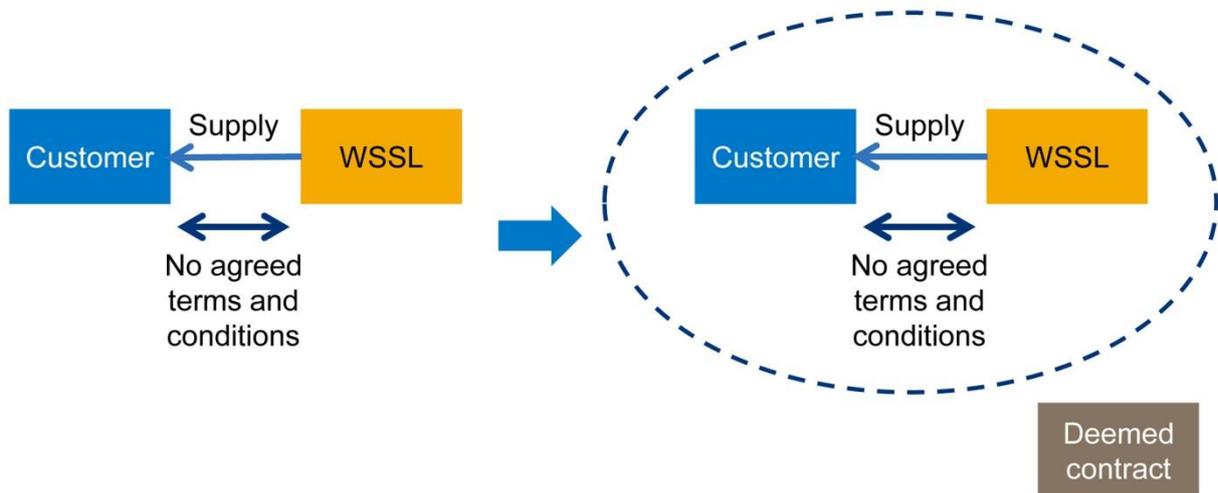
As explained above, there are two main areas where the Water Act 2014 and subordinate legislation provides for us to introduce deemed contracts. These are:

- retail exit, where the appointed company decides to exit the non-household market and transfers its non-household customers to one or more WSSL retailer(s); and
- as part of the interim supply arrangements to protect customers when a WSSL retailer ceases to supply its customers and Ofwat directs another WSSL retailer to take on those customers.

If an appointed company decides to exit the non-household market, deemed contracts would be needed to protect customers not only at the point of exit, but also in the area of appointment on an enduring basis in defined situations where a

customer is receiving a supply but does not otherwise have agreed terms and conditions in place.

Figure 1: Deemed Contracts



As explained above, customers of appointed companies (that is, existing regional water companies) receive their water supply and/or wastewater service on a statutory basis, rather than on a contractual basis. In contrast to the customers of WSSLs, so deemed contracts are not relevant for those customers.

We propose that deemed contracts will include essential terms relating to both the price and service that customers will receive. It is an important principle that customers should not be locked into a deemed contract, as we want customers to be able to freely engage with the market. Customers would be able to switch away from the deemed contract at any point (either to different contractual terms with the same retailer, or to a different retailer), and there will be requirements on retailers to ensure that customers are clearly informed of the fact that they are on a deemed contract and their rights to switch.

Table 1: Situations where deemed contracts would be used

Event and Proposals	Retail exit process	Retail exit area	Interim supply (in all areas, whether there has been retail exit or not)
Circumstance	For customers transferred from an appointed company to a WSSL retailer during the retail exit process.	For customers in an area where the appointed company has exited the retail market, in certain situations where they do not otherwise have agreed terms and conditions (for example, customers that are receiving a supply but have not previously been registered with a retailer).	For customers of a WSSL retailer transferred to another WSSL retailer when their existing retailer ceases supply (e.g. as a result of becoming insolvent or losing its licence).
Proposals for price terms	We propose that the price should be the lower of: <ul style="list-style-type: none"> the default tariff in place at the point of exit, as set out in the relevant final determination for that geographical area; and the retail tariff that the customer is on at the point of transfer. 	Price must not be unduly onerous – that is, revenue should not significantly exceed costs.	Price must not be unduly onerous – that is, revenue should not significantly exceed costs, but recognising that there might be additional reasonable costs associated with provision of interim supply to these customers. In some circumstances the price terms for interim supply may be directed by Ofwat under the terms of the ISC.

Proposals for non-price terms

- **Transparency of terms (requirement to publish):** retailers will be required to publish their schemes for terms and conditions on their websites under the relevant legislation for both interim supply and retail exit. This will provide transparency to customers, so we are not proposing any further measures on this.
- **Termination of the contract:** the contract can be terminated by: the customer switching; the retailer giving 3 months' notice; or in an interim supply situation.
- **Duration:** there can be no minimum fixed term, so that customers are able to move to a different contract or a different retailer at any time.
- **Notice to be given by the customer and the retailer:** the customer would not be required to provide notice before requesting a switch, but the retailer must provide 3 months' notice.
- **Termination fees:** customers cannot be required to pay a termination fee when they switch to a different retailer or contract
- **Requirement for the retailer to inform the customer that they are on a deemed contract:** retailers must inform their customers that they are on a deemed contract as soon as practicable, and no later than two months of the contract starting.
- **Other information requirements:** the retailer should regularly provide a reminder to the customer that they are on a deemed contract, and provide information on alternatives. This can be provided on or with the invoice.
- **Billing frequency:** customers should be billed at least twice each year.
- **Back-Billing:** for Retail Exit that there should be no back-billing beyond the start of the deemed contract. (We are considering back-billing as part of our wider customer protection work, and will make sure that deemed contracts align with any wider measures.)
- **Debt-blocking:** customers cannot be prevented from switching to a different contract with the same retailer because of debt. (We are considering debt-blocking as part of our wider customer protection work, and will make sure that deemed contracts align with any wider measures.)

1.7 Policy objectives

In designing the regulatory arrangements for the new retail market we are required to act in accordance with the guidance we receive from the UK and Welsh Governments, but must always act in accordance with our statutory duties. Based on those statutory duties and the guidance we receive from the UK and Welsh Governments, we have developed the following key objectives for our regulatory work in relation to the opening of the new retail market.

1. The new market arrangements must **promote effective competition by:**
 - not creating unnecessary or avoidable barriers to entry or expansion;
 - not creating any undue discrimination between market participants;
 - ensuring, as far as possible, that there is a level playing field between incumbents and new entrants;
 - encouraging eligible, non-household customers to engage with the market arrangements and support the highest levels of rivalry; and
 - supporting a seamless experience for eligible, non-household customers across England, Scotland and (where applicable) Wales.

2. **The new market arrangements will continue to protect eligible, non-household customers where things go wrong by providing:**
 - proportionate mechanisms that protect customers in the event that they are harmed through their experience of the market arrangements.

3. The new market arrangements must continue to **ensure that wholesalers remain financeable and are able to carry out their functions by:**
 - not constraining the ability of wholesalers to meet their legal obligations; and
 - allowing an efficient wholesaler to finance their functions.

4. **The market arrangements must be efficient and proportionate. This means they must:**
 - be designed in a way that is economic and efficient; and
 - be proportionate, including for small market participants.

1.8 The approach we have followed

In developing the proposals set out in this consultation, we have:

- assessed our proposals against the clear and defined set of policy aims above, to ensure an appropriate balance between these;
- fully reflected the relevant provisions of the WIA91, the Water Act 2014 and the draft Exit Regulations; and
- carefully considered the interaction of these proposals with related policy areas and instruments, including Ofwat's proposals in relation to licensing, interim supply and charging rules, as well as the draft market codes.

Our proposals have also been informed by our prior stakeholder engagement on these matters, including views expressed at industry workshops in August and September 2015, as well as a number of other events and meetings, including with customer organisations.

2. Deemed contracts

This chapter outlines the various circumstances in which deemed contracts will be required. We have identified the three main scenarios where terms and conditions are required for deemed contract arrangements under relevant legislation. These are as follows.

1. For customers transferred during the exit process.
2. For customers in an area where the appointed company has already exited. This includes various situations where the customer might not have agreed terms and conditions – these are described in more detail below – and other situations where the customer requests Ofwat to direct another WSSL retailer to take over the supply.
3. Interim supply.

We describe each of these scenarios in more detail below. We are interested in stakeholder views on whether there are other possible scenarios where measures like deemed contracts might also be required or desirable, that are not discussed in this document.

Appendix 1 provides some examples of the use of deemed contract arrangements in other sectors.

2.1 Retail exit

Currently the majority of water and wastewater customers do not have a negotiated contract with their water company. There is a statutory duty for the appointed company to provide a service and a power to charge the customer for the provision of such services. If appointed companies choose to exit the retail market, their eligible non-household customers would be transferred to one or more acquiring WSSLs and so would no longer be covered by the statutory provisions for service, which only apply to the appointed companies. This means that there would need to be contractual arrangements between the WSSL and each customer.

Although a few customers might agree a contract ahead of the transfer, we expect that the majority of customers transferred as a result of the exit would not have contracts. So those customers would be covered by a deemed contract until they have an opportunity to engage with the market and choose a different contract

and/or different retailer. Where the customer is transferred because of retail exit, our policy aim is to make sure that customers do not suddenly find themselves paying a lot more for their water supply and/or wastewater service than before, or experiencing worse levels of service.

The draft Exit Regulations also propose measures to protect customers in that area of appointment after the exit process has happened. Transferred customers who have switched away from the deemed contract terms and conditions, either by switching to a different WSSL retailer, or remaining with the original acquiring licensee on different terms, will retain the right to apply to us to be allocated to an eligible WSSL retailer – from a list of WSSL retailers that must include the acquiring licensee(s) in that area, as well as any other retailers that wish to be included – and placed on their deemed contract. This right will not be time-limited.

2.2 Enduring arrangements in the area of appointment affected by retail exit

2.2.1 Supplier of the First Resort

Under current arrangements, the relevant appointed company has a duty to supply customers in its area of appointment. When the retail market opens, this will remain as a backstop protection for customers unless the appointed company exits the market. If an appointed company exits the market, there needs to be a process to allocate a WSSL retailer to any customers in that region who have not engaged with the market to choose a retailer. This will ensure that all eligible customers are served by a WSSL retailer. This is an important customer protection backstop and ensures that critical market processes such as customer switching, meter reading and maintenance of data quality, which rely on there always being a retailer registered for every customer and premises in the market, can take place. The draft Exit Regulations propose that we would allocate the customer to a retailer if the customer does not select their own retailer within a certain period. As above, the list of WSSL retailers for this purpose must include the acquiring licensee(s) in that area, as well as any other retailers that wish to be included. A supplier of the first resort would be required where a site was not previously registered in the market. An example of this could be a non-household site that was previously billed as a household site.

2.2.2 Contract termination or expiry, where the contract does not otherwise provide for that event

Under the Retail Exit Code, we also propose to provide for the situation where a contract is either terminated or expires, but the supply continues. If the original contract did not specify what would occur after termination or expiry, a deemed contract would be required to provide certainty about the terms and conditions for the period until the parties agree a new contract or the customer switches to a different retailer.

2.3 Interim supply

As in any competitive market, companies can fail. Customers need to be protected if their WSSL retailer ceases to supply because, for example, it becomes insolvent or loses its licence. Regulatory intervention will not be required in every instance, as a retailer may cease to supply because the business has been sold in a trade sale or one company may merge with another. We are required to issue a code setting out interim supply arrangements (the ISC), and may direct an eligible WSSL retailer to make interim supply to customers. The ISC will include provisions about the terms and conditions for the supply (that is, deemed contracts) and we set out our proposed approach to these in chapter 3 below. More details about our other proposals for interim supply arrangements are set out in our separate [consultation on interim supply](#).

2.4 Supplier of the First Resort in an area where there has not been an exit (that is, the appointed company remains in the market)

Where the appointed company remains in the market, it must act as the default retailer for non-household customers within its area of appointment, unless the customer is registered with a different retailer. Where it does so, the supply is provided on a statutory basis, as explained above, so deemed contracts are not required. But the situation for WSSL retailers would be different, as they would need to have a contract with the customer. Under the current proposals for Gap Site Allocation set out in the draft Wholesale-Retail Code:

- where a gap site is identified by the appointed company, the appointed company will register the relevant supply point(s) with the Market Operator; and

- where a gap site is identified by a WSSL retailer, the appointed company will register the relevant supply point(s) with the Market Operator by identifying the WSSL Retailer as the retailer for those supply points.

We consider that it is highly unlikely in practice that a retailer would seek to register a gap site without first concluding a contract with the customer, as the retailer would then be liable for all wholesale charges in respect of that supply from the date of registration with no means to recover these from the customer.

But we note that this situation would not be covered by the provisions of the Retail Exit Code or the ISC, so we are interested in stakeholder views as to whether we need to consider some other form of regulation to provide for deemed contracts in this situation.

Consultation question

Q1 Do we need provisions for deemed contracts in Supplier of First Resort situations where there has not been an exit (which will not be covered by the Retail Exit Code or the Interim Supply Code)?

2.5 Comparative approaches

The use of deemed contracts is widespread in the energy sector in the UK, other European countries and in other jurisdictions such as the Australian States and Territories. Although the legal and regulatory frameworks will be different in other sectors, we have considered the different approaches when developing our proposals as set out in this document. More details are provided in Appendix 1.

3. Our proposals

This chapter explains our proposal for the terms and conditions which will form the basis of the deemed contracts. It includes proposals for the price terms and non-price terms. We have considered what terms and conditions might be required for each of the different situations described in chapter 2 above. Although we propose that the same non-price terms should be used for all of the situations where deemed contracts might be required, there are some important differences when we consider what price terms might be appropriate, especially in relation to retail exit. So we set out our proposals for each of the situations in turn, below.

We have also considered whether extra protection for smaller customers (for example, Small and Medium-sized Enterprises (SMEs), or the very smallest non-household customers that are sometimes referred to as ‘micro-businesses’) is required. At this point, we do not propose to introduce special deemed contract terms for smaller customers, but we are interested in stakeholder views on this.

3.1 Price terms

Price terms are key to ensuring that customers on a deemed contract are treated fairly and are not paying an unreasonable price for their service. Customers on a deemed contract have not actively agreed to the terms, and although we expect many customers to then engage with the market and choose to move onto terms and conditions that suit them better, we know from the experience in other sectors that some customers may not engage with the market, and so will remain on the deemed contract. This is likely to be even more of an issue in the early stages of the market, when customer awareness may be low. In addition, a large proportion of non-household customers might be on deemed contracts, at least initially, depending on how many appointed companies exit the market.

As mentioned in chapter 2, there are three broad circumstances where deemed contracts will be required.

1. When customers are transferred from the appointed company to a WSSL retailer as part of the exit process.
2. For customers in an area where the appointed company has already exited. This includes various situations where the customer might not have agreed terms and conditions, and other situations where the customer requests us to direct another WSSL retailer to take over the supply.

3. Interim supply.

We have considered what approach to regulation of price terms would be appropriate in relation to each of these circumstances.

3.1.1 Customers transferred through exit process

We expect that the vast majority of customers who are on deemed contracts will be on them because they have been transferred from an appointed company to a WSSL retailer as part of the exit process. We also expect that for many customers, this will happen at the time of market opening. In order to retain and develop levels of trust and confidence in the sector as the market opens, it is really important that customers do not have a negative experience, such as seeing their bills go up significantly, or receiving lower levels of service.

The UK Government recognised this in its proposals for retail exit, which are intended to make sure that customers affected by retail exit are no worse off as a result of the transfer.

As part of the exit process, appointed companies will transfer their eligible non-household customers to an acquiring WSSL retailer (or a number of retailers), which could be an associated WSSL, or an unrelated WSSL. Under current arrangements, price controls were not determined for WSSL retailers. This means that customers currently protected by the non-household price control could lose this protection at the point of exit, unless we put additional measures in place.

Our December 2014 price control determinations set the non-household retail price controls that will operate between 1 April 2015 and 31 March 2017. We will be consulting in November about the review of these retail price controls so that we can set price controls from April 2017, when the non-household retail market opens. It is currently proposed that the new price controls will be set for a three year period (until 31 March 2020), to align with the wholesale price controls.

Under the current non-household price control, appointed companies are required to set charges for all non-household customers that comply with the allowed average revenue for each customer type on an annual basis. These are known as default tariffs and are the maximum a type of customer could be charged without the appointed company reaching the price cap. Default tariffs must always be offered to customers, although companies can also offer different terms, provided that they remain within their average revenue limit for that customer type.

In our response to Defra's retail exit consultation in February 2015, we supported the intention to make sure that customers are no worse off when they are transferred through the exit process. We suggested that price terms should be linked to the published retail tariffs provided to customers immediately before the exit. We also welcomed the proposal to keep the price protections under review as the market develops, recognising that it could take time for effective competition to develop, especially for smaller customers. We suggested that we could require companies to include in their deemed contracts price terms corresponding to the tariffs that customers paid at the moment of exit, updated for any changes in wholesale charges, until we judge that the market is sufficiently mature.

More recently, we discussed options for price terms at a stakeholder workshop in September, and there appeared to be a consensus among stakeholders present that for customers transferred through the exit process, WSSL retailers should be required to offer price terms that are the equivalent of the default tariff at the point of exit.

So, for customers transferred through the exit process we propose to link the price terms to be offered under the deemed contract to the default tariff in place immediately before the exit takes effect. We are interested in stakeholder views on how best to do this, and whether the terms should relate to the published retail tariffs, or the default tariffs set out in the price control final determination documents. If default tariffs are used, then it is possible that individual customers might see an increase in the price they pay, if they are currently paying less than the default tariff cap. So our initial view is that it is better to require acquiring WSSL retailers to offer price terms based on the lower of the default tariff and the relevant published retail tariff for customers at the point of transfer, with an ability to adjust afterwards to reflect any changes in the wholesale charges over time. The exception to this would be for any customers who have already negotiated a contract, or are on a special agreement as we would expect those terms to be matched by the acquiring WSSL retailer.

As noted above, the acquiring WSSL retailers would need to reflect any changes in wholesale charges made by the relevant appointed water company that affected the overall retail charge. This is because the retail charges are directly affected by the wholesale charges. The wholesale charging structures are already subject to price controls.

3.1.2 What would happen after 2020?

As explained above, our preferred approach is to set a three year control to align with the existing controls for wholesale and household retail (which will end on 31 March 2020). This would allow us to see both how competition was developing in the non-household retail market and deal with any further cost allocation issues that might emerge between retail and wholesale and/or non-household and household retail.

Unless there is evidence of competition effectively constraining prices across the non-household market we will need to consider whether revised arrangements to protect customers may be appropriate after 2020, including price controls. It may be appropriate to propose extending such arrangements (that could include price control conditions) to WSSLs.

If price control arrangements were to apply there could be substantial changes to the price control arrangements for non-household retail, including:

- deregulating those sections of the market where there is evidence that competition is effectively constraining prices, and
- simplification of the remaining back stop price arrangements for areas of the market where competition is continuing to develop, perhaps with a small number of national tariffs based on broad bands of wholesale charges and set as an overall percentage mark-up on wholesale charges.

This would be consistent with the broad thrust for our work on the Water2020 programme, with greater reliance on market forces to help protect the interests of customers.

