

# Information notice

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## Update on preparation for a new retail market for non-household customers

This information notice provides an update on the activities that Ofwat is carrying out to prepare for a new retail market for water and wastewater services for non-household customers in England. This is alongside the work being carried out by Open Water.

### Background

The Water Bill is currently being considered by the UK Parliament. Among other things, the Bill includes plans to:

- allow all non-household customers in England to choose their supplier for customer-facing ('retail') water and wastewater services by April 2017; and
- introduce competition into less customer-facing ('wholesale' or 'upstream') water and wastewater services after 2019.

The UK Government estimates that together these changes will deliver £2 billion of benefits to customers and the environment. The new retail market in England needs to work alongside a similar market that already exists in Scotland, so that

non-household customers have a seamless experience.

In 2012, the UK Government established a group of key stakeholders to help prepare for the implementation of a new retail market (the 'High Level Group'). The High Level Group (HLG) established a programme to deliver this work called '[Open Water](#)'.

We are both a member of the HLG and a contributor to Open Water.

### Open Water and Ofwat's role

In '[Market Blueprint](#)', which it published in January 2014, Open Water is consulting on its proposals for the high-level design of the new retail market. The consultation closes on 14 February 2014. Open Water then intends to produce an updated version of the market blueprint confirming its proposals for the high-level market design.

We welcome Open Water's consultation as the first step of its wider, and more detailed, engagement with stakeholders.

We note that Open Water also tested these proposals with a number of working groups before publication.

All the proposals in the market blueprint will eventually be subject to decisions either by:

- Government through legislation and guidance; or
- Ofwat and (where relevant) the Water Industry Commission for Scotland (the economic regulator for water and wastewater services in Scotland).

Many of the proposals will be subject to regulatory decisions either:

- as part of the process for implementing the detailed rules for participants in the new retail market ('market codes'); or
- through individual pieces of work, such as establishing the licensing arrangements for market participants.

The market blueprint also highlights some issues that are entirely our responsibility. These include issues relating to:

This is a formal document that alerts our stakeholders to a change in the way that we regulate the water and sewerage sectors in England and Wales.

- establishing and maintaining a level playing field between retail market participants;
- how the market will be governed ('market governance'); and
- charging for different services.

We have already begun to identify the main issues and develop proposals in these areas. We summarise our progress in each area below.

### Level playing field

In 'A level playing field for the water market – a discussion document', which we published in September 2013, we set out why a level playing field is important for an effective market, and the range of regulatory tools available to help us ensure that this happens.

We also set out our proposals for removing the current ban on monopoly companies' wholesale businesses trading with their subsidiary retail businesses in the existing retail market (the 'in-area trading ban'). We proposed to allow the licensed monopoly companies to request we remove this ban early. We stated that we will decide whether to approve their request based on the actions an individual company has taken to help ensure a level playing field.

The responses we have received to our document so far have:

- broadly agreed with the importance of ensuring a level playing field for an effective market; and
- recognised that companies share responsibility for ensuring a level playing field through their

- decisions about how they run their businesses; and
- recognised that new regulation may be needed in the short term to enable less regulation in the longer term.

### Market governance

In 'Water market governance arrangements – a discussion document', which we published in September 2013, we set out some possible arrangements for agreeing market codes and the process for changing them once the new retail market begins.

Market governance arrangements play a vital role in establishing a level playing field – for example, by ensuring that the process for agreeing and amending market codes is not unduly influenced by any one party.

The market governance will be underpinned by the proposal to set up a market operator to carry out various centralised functions in order for the market to operate effectively.

In its market blueprint, Open Water made initial recommendations about the role and responsibilities of the market operator.

We will decide:

- how the market operator will be set up; and
- the scope of its role in the market.

These decisions are linked to the short-term issue of how Open Water should be funded. We have

proposed a solution to this issue in 'IN 14/03: Update on Open Water funding, resources and governance'. This involves setting up a limited company, funded by licenced monopoly water and wastewater companies. Our proposal will allow the development of the market operator in the longer term.

### Charging

On 8 November 2013, we published the following documents.

- 'Future access pricing in the water sector – a discussion paper', which introduced some of the terminology, concepts and issues we will need to consider in developing new rules to govern the way monopoly companies charge retailers for accessing their services.
- 'Charging for new connections – a discussion paper', which set out the issues with the existing framework for charging for new connections to water and wastewater infrastructure.

### Next steps

We set out our planned activities for the next nine months below.

### Open Water funding and governance

Our immediate priority is to support the water sector to establish a limited company – Open Water Market Limited (OWM Ltd) – to:

- address Open Water's short-term funding and governance issues; and

- prepare for the next phase of the retail market development. This will begin only if the Water Bill becomes law (it gains 'Royal Assent').

As we want to be in a position to move quickly if the Water Bill becomes law, we plan to begin consulting with companies on the necessary changes to their licences to fund OWM Ltd in preparation. We will seek agreement from companies during a period of informal consultation in February and March 2014, ahead of us carrying out a formal 28-day consultation following Royal Assent.

We also need to work with government and regulatory colleagues and companies to appoint the new Board members for OWM Ltd.

### Open Water's market design proposals

We will continue to work alongside Open Water to develop the high-level and more detailed market design plans over the next few months. We also await with interest the responses to its market blueprint consultation.

We also look forward to reviewing the lessons from Open Water's current data pilot in the autumn, to inform our decisions about the data that market participants will need or have to provide to ensure a functioning retail market. A central register is essential for the market to operate effectively and the pilot is designed to test an approach to creating this central register.

In the autumn, following the pilot, we also intend to consult on new guidance on how to assess which customers are eligible to switch their retailer ('eligibility guidance'). This will replace our current eligibility guidance.

### Market governance

In spring 2014 we will:

- set out the high-level principles for the market codes; and
- determine the initial code architecture.

This will form the basis for the drafting of more detailed market codes, which will be led by Open Water.

In spring/early summer 2014 we will also consult on more detailed proposals for market governance arrangements, following our earlier discussion document.

### Level playing field

In summer 2014 we will publish a consultation document on our level playing field proposals. This will build on the responses we received to our discussion document and the findings from Open Water's work. We also plan to issue a targeted request for information from all existing companies about their business structure in certain key areas to help us identify areas of greatest risk from a level playing field perspective.

### Charging

We set up two working groups to help us deliver this work. One is focusing on new connections and the other is focusing on access

pricing and charging schemes. Charging schemes are documents that set out monopoly companies' charges and their associated terms and conditions.

We anticipate that these working groups will continue to assist us with this work until at least 2015.

We will shortly be publishing a consultation on wholesale and retail charging. This consultation describes some of the different options available for setting charging rules, and potential approaches to governance given our new price control framework and the Government's reforms. We will consult in more detail on our approach to charging in the summer.

### Enquiries

If you have any questions about this information note or our planned activities please send them to [ruth.gibson@ofwat.gsi.gov.uk](mailto:ruth.gibson@ofwat.gsi.gov.uk).

## More information

[Open Water website](#)

'Market Blueprint', Open Water, January 2014

'IN 14/03: Update on Open Water funding, resources and governance', January 2014

'Future access pricing in the water sector – a discussion paper', Ofwat, November 2013

'Charging for new connections – a discussion paper', Ofwat, November 2013

'A level playing field for the water market – a discussion document', Ofwat, September 2013

'Water market governance arrangements – a discussion document', Ofwat, September 2013

[Ofwat's market web pages](#)

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