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Retail Market Opening Programme
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By email: customerprotection@ofwat.gsi.gov.uk

11th January 2016.

Dear Ofwat,

We welcome the opportunity to respond to the consultation on non-household customer protection. Our responses to the consultation questions are set out below.

Yours sincerely,

Philip Saynor,
Director of Finance and Regulation

Consultation Response

Q1 Do you have any comments on our proposal to introduce a mandatory Customer Protection Code of Practice to protect customers in the non-household retail market?

We are fully supportive of the proposal to introduce a mandatory COP in the new market.

Q2 What do you think we should consider when defining smaller customers microbusinesses, small businesses and SMEs)?

We agree with the main business definitions described in the consultation of headcount and turnover/balance sheet. Water consumption will be directly correlated to turnover (i.e a micro-business with high water consumption will also have a correspondingly high turnover relative to its headcount) and so it may not be necessary to directly include consumption as a factor in the categorisation, depending on where the turnover threshold is set.

Q3 Should the proposed additional protections for smaller customers apply to just microbusinesses, or small businesses, or all SMEs?

We agree that micro-businesses need additional protections however we are concerned about being overly prescriptive in a COP which may stifle the market. We see the issue as one of standardisation and scalability. It would be beneficial for all SMEs to have access to relatively standard information, and protections which are aligned in principle across all customer groups but which scale up for smaller businesses and especially micro-businesses.

Q4 Do you agree with our proposals to use the Customer Protection Code of Practice to protect micro-businesses from certain sales and marketing activities?

We support a COP to act as an initial set of standards for the industry although we stress that it is the responsibility of individual retailers to ensure that their sales and marketing activity is compliant with the law and any wider standards of fair play, transparency and accuracy.

For micro-businesses who do not have access to the same level of resource or market expertise as larger businesses, we do agree that retailers need to take care and should put in place their own internal measures to ensure that customers are not being manipulated or otherwise misled. A COP can support this but care has to be taken that it is not overly prescriptive or prohibitive.

Q5 Do you agree with our proposal to require retailers to provide certain basic information in a standard format to allow micro-businesses to compare deals?

In the same way as household customers can compare energy deals, we agree that it is in the interests of customers to have access to comparable basic information. This would not just be useful for micro-businesses, but most SMEs and likely some larger companies also. This relates to our earlier point about standardisation and scalability.

Q6 Do you agree with our proposal to require retailers to make sure that any TPis acting as agents on their behalf are aware of, and understand, how the provisions of the Customer Protection Code of Practice apply?

We do agree that TPis should be bound by the same COP as retailers' direct marketing activity. It should be for the commissioning retailer to ensure that this is reflected in their commercial arrangements with any TPis.

Q7 Do you have any comments on our plan to explore the possibility of requiring retailers to only interact with TPIs that have signed up to a set of standards, either through an accreditation scheme or another voluntary code of practice?

We support a COP that TPIs can sign up to in order to drive the standards of sales and marketing activity forward, but any voluntary scheme risks being un-enforceable. It should still remain the responsibility of the commissioning retailers to ensure that their associated TPIs are adhering to the required standards by setting these out in their commercial arrangements and monitoring their activity.

Q8 Do you agree with our proposal to use the Customer Protection Code of Practice to set specific standards of conduct for retailers in relation to contracts with micro-businesses? Do you have any comments on the issues that we propose to cover?

Again we would be concerned that an overly prescriptive COP that applied only to the micro-businesses could stifle the market, although we do agree with the general point that these micro-businesses require protection. We would encourage Ofwat to set more a general COP that would apply to all SMEs whilst still providing micro-businesses with the protection that they need, in a way that scales from the protection of larger SMEs.

Q9 Do you agree with our proposal to include a requirement in the Customer Protection Code of Practice for retailers to provide certain information to all eligible non-household customers, and additional information to micro-businesses?

We are unclear about the need to differentiate between micro-businesses and larger businesses in terms of information requirements and again refer back to our previous comments on standardisation and scalability. It seems that information about the contract terms, cancellation rights, notice periods, SPID numbers, complaint procedures etc would be relevant to all SMEs and should be standardised throughout.

Q10 Do you have any comments on the information that needs to be provided to customers?

We would encourage basic information requirements to be simple and standardised where possible for all customer groups.

Q11 Do you agree with our proposal to require retailers to offer a cooling off period of at least seven calendar days to micro-businesses? Should a cooling off period be offered to all eligible non-household customers, and if so, should customers be allowed to opt out of any such cooling off period?

We agree with the cooling off period for micro-businesses as we would expect this protection to exist for household customers (and indeed it does in the energy sector). We also believe that for larger customers, where contracts are more bespoke, that the opt-out should be part of contract negotiations and managed by the parties involved.

