

Our Ref: GDV/Ofwat

Your Ref:

11 January 2016

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Dear Rowaa

Consultation on protecting customers in the non-household retail market

Thank you for the opportunity to comment on the development of a code of practice for non-household customers who will be eligible to choose their retailer once the market is opened.

We support the principle of establishing a code of practice to apply to non-household customers. We believe that it can deliver the desired outcomes while not placing unnecessary costs or restrictions on retailers.

Below we provide comments only on the proposals where we do not agree with Ofwat's current position. We also highlight where we will need to see the detail of the proposal before we can adequately assess the impact it would have on our business and ultimately our customers.

There are a number of proposals where we feel that they will drive additional costs in the market and the benefits case has not been adequately made. We would urge you to conduct a cost benefit analysis for each proposal and seek retailers input into the likely additional cost of compliance. The default retail tariffs which will restrict what retailers can charge customers do not reflect any costs for compliance with a code of practice. Therefore any additional costs will be borne by retailers making the already tight operating margins even tighter.

Information in standard formats (proposals 2, 3 and 6)

We think that provision of information in specified formats restricts retailers' ability to differentiate and provide real choice for customers. Although it is not clear what level of information is envisaged under proposal 3 we consider that it has the potential to be too restrictive and therefore we do not support it. Equally, it is not currently clear what proposal 2 will require us to do.

We would like clarity on whether minimum information (proposal 6) can be provided electronically or whether "written" means that it must be sent in the post. We do not agree that the latter should be required. It is more expensive to print and post material, and more environmentally damaging, and many customers are likely to prefer to receive electronic communications rather than be forced to pay for a service they do not require.

Third party intermediaries (proposals 4, 9 and 10)

We support putting in place measures to ensure that third party intermediaries (TPIs) act appropriately. It is not however appropriate for the code of practice to require retailers to, in effect, regulate TPIs. Ofwat should consider direct regulation of the sector if it feels the risk of inappropriate behaviour warrants such action.

We do however agree with the principle that retailers should make sure (as far as they are reasonably able to do so) that TPIs are not misrepresenting their information.

Termination fees (proposal 5)

We do not agree with the principle of regulating termination fees. These are a commercial decision and part of a retailer's service offering to customers. The code of practice should require a retailer's termination fees to be clearly explained in relevant sales, marketing and contractual material. This then allows a customer to make an informed choice.

Regulation will do nothing but remove the ability for retailers to differentiate themselves in yet another feature of the service they can offer customers. It will also create additional work and therefore the need for regulation should be justified by evidence.

Switching message on bill (proposal 7)

We do not support including a switching message on customers' bills. The code of practice should be there to allow Ofwat to take reasonable action against retail licensees who act against the best interests of customers. Requiring such a message on the bill is not the best route to further the objectives in the consultation.

If a customer is considering switching then the message is not needed and if they are not thinking about switching then a message alone will do very little. We would expect customers to be much more likely to switch because they have been actively engaged by retailers.

It also takes up space on the bill that may be put to better use, for example by having a water efficiency message on there, or for including the other information requirements you have outlined.

Cooling off periods (proposal 8)

You state in the consultation that your research shows that one of the things non-household customers value is speed of switching. This proposal would make the switching process longer and therefore we do not support it.

Allowing customers to opt-out does allow those customers that do not want to wait an alternative. But, it means creating an additional process which customers have to go through.

A more suitable alternative may be to run the cooling off period in parallel with the start of the switching process.

Meter read frequency (proposal 13)

We are unclear why the code of practice would require two meter reads a year when it would also require billing only once a year. This would mean that the additional meter read would be unnecessary. Placing requirements on the number of meter reads enforces costs on the market that some customers may not wish to pay for.

Back billing (proposal 16)

We do not agree with this proposal. We understand that it may be appropriate to limit the period covered by back bills when the retailer is at fault but do not agree that the limit should be none at all. We note that the energy retailers generally limit back-billing to 12 months when the retailer is at fault. It is not clear why Ofwat considers that more stringent restrictions are necessary for water and wastewater.

Notwithstanding our point above, the consultation states that if a customer has not been receiving bills then this is the fault of the appointed company or the retailer and not the customer. We disagree. It may be the case that the customer has been using the services but has made no attempt to arrange payment, or in the worst case wilfully avoided payment. Therefore there should be a wider list of situations where back-billing is allowed other than just inappropriate behaviour of the customer.

The consequence of this proposal is that this potential cost to the market will be unfairly distributed across the customer base. We are also concerned that this proposal is not enforceable as the legislation that applies to back-billing (Limitations Act 1980) would allow a retailer to back bill for a maximum of six years. Ofwat should consider whether they have the powers to include such restrictions in the code of practice.

We highlighted at the start of the response our support for a code of practice. We hope the comments above are useful and provide some context to the pressures we may face were the proposals to be adopted in full in their current state.

If you have any questions about our response or would like to discuss it in more detail please get in touch on gdv@waterplc.com.

Yours sincerely



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