For customers who were transferred during the exit process onto deemed contracts, and who still remain on those contracts in 2020 because they have not switched or negotiated a different contract in the meantime, we would need to review and consider updating the Retail Exit Code to reflect changes in our price control arrangements at that time. This would, of course, also affect any customers who are transferred during an exit process which takes place after 2020.

Consultation question

Q2 Do you agree with our proposed approach to the setting of price terms for customers transferred during the retail exit process based on the lower of the default tariff and the published retail tariff in place at the point of transfer?

3.1.3 Customers in an area where the appointed company has exited the retail market

For customers moving onto deemed contracts in an area where the appointed company has already exited, we do not consider that it would be appropriate or practicable to link directly the price terms to default or retail tariffs. Much smaller numbers of customers would be on these deemed contracts, and they would probably have been on a range of terms and conditions before the deemed contract took effect. Instead, we propose a different approach to setting the price terms in this situation.

The key objective in price setting is that prices are fair and adequately reflect the cost of providing the service. We therefore propose that, similar to the energy sector, there should be an obligation on WSSL retailers to take all reasonable steps to ensure that the price terms of each of its deemed contracts are **not unduly onerous**. It is proposed that in assessing whether a price term is unduly onerous:

- The terms of a deemed contract would be considered unduly onerous if for any class of customer, the revenue derived from supplying water and/or wastewater services to the premises of the relevant class of customers significantly exceeds the retailer's costs of supplying water and/or wastewater services to such premises.

We have also considered an additional test such as the one used in the energy sector where the margin for a particular class of customers should not exceed the margin for the retailer's whole customer base. We are not proposing to use this additional test, as the non-household customer base in water is likely to be less homogenous than in the energy sector, and so we do not consider it would be appropriate.

In addition, any charges levied under the provisions of a deemed contract should be stable and predictable. This would enable customers to plan ahead with greater certainty.

We have considered whether it is appropriate to include the costs of promotional, marketing and advertising activities of the retailer in the charges being levied under the deemed contracts, as the customer has not expressly agreed terms and conditions with the retailer. We do not consider that it would be appropriate to do so, as customers on a deemed contract have not entered into that contract as a result of any sales or marketing activities, but we are interested in stakeholder views on this.

3.1.4 Interim supply

For the interim supply scenario we propose that price terms be based on the same principles as above – that is, not unduly onerous. However, it would seem appropriate that where a WSSL retailer has been appointed as an interim supplier they are also allowed to recover any reasonable costs associated with the provision of interim supply. The retailer's charges for the supply of water and/or wastewater services under the interim supply arrangements should not exceed the retailer's reasonable costs of supply. Such costs may for example include the administration costs associated with acquiring the new customers or the higher bad debt risks associated with acquiring customers through the interim supply process following a cessation of supply.

3.1.5 Extra protection for smaller non-household customers

As explained above, we have also considered whether extra protection for smaller customers (for example, SMEs, or the very smallest non-household customers that are sometimes referred to as 'micro-businesses') is required.

We note that the Competition and Markets Authority (CMA) is currently conducting an investigation into the energy market. In its recent provisional findings it found considerable variation in the prices paid by SMEs including micro-businesses.

At this point, we do not propose to introduce special deemed contract price terms for smaller customers, but we are interested in stakeholder views on this. We are also considering whether other targeted protections might be required for smaller customers under our wider customer protection work on mis-selling and contractual issues, and the customer switching journey. We are planning to consult on our proposals in those areas by the end of November.

We will monitor the development of competition and the use of deemed contracts carefully, including for market segments such as SMEs and micro-businesses. If we judge that there are particular issues affecting smaller customers, we will consider additional arrangements to protect them, which might include price controls.

Consultation questions

Q3 Do you agree with the proposed approach to setting price terms for other customers on deemed contracts – that is, that they must not be unduly onerous?

Q4 Do you agree that for interim supply any additional reasonable costs relating to the provision of the interim supply should be recoverable by the interim supplier?

Q5 Do you agree with our proposal to exclude the costs of promotional, marketing and advertising activities in the charges being levied under the deemed contracts?

3.2 Non-price terms

Our proposed approach to the non-price terms is described below. Unlike our proposal for the price terms where there will be three approaches depending on whether it is a retail exit scenario or another scenario, it is intended that the non-price proposals would apply to all types of deemed contract.

As deemed contracts are intended to be a form of backstop protection, it is important that customers understand that they are on a deemed contract and are informed of the basic terms on which they are receiving their supply. It is also important that customers can freely engage with the market and choose to switch away from the deemed contract to a different contract or a different retailer.

So, in developing our proposals we have considered a number of essential areas.

- Transparency of terms (requirement to publish);
- Termination of the contract;
- Duration of the contract;
- Notice to be given by the customer and the retailer;
- Termination fees;
- Requirement for the retailer to inform the customer that they are on a deemed contract;
- Other information requirements;
- Billing frequency;
- Back-billing;
- Debt-blocking.

3.2.1 Transparency

As the customer has not actively agreed to the terms and conditions of the deemed contract, transparency is very important.

