



Severn Trent Plc

Severn Trent Centre
PO Box 5309
Coventry
CV3 9FH

Tel 02477 715000
Fax 02477 715871

15 April 2016

Dear Ofwat,

Customer protection code of practice for non-household retailers – draft for consultation

We welcome the opportunity to comment on the draft customer protection code.

As we stated in our response to the December consultation, our guiding principle around customer protection measures is that they should be primarily focused on the provision of information transparency, which is trusted and legitimate in the eyes of customers, enabling them to make sensible, commercial choices, rather than being focused on unnecessary additional controls or constraints.

In responding to this consultation we have focused on policy changes and issues that we consider to be the most important to ensuring customers are protected and the efficient functioning of the market.

Our comments are set out below:

The overall regulatory approach

Guiding principles

We continue to welcome a principle-based approach to customer protection. We support the overarching principles outlined and the inclusion of these in the code as general obligations. We consider this to be a more pragmatic and flexible approach than including them in the licence / appointment.

Definition of microbusinesses

We welcome the simplified approach to defining microbusinesses and propose that the code could include further guidance on how often retailers will be required to review and / or reclassify customers.

Sales and marketing activities

Severn Trent Plc

Roll-over contracts

We continue to consider that rolling over fixed term, fixed price contracts would be appropriate and beneficial for the market, and consider that such commercial practices should not be overly constrained for retailers or customers who may benefit from such arrangements.

We welcome Ofwat's commitment to continue to explore how roll-over contracts might be implemented within the broader market framework. We consider that if a customer explicitly agrees to a roll-over contract which adheres to the principles and includes a fair notice period, it would mutually provide both continuity of service for the customer as well as efficient operations for the retailer. Such terms could be clearly set out in the original contract terms and conditions.

Third party intermediaries

We welcome the distinction made in the code between third parties acting for retailers and third parties acting on behalf of a customer and welcome the development and implementation of a 'letter of authority' when dealing with a TPI acting on behalf of a customer.

Whilst we continue to support the creation of an industry accreditation scheme for TPIs to ensure consistency of measurement and policy, we welcome the increased transparency of information that the letter of authority will bring. We consider that the letter should focus on ensuring transparency of information for customers and provide clear visibility of TPI commercial incentives, i.e. commission.

We believe that use of a letter of authority could potentially reduce the burden and improve consistency of approach and note that this is referenced in the code under section 6.4.2 as an obligation for retailers. However, we are unclear how use of this template could be enforced by retailers if Ofwat has no plans to regulate TPIs directly.

The switching process

Debt management options

Whilst we consider that the market arrangements need to ensure that debt risks are manageable and fair to all market participants, we also believe in the creation of an innovative and flexible retail market. We would therefore be supportive of the development of alternative debt management options such as the use of debt thresholds or market arrangements that would enable incoming retailers to acquire customer debt to enable switching.

Billing, back-billing and data quality

Severn Trent Plc

Back-billing

We consider that it is important that micro-businesses are not unduly burdened / impacted by back-billing where they are not at direct fault and we welcome consistency between wholesalers and retailers in relation to charges.

We note that the proposed back-billing policy for retailers applies to micro-businesses only. In the interests of simplification and transