

Protecting customers in the non-household retail market – a consultation

Southern Water's Response

11 January 2016



Southern Water's response to Ofwat's consultation on protecting customers in the non-household retail market.

Overview

We are pleased to provide you with our response to your consultation 'protecting customers in the non-household retail market'.

We have several key points that we would like to highlight which we set out in this overview. Following this, we provide short responses to the specific consultation questions.

We believe the proposed mandatory Customer Protection Code of Practice (CPCP) is an essential customer protection measure and believe that a greater range of customers should benefit from the protection it offers. Therefore, we believe it should apply to all SME customers. These should be defined based on market data i.e. consumption, rather than external parameters, which would add considerable regulatory burden.

Our major concern is that Third Party Intermediaries (TPIs) will not be governed under the proposed Customer Protection Code of Practice (CPCP). Customers who engage with independent TPIs will not be offered the protection offered directly with WSSL retailers and appointed companies and may be exposed to mis-selling practices and/or financial exposure, as seen with SmartSource. Whilst market participant retailers will comply with the CPCP, they would be unable to check all terms agreed with a TPI where the retailer might not even have a direct relationship with the customer.

We strongly believe that outstanding debt should remain a reason to object to a customer switch. Without such arrangements customers could abuse the switching process to avoid payment, increasing debt levels with significant risks and costs passed to the retailer who would still be obliged to pay the wholesale costs.

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 support a mandatory Customer Protection Code of Practice to ensure confidence in the market is maintained. However, this should be proportionate and should not impose unnecessary regulatory burden on market participants or act as a barrier to entry.

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

To avoid significant regulatory burden, the definition of smaller customers should be based on the market data set i.e. consumption data, rather than an external parameter such as number of employees. Alternatively there may be benefit in applying customer protection to all customers, reducing the complexity of the arrangements.

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

To ensure widespread confidence in the market, additional customer protection measures should apply to all SMEs, if not all customers.

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 agree with the proposal to regulate the quality of information provided during sales and marketing activities for all SMEs.

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?

We are not opposed to the requirement to provide information in a standard format, but have concerns that Third Party Intermediaries (TPIs) do not have the same obligation.

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 believe that all TPIs should be aware of the customer protection code of practice and this should form part of an accreditation scheme or voluntary code of practice. We have concerns that retailers would be required to check all terms agreed with a TPI where the retailer might not even have a direct relationship with the customer.

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 agree that retailers should only interact with TPIs that have signed up to a set of standards.

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?

We agree with the proposal to use specific contractual standards for all SMEs, not just micro-businesses.

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 agree that there should be a requirement to provide certain information to all eligible non-household customers.

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

In addition to the information proposed, we believe this should include information currently provided by appointed companies, such as how to complain, the meter regulations and the availability of a water quality register.

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 believe that a cooling off period should be offered to all eligible non-household customers, who may be allowed to opt out.

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?

This is potentially a large regulatory burden on retailers, especially for customers signed up via an independent TPI where there would be very little direct contact with the customer. We believe that a letter of authority from the customer would be sufficient.

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 strongly agree.

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.

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 accept the switching arrangements proposed.

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?

Yes.

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?

No. We believe that customers are likely prefer a single point of contact and expect the incoming retailer to resolve any switching issues on their behalf.

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 strongly believe that outstanding debt should remain a reason to object to a customer switch. Without such arrangements customers could abuse the switching process to avoid payment, increasing debt levels with significant risks and costs passed to the retailer who would still be obliged to pay the wholesale costs.

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 support the proposal to monitor the switching process.

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 agree that retailers should issue at least one accurate bill each year and make a reasonable attempt to read the meter twice per year, and believe this should be an obligation to all customers.

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

We agree that the final bill to SMEs should be issued within six weeks of the incoming retailer providing the transfer read to the out-going retailer.

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 that the final bill should be based on the transfer read provided by the incoming retailer, although this should be subject to the disputes process.

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 agree.

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

See Q10.

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?

We do not fully agree with the proposal to prevent retailers from back-billing customers. We have concerns that the burden of proof is too onerous with back-billing only considered appropriate where the customer has been dishonest or fraudulent. We believe that a customer knowingly receiving a service without receiving a bill has some responsibility and should be liable for back-billing, otherwise the remaining customer base will have to unfairly pay the charge. The retailer will also have additional liabilities, and therefore costs, if such wholesale charges are levied but cannot be reclaimed through back-billing of customers.

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 that SME customers should be offered reasonable payment plans with any back-bills.

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)?

We agree and have no further comments.

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

We agree and have no further comments.

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?

We agree that the Customer Protection Code of Practice should require all retailers to have an effective complaint handling process.

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?

We agree.

Should you have any queries or regarding our response, or would like to discuss any aspect of it with us, please contact our Market Reform Manager, Dylan Freeman, on 01903 272351 or by email dylan.freeman@southernwater.co.uk