For exit, the draft exit regulations state that all WSSL retailers wishing to operate in exit areas will publish schemes for terms and conditions on their websites. Those terms and conditions must comply with any provisions set out by us in the Retail Exit Code or otherwise directed.

For interim supply, it is also a requirement of the relevant legislation that a WSSL retailer which has elected to be an interim supplier publishes on its website the scheme for terms and conditions that will apply to the deemed contracts.

As there is already a requirement for the schemes for the terms and conditions to be published on retailers' websites, we do not propose any additional requirements for transparency.

3.2.2 Termination of the contract

To ensure that the market functions smoothly and customers have clarity, the procedure for termination should be clearly stated in the contract. We have also considered the importance of making sure that customers are not left without a retailer, if the deemed contract is terminated – especially in circumstances where the appointed company has exited the market. In an area where the appointed company continues to operate in the market, customers have a statutory basis for supply as noted above. Where an appointed company has exited, a customer can request that we direct a retailer to supply them.

So, we propose that deemed contracts could be terminated in the following ways.

- Where a customer decides to be supplied with water and/or wastewater services under a different contract negotiated with the same retailer or a different retailer, when that new contract takes effect (we propose that the customer would not be required to give notice – see below).
- If the retailer gives 3 months' notice of termination, on the expiry of that notice (see below).
- Where a customer is being supplied on deemed contract terms and the retailer fails, the deemed contract will terminate at the point that the new allocated interim supplier takes over. This will be replaced by that interim supplier's own deemed contract. It is possible that the deemed contract with the failing retailer could have been terminated (for example, by insolvency) before the interim supply direction is actually made. If so, there may be a short period while the allocation process is run during which there is no valid contract in place. However, under our 'backdating' proposal in our interim supply consultation, in due course the allocated interim supplier will take over from the original date of cessation of supply, so retrospectively there will be no contractual gap for the customer.

Consultation question

Q6 Do you agree with our proposals for ways in which the deemed contract could be terminated?

3.2.3 Duration

Generally, there should be no minimum fixed term period for a deemed contract, as there should be no barrier for the customer to engage with the market and seek other terms and conditions that suit them better. Some customers may only be on the deemed contract terms and conditions for a matter of days or a few weeks. But there could be a benefit for customers from building in a review point which forces them to engage with the market and actively make a decision about whether to remain on the terms of the deemed contract or to seek a different contract with the same retailer or a different retailer. So, for example, a fixed term of 12 months would create a review point when the customer has to make a decision. We are interested in stakeholder's views on this.

For interim supply arrangements, we are currently minded to propose that the deemed contracts for WSSL licensees should revert after a three month period to the interim supplier's standard terms and conditions, if such terms exist, as it aligns with the appointed company's statutory terms of supply. This time period should provide sufficient time for a customer to seek and negotiate a contract which better meets their needs either with the interim supplier or with an alternative retailer. We are consulting on this proposal in our interim supply consultation.

Consultation question

Q7 Do you agree with our proposal that there should be no minimum term for customers on deemed contracts? Do you agree that a review point should be built into the arrangements so that customers have to make an active decision after a certain period on the deemed contract?

3.2.4 Notice period for termination

To enable switching and the smooth functioning of a competitive market, we propose that the customer should not have to give notice before they are able to switch to a different retailer.

Where a supplier wishes to terminate a deemed contract, we propose that three months would be a reasonable timeframe for it to do so, as it would provide a reasonable amount of time for the customer to engage with the market.

Consultation questions

Q8 Do you agree that the customer should not be required to give notice for the termination of a deemed contract? Do you agree that three months is adequate notice if retailer wishes to terminate the deemed contract?

3.2.5 Termination fees

It is intended that a deemed contract should only be a temporary measure and that the customer should be encouraged to engage with the market and negotiate with its existing retailer or an alternative retailer. So it seems to be inappropriate for retailers to impose any sort of termination fees for deemed contracts, as it may constitute a barrier to switching. We propose not to allow termination fees for deemed contracts.

Consultation question

Q9 Do you agree retailers should not be allowed to impose termination fees for deemed contracts?

3.2.6 Requirement for the retailer to inform the customer that they are on a deemed contract

Given that a customer does not intentionally enter into a deemed contract, it is important that a retailer makes reasonable endeavours to inform the customer that they are on a deemed contracts and provide customers with details of the terms and conditions of the supply in a timely manner. We propose that notification should occur as soon as reasonably practicable, but no later than two months from the start of the contract. This aligns with the proposed timescales under the draft Retail Exit Regulations. The information should be set out in writing and clear and plain English.

For interim supply, we are considering a requirement for the retailer to notify the customer much earlier, for example, within 14 days. In this situation, the interim supplier would be able to recover any reasonable additional costs of doing this. We are interested in stakeholder views on this point.

Consultation question

Q10 Do you agree that retailers should notify customers that they are on a deemed contract as soon as is reasonably practicable, and no later than two months from the start of the contract? Do you agree that retailers should be required to do so more quickly in an interim supply situation?

