

Consultation Response: Ofwat – Protecting customers in the non-household retail market

Response by the Money Advice Trust

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Introduction

About the Money Advice Trust

The Money Advice Trust is a national charity helping people across the UK to tackle their debts and manage their money wisely.

The Trust runs National Debtline, offering completely free, independent and confidential advice on personal debt over the phone and online. Last year, National Debtline helped more than 285,000 people to tackle their debts and manage their money well, with 80% of callers saying they felt more in control of the financial situation following our advice.

We also run Business Debtline, the UK's only dedicated debt advice service for the self-employed and small business owners. Last year, Business Debtline helped over 40,000 people, with 93% of our callers saying they felt more knowledgeable about their financial matters overall after our help.

Through these practical self-help advice services and our Wiseradviser training programme, last year we helped more than 1.2 million people.

Beyond our frontline activity, we work closely with government, creditors and partners to improve the UK's money and debt environment.

Find out more at www.moneyadvicetrust.org

Public disclosure

Please note that we consent to public disclosure of this response.

Introductory comment

We welcome Ofwat's intention to introduce additional protections for non-household customers by means of a compulsory Code of Protection. We agree with the view that while larger non-household customers may enjoy a strong bargaining position in their dealings with retailers, smaller ones will not, and will therefore require additional protections. Evidence from the clients we advise at Business Debtline highlights the extremely weak position of many small businesses, and in particular, microbusinesses. As we set out in more detail below, many business owners operate at a level which is little different from that of household customers in terms of skills, resources and ability to navigate the market. For the smallest businesses, the fortunes of the business and that of the business owner as an individual are often strongly intertwined.

Our response focuses on issues related to non-household customers in or at risk of debt or financial difficulty. These comments are based upon our unique experience of running the Business Debtline service, assisting small businesses with business-related debts. Business Debtline is the UK's only free debt advice service for the self-employed and small business owners. Last year Business Debtline helped over 40,000 businesses to tackle their debts, by phone and online.

Like its sister service National Debtline, Business Debtline offers practical self-help – empowering businesses to deal with their creditors and put solutions in place to resolve their financial difficulties.

After speaking to our expert advisers:

- ✓ 54% of our clients were able to overcome their immediate problems and continue to trade;
- ✓ 93% of callers felt knowledgeable in managing their money following our advice;
- ✓ 86% of callers found that seeking advice on their debts improved their health and wellbeing; and
- ✓ 95% of those who went on to make agreements with their creditors have maintained them or completed them three years on.

We have not commented in detail on broader issues of consumer protection contained in the consultation, such as sales and marketing, contracts and information, the switching process and data quality. These are important topics but outside our core area of expertise. We would be happy however to discuss how we can assist Ofwat in monitoring the effectiveness of the customer protections it introduces through the insights and evidence Business Debtline is able to provide.

Responses to individual questions

Please note that we have not responded to all questions in the consultation and have taken some questions as groups.

We agree with the view that smaller non-household customers will require additional protection in a competitive retail market and we agree that a mandatory Customer Protection Code of Practice is a sensible mechanism to achieve this (Q1).

We are unable to comment on whether protections should apply only to micro-businesses or should be extended to small businesses and SMEs. (Qs-2-3). Business Debtline clients fall almost exclusively into the micro-business category. There is considerable variation within the micro-business category and we would suggest that more attention should be paid to the very smallest businesses. The consultation notes that the behaviours and bargaining positions of some microbusinesses and SMEs will be more consistent with that of households. We would like to see this point addressed in more detail as it has implications for the sorts of protections and guidance that may prove necessary.

Most of the small businesses we advise at Business Debtline are at the low end of the micro-business bracket with few or no employees. This is also true of the wider business population: BIS estimates that 76 per cent of all UK enterprises in 2014 had no employees. This represents a total of nearly four million businesses (3,965,775), accounting for 17 per cent of all employment in the UK private sector and seven per cent of all turnover.¹ Among non-household customers specifically, the proportion with no employees may be different, but based on our Business Debtline client-base we would still expect it to be substantial. In sectors such as retail, pubs and restaurants, farming and professional services, for example, we encounter large numbers of clients who trade alone or as a couple, while maintaining business premises.

The extremely small nature of many microbusinesses underscores the point made in the consultation that smaller businesses have limited access to resources and specialist advice. Many non-household customers will be at essentially the same level as household customers in terms of their access to specialist resources and ability to navigate the market. Many will be extremely time-poor, due to the day-to-day demands of running a business, and are unlikely in practice to be able to devote significant attention to researching the market for water supply and their rights relative to retailers.

¹ Department for Business, Innovation and Skills, [Small Business Survey 2014](#)

This is particularly true of businesses experiencing financial difficulty. Our recent report, *The Cost of Doing Business* found worrying evidence of small businesses struggling to cope, underpinned by a lack of business skills and financial resilience.² More than one in three small business owners interviewed for our research drew less than £100 income from their business each month, leaving them in a constant struggle to stay on top of their personal, as well as business, finances. Almost seven in 10 (69 percent) of those who had taken out a personal loan were using it to prop up their business, leading to a blurring of business and personal finances. The findings also suggest a worrying lack of financial resilience, with 91 percent of Business Debtline clients interviewed having no savings – almost three times higher than the wider UK population. These combined problems bring a high personal cost for the individuals running businesses, with more than eight in 10 (82 percent) affected by stress, anxiety or depression.