Q12 Do you agree with our proposal to require retailers to take active steps to confirm that micro-businesses are aware of, and understand, the terms of the contract before they agree to it?

We do believe that it is the retailer's responsibility to ensure that the smaller customer understands the terms of the contract when it originates from a TPI. The COP could include some guidelines on how the retailer should do this and what assurances should be in place to ensure it is done, whilst maintaining that it is ultimately the retailer's responsibility to ensure it is acting fairly and openly with small businesses and that it is in control of any TPIs it commissions.

Q13 Do you agree with our proposal to require retailers to obtain a copy of written confirmation that a TPI is acting on behalf of a customer, before sharing any details about that customer with the TPI?

We agree with this proposal.

Q14 Do you have any other comments on our proposals in relation to contracts and information to be provided to customers?

We have no further comments on the proposals.

Q15 Do you have any comments on the proposed timeframe of 6 to 20 working days for the switch to take place, with a retailer and customer able to agree a named day for the switch?

We agree with the proposed timeframe.

Q16 Do you agree with our proposal to use the Customer Protection Code of Practice to require retailers to take all reasonable steps to ensure they have a valid contract with the customer before they request a switch?

We agree with this proposal and agree that it is the retailer's responsibility to ensure a valid contract is in place.

Q17 Do you agree with our proposal to require an outgoing retailer to inform the affected customer of the reason for any cancellation of the switching process, and advise the customer on the process and timeframe to resolve the issue?

We agree with the proposal.

Q18 Do you have any comments on whether or not outgoing retailers should be allowed to cancel a switch on the basis that the customer has an outstanding debt?

We believe that outstanding debt is a valid reason to cancel a switch. The incoming retailer could agree to settle the debt (transferring the debt to them), and in this case the debt transfer should complete prior to the completion of the switch.

Q19 Do you have any comments on our proposal to monitor the use of the switching process, including use of the erroneous transfer and cancellation processes, after the market opens?

We would agree that this is necessary information to inform the success of the market and the ease of operation of the switching process. Customer data used for this should be anonymous and thought given to data protection requirements.

Q20 Do you agree with our proposal to require retailers to issue at least one accurate bill each year to micro-business customers and, for metered micro-business customers, to take a meter reading at least twice a year?

We do agree that one accurate bill per year should be the issued, however we do not think it is necessary to prescribe billing frequency beyond this, provided that it is clear in the contract terms and the customer understands the terms.

Q21 Do you agree with our proposal to require retailers to issue a final bill to microbusinesses within six weeks of the customer's transfer or end of contract?

Yes we agree that the maximum duration should be six weeks.

Q22 Do you agree with our proposal to require retailers to base their final bill on the transfer read provided by the incoming retailer?

We agree with this proposal, and retailers will have the ability to verify or dispute these outgoing readings should they so choose.

Q23 Do you have any comments on our proposal to do nothing further at this time in relation to billing frequency and payment methods (except for micro-businesses as above)?

We have no further comments.

Q24 Do you have any comments about the information that should be provided to customers on their bills?

We have no further comments.

Q25 Do you agree with our proposal to use the Customer Protection Code of Practice to prevent retailers from back-billing eligible non-household customers unless the customer has behaved inappropriately?

As the consultation states that an incumbent can currently back bill for a 6 year period, we are unclear how this translates across to the non-household proposal of a maximum of one year. Furthermore the ways in which a customer can act inappropriately in order that back billing is allowed is not clearly explained.

Q26 Do you agree with our proposal to require retailers to offer micro-businesses a reasonable payment plan with any back-bill, to allow the customer to pay the bill in a number of instalments?

We agree with the proposal.

Q27 Do you have any comments on our proposal to take no further action in relation to refunds (other than to make sure that customers have access to a quick and effective dispute resolution process)?

Considering the other customer protections that are included in the COP proposals, we are unclear why Ofwat is choosing not to include proposals on refunds. The ways retailers should generally operate with refunds should be well established but there may be new retailers who are slower to issue refunds. We consider it would be appropriate to include a guideline on the maximum time period before a customer receives a refund which is due.

Q28 Do you have any comments on our proposal for no additional regulation on data quality?

We agree that no further data quality regulation is required providing that the data is of good quality and the standards maintained upon market opening.

Q29 Do you agree with our proposal to use the Customer Protection Code of Practice to require all retailers to have an effective complaint handling process in place?

Yes we agree with the proposal.

Q30 Do you agree with our proposal to use the Customer Protection Code of Practice to require all retailers to join the WATRS water redress scheme, if they have not already done so?

Yes we agree with the proposal.