3.2.7 Information requirements

It is proposed that where a retailer supplies water and/or wastewater services to a customer's premises under a deemed contract, it regularly provides reminders to the customer that they are on a deemed contract, and provides information of other terms available to the customer that may be different from the terms of deemed contracts, and information on how the customer may opt for such contracts. The information should be set out in writing and in plain English. We propose that this information should be provided to the customer with the invoice, as this avoids creating additional costs for retailers, and makes it more likely that the customer will read the information.

Consultation questions

Q11 Are there certain information items that the customer would require to better understand what contractual options are available? Do you agree that it would be appropriate include information to inform customers that they are on a deemed contract, and how to switch, on the invoice?

3.2.8 Billing frequency

The billing cycle is an important aspect of the communication between the retailer and its customers and so is an important way of informing the customer that better terms and conditions may be available and encouraging them to engage with the market. Across the industry there is a mix of billing cycles with some customers billed annually and some more frequently. There are concerns that if retailers were required to bill on a very frequent basis, for example monthly, this would increase costs and significantly reduce the margin. As a way of addressing retailer concerns and balancing it against the need to engage with the customer, we propose that customers be billed at least twice each year.

Under the draft Exit Regulation 27(7) an acquiring licensee's scheme must provide for each transferred customer to be billed by the same method and to pay by the

same method as immediately before the exit date. The retail exit schemes will need to accommodate this. We do not propose any additional measures relating to payment and billing methods, for retailers, but are interested in stakeholder views on this point.

Consultation question

Q12 Do you agree that customers on deemed contracts should receive bills at least twice a year?

3.2.9 Back-billing

Back-billing occurs when a supplier does not bill a customer for some time but then issue a bill for water and wastewater services that have been consumed but not previously billed. We propose that for Retail Exit that there should be no back-billing beyond the start of the deemed contract, as there should be a clear incentive for billing related issues to be resolved prior to the point of transfer.

We are also considering the issue of back-billing in the non-household retail market in the wider work we are doing on customer protection, and will make sure that the arrangements for deemed contracts align with any wider customer protection measures which are put in place following that consultation.

Consultation question

Q13 Do you agree that customers on a deemed contract, including customers transferred as part of the retail exit process, should not be back-billed for any period before the contract began?

3.2.10 Debt blocking

Customers could be prevented from switching if their water and/or wastewater supplier were to block them because outstanding debts. Even in the absence of a blocking mechanism, customers with outstanding debt may find it difficult to find an alternative supplier. We are considering the issue of debt blocking as part of the further work we are carrying out on customer protection issues, and will make sure that our approach to deemed contracts aligns with any wider customer protection arrangements that may be put in place.

We propose that debt should not be a reason to prevent a customer on a deemed contract from switching to a different contract with the same retailer at any point.

3.3 Micro-businesses

Experience from the energy market shows that the smallest businesses find it difficult to engage in retail markets and therefore require greater levels of protection than other customers. The evidence from other markets is that switching rates among micro-business customers are lower than those for larger customers. Ofgem introduced a range of remedies to address contracting practices that it believed were adversely affecting micro and small business consumers. Protection for micro-businesses is also a feature of the telecoms regulatory regime. In telecoms, the regulator Ofcom has extended extra measures to the micro-business market segment.

We have considered proposing special non-price terms for micro-businesses within deemed contracts. However, we recognise there could be significant transaction costs for retailers, and scope for dispute and confusion for customers, as retailers would need to verify customer details for the purposes of identifying whether a customer falls within that category or not. We therefore do not intend to impose any special non-price terms for micro-business under deemed contracts, as the terms we are proposing will be important for all types of customers.

As explained above, we are also considering whether other targeted protections might be required for smaller customers under our wider customer protection work on mis-selling and contractual issues, and the customer switching journey. We are planning to consult on our proposals in those areas by the end of November, and will ensure that deemed contracts are consistent with any wider proposals.

Consultation question

Q14 Do you agree that no additional non-price terms are required for smaller customers including micro-businesses?

4. Next steps

We welcome responses to the proposals set out in this document from stakeholders, together with any evidence in support as considered appropriate. This will help us to refine our proposed approach to the deemed contract arrangements.

Once we have considered responses to this consultation, we plan to develop and consult on the draft Retail Exit Code and ISC. We plan to publish these for consultation in early 2016.

In the meantime, we will also publish a separate consultation on wider customer protection issues. We plan to publish it by the end of November 2015.

Appendix 1: Comparative Approaches

This section describes the use of deemed contract arrangements in the GB energy sector and the water sector in Scotland. Customer protection provisions in the telecom's sector are also outlined. Although, the circumstances for the use of deemed contracts may be different in other sectors, examining the different approaches is helpful in informing the debate.