The consultation acknowledges this imbalance in power between retailers and sections of the non-household customer base. However, there is another reason for requiring additional protections, however, which relates to the lack of separation between the businesses and the individuals that run them. For the smallest business, the fortunes of the business are inextricably tied up with those of the individual running it. Many business owners will be affected by factors that in a household customer would be considered to constitute vulnerable circumstances, including issues around mental health, mental capacity, long-term illness and communication difficulties. Such issues may significantly influence the business owner's ability to manage some aspects of their business and their relationship with their water retailer.

The extent to which the individual vulnerability of business owners can or should affect the treatment they receive as non-household water customers is a very difficult question. We appreciate that non-household customers are supplied on a different legal basis to household customers and that protections designed for household customers may not always be appropriate or realistic. However, given the extremely widespread nature of consumer vulnerability and current interest in the topic in the water industry and other sectors, we think there is a strong case for addressing the issue. We understand that Ofwat plans to launch its own report on vulnerability in February 2016 and will recommend an approach broadly in line with that of the Financial Conduct Authority. This is a very positive development but potentially will create greater divergence between treatment of household and non-household customers. As a minimum we would argue that retailers should be required to consider and take account of key vulnerability factors in their dealings with non-household customers, and consider personal vulnerability as a relevant factor in communications with customers and in determining an appropriate course of action.

² Money Advice Trust, [The Cost of Doing Business](#), 2015

We welcome the proposal (Q4) to use the Customer Protection Code of Practice to protect micro-businesses from certain sales and marketing activities and the related proposals in Qs6-7 on TPIs. The experience of the energy market demonstrates that there is significant potential for consumer detriment if brokers and third parties are not held to similar standards as retailers or suppliers.

We welcome the proposal to require retailers to provide certain information to non-household customers (Q9). We do not have any specific comments about the type of information that should be required, but we would stress the importance of presenting information in a clear and accessible format. In the financial services sector, the FCA has expressed concerns that firms' communications with customers, including contract terms and conditions, are often very technical and do little to promote informed engagement.³ Large numbers of consumers have low basic skills. BIS research indicates that one in seven adults has literacy skills that are expected of a child aged 11 or below and that just under half of UK adults have a numeracy attainment of age 11 or below.⁴ Our experience at Business Debtline is that small business owners are not significantly different from other groups in this respect. Therefore, in relation to information, the appropriate starting point should be the ability of the typical consumer, with no assumption that business owners possess additional skills or resources.

Regarding Q24, we strongly encourage the inclusion of information on bills about sources of independent advice. Business Debtline is the only dedicated advice service for small businesses with debt problems and we would be keen to explore options for signposting to our service, alongside signposting to the Consumer Council for Water and other relevant organisations, through bills and other customer communications. In particular, signposting should feature in communications targeted at customers in arrears or identified as being in financial difficulty. We have worked with the energy sector (chiefly through Energy UK) to raise awareness of Business Debtline and establish signposting and referral arrangements with individual companies. This has benefits both for consumers and for firms. We would welcome discussion as to how this might be replicated in the water industry, ideally on an industry-wide basis.

In relation to Q25, we welcome the proposal to set a clear limit on back-billing where customers are not at fault. However, we would appreciate clarification of how Ofwat defines 'back-billing' and what this proposal will mean in practice. If retailers are required to supply at least one accurate bill each year, we presume that they could legitimately bill for water used up to one year previously. Based on the way the term 'back-billing' is typically used in the energy industry, we would describe such a scenario as limiting back-billing to a period of one year rather than preventing it altogether. To ensure clarity for consumers, we would

³ <https://www.fca.org.uk/news/dp15-05-smarter-consumer-communications>

⁴ Department for Business, Innovation and Skills, 2012, cited in [FCA Occasional Paper No. 8](#)

recommend using the term in the same way as in the energy industry, or else clearly defining its precise meaning within the water industry.

In relation to Q26 we welcome the proposal that micro-businesses should be offered a reasonable payment plan with any back-bill. There will need to be additional guidance about what constitutes a 'reasonable' payment plan and what steps retailers should take in order to ensure that a plan is reasonable. We would assume that the starting point will be a timescale for repayment but separate guidance and provisions will be needed for businesses in financial difficulty. Retailers should be encouraged to signpost for independent advice and assess the individual circumstances of the business.

One of the issues that does not appear to be addressed in this consultation is ensuring that customers who switch whilst in credit receive a timely refund of their credit balance. This has been a significant issue in the energy sector, affecting both domestic and non-domestic customers. Ofgem highlighted this issue in February 2014, noting that large suppliers were holding more than £400m in credit from closed accounts and calling on them to do more to return money to customers.⁵ In view of this we would suggest that the issue of refunding credit balances needs proactive attention.

We would also welcome further information as to Ofwat's views on disconnection and debt collection practices. While market opening does not directly alter retailers' rights to disconnect non-household premises, such a significant change in the context that retailers operate in may indirectly lead to significant changes in practice. We note that the Water Industry Commission Scotland has published detailed guidance on disconnection, including an established procedure to be followed.⁶ Debt and disconnection is a key area for consumer protection and there will be a reasonable expectation among many consumers that a Code of Protection would cover such an area. There may therefore be some degree of confusion among consumers if no reference is made to this key area.

For more information on our response, please contact:

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⁵ <https://www.ofgem.gov.uk/publications-and-updates/ofgem-calls-suppliers-take-action-over-%C2%A3400-million-they-hold-customers-closed-accounts>

⁶ Water Industry Commission Scotland, [Disconnections](#), 2012



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