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Retail Market Opening Programme  
Ofwat  
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By email only: [retaillicensing@ofwat.gsi.gov.uk](mailto:retaillicensing@ofwat.gsi.gov.uk)

Dear Sirs

**Re: Priority changes to the Instruments of Appointment and Water Supply Licences for non-household retail market opening - consultation**

Thank you for the opportunity to respond to the consultation referenced. Dŵr Cymru Welsh Water (DCWW)'s response to the consultation is set out below.

**Question 1: Do you agree with the proposed drafting changes to the IoA and WSL in removing the in-area trading ban? If not, please explain why not and your proposed alternatives.**

We do not have any particular comments on the proposed drafting changes to the IoA and WSL in removing the in-area trading ban mainly because there is no provision in the Water Act 2014 for retail exit in Wales. In Wales retail exit is a matter for the Welsh Government, of course, but we note Ofwat's comment in relation to the decision to remove the in-area trading ban: *"Equally, continuation of the ban could act as a barrier to retail exit and we believe that it is important that companies are able to choose this option if they wish to do so."* (see page 8 of the consultation). As stated in our response to Ofwat's consultation on "Licensing and policy issues in relation to the opening to the non-household retail market", we are concerned that companies wholly or mainly in Wales currently do not have the same provision for retail exit. We have raised this with Welsh Government.

**Question 2: Do you agree with the proposed new readiness condition to be added to the IoA and WSL? If not, please explain why not and include your proposed alternatives.**

We have doubts as to whether a licence condition is the most appropriate mechanism to achieve the stated goal for a number of reasons.

Firstly, given the assurance programme that DCWW and other water and sewerage companies are going through in order to confirm market readiness, the proposed new readiness condition creates an additional legal enforcement mechanism which is duplicative. We are already required to undertake the following activities as part of the Open Water Assurance Framework: *"....preparation of data, development of....systems and processes and participation in programme testing, readiness and assurance activities"* (see page 10-11). This all culminates in DCWW providing a statement of assurance, signed by DCWW's Board, to MOSL and Ofwat at each stage of the three assurance phases (ie. effective planning, interim preparation and market readiness).



Glas Cymru Cyfyngedig

We welcome correspondence in Welsh and English  
Rydym yn croesawu gohebiaeth yn y Gymraeg neu yn Saesneg

Secondly, we are also concerned that our ability to comply with a readiness condition is dependent on aspects outside of our control – specifically that there is no significant change or delay to the effective implementation of MOSL and OFWAT’s detailed programme of work for market opening, including the programme scope, systems, codes, milestones and deadlines. A new readiness condition could inadvertently place DCWW and potentially the whole sector in breach of our licence for a reason outside of our control. In addition, we are concerned that neither 'success' nor 'readiness' have been defined. It is expected that there will be teething issues at market opening. Unless success and readiness are clearly defined it is inappropriate for Boards to sign up to an unlimited licence condition.

**Question 3: Do you have any comments about the use of existing s13 and s17J Water Industry Act 1991 (WIA91) powers to introduce the new readiness condition?**

We think it is important that DCWW and other water and sewerage companies are given the opportunity to respond to proposals to ensure effective engagement with the sector.

Yours faithfully



**Mike Davis**  
**Director of Strategy and Regulation**

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