Water sector – Scotland

In April 2008 the Scottish water and wastewater market for all non-household customers was opened up to competition. Currently the Water Industry Commission for Scotland (WICS) is consulting on a Deemed Contract Scheme, which will be a new requirement under the Section 20B of the Water Services etc. (Scotland) Act 2005. This would set out the terms and conditions to be included in all deemed contracts. The consultation ends on 30 October.

For the price terms, licensees have the flexibility to set what charge levels they see fit as long as the prices do not exceed the default maximum tariff. For example, licensees have the flexibility to place customers on deemed contract on their standard charges if those charges are lower than the default tariffs. There is a requirement to notify the customer of the charges prior to the issue of the first invoice. The default tariffs are published by the Water Industry Commission for Scotland (WICS) and are set on the basis of the prices which customers would have been charged if Scottish Water was still providing the retail service. Last year WICS froze the default tariffs in nominal terms at 2013-14 levels until March 2021.

For the non-price terms, the deemed contract rules will also require compliance with the Default Standards which WICS have set. These Default Standards take a similar approach to the GSS which apply in Scotland and in England and Wales. Compliance with the Default Standards will ensure that licensees pass on any service standard payments they receive from Scottish Water, the wholesaler. In addition to the Default Standards, there are also other provisions in relation to non-price terms being consulted upon.

These include:

- a requirement that the licensee must issue the first invoice within 6 weeks from either being allocated to the premises (for example, through the gap site mechanism) or from when it knows that there is a new customer at a premises

- which it is registered to. This would ensure that customers are made aware early on that they are on a deemed contract and will need to pay for the services;
- the licensee should invoice the customer at least twice within any one year;
 - the licensee should include a statement in their invoices advising the customer that they are on a deemed contract and are entitled to contact the licensee to actively agree an arrangement for service; and
 - the licensee cannot not issue invoices, on the basis of the deemed contract, in respect of services provided prior the date the deemed contract came into force or after the deemed contract has terminated. This acts as a protection against back-billing.

GB energy sector

The use of Deemed Contracts is a long standing feature of the GB energy sector. The GB energy regulator Ofgem has put in place licence conditions for gas and electricity retailers that regulates the price terms of deemed contracts.

There is a restriction on the level of charges that suppliers can levy under deemed contracts. Prices would be considered to be “unduly onerous” if the revenue derived from supplying gas or electricity to customers (a) significantly exceeded the costs of supplying gas or electricity; and (b) exceeded such costs of supply by significantly more than the supplier’s revenue exceeded costs of supply in the case of the generality of its domestic customers or non-domestic customers, as appropriate (except where customers are supplied under Supplier of Last Resort). There are also licence requirements on retailers that they treat all customers fairly.

Ofgem has also introduced licence conditions for the protection of businesses with fewer than 10 employees and a turnover of less than €2 million (known as microbusinesses), which include the following.

- A reduced maximum notice period for terminating a microbusiness contract from 90 to 30 days.
- Around 60 days before a fixed-term ends, suppliers must tell the smallest firms how much energy they use each year, and give them details on how the price of their current deal compares with the new prices.
- Acknowledge a termination notice from a microbusiness consumer within five working days of receipt, or as soon as reasonably practical after that.

Ofgem have hitherto not have had to carry out any enforcement with the regard to the licence conditions relating to deemed contracts.

UK telecoms sector

Although the use of deemed contracts is currently not a feature of the UK telecoms sector, Ofcom have a number of protections in place for businesses that have been given effect through licence conditions. These include:

- a requirement on suppliers to provide customers with a minimum set of information about the terms of their contract if they request them;
- ensuring that the conditions of contracts do not disincentivise the customer from switching to a new provider, e.g. through excessive early termination charges;
- a standard contract period, which has been specified as 12 months;
- a requirement for the retailer to give one month notice of any changes in a contract that are likely to be of 'material detriment' to the customer;
- the provider must publish on its website clear and up to date information on tariffs and pricing for its landline and mobile services;
- a requirement on suppliers to bill accurately; and
- where a customer has problems paying a bill, the supplier must act fairly when it takes action to secure payment or to disconnect the customer.

For smaller businesses of ten or fewer fulltime employees there are additional measures, which include the following:

- consent must be sought from customers for each new specific minimum contract period;
- a requirement for the supplier to be a member of an Ofcom approved Alternative Dispute Resolution (ADR) scheme and provide the customer with information to enable them to access the scheme. ADR is key element of protection which Ofcom require all communications providers to offer to consumers and small businesses. It allows customers to refer complaints that cannot be resolved with their provider to an independent body in order to reach an impartial resolution. Access to ADR is free of charge (other than photocopying or postage costs) and an ADR decision is binding on the provider;
- an obligation for the supplier not to give misleading information about their products and services when selling services; providing key information including pricing information; and
- a prohibition on the use of 'slamming' (that is, where a customer is transferred to a new provider without their express consent).

Ofwat (The Water Services Regulation Authority) is a non-ministerial government department. We regulate the water sector in England and Wales. Our vision is to be a trusted and respected regulator, working at the leading edge, challenging ourselves and others to build trust and confidence in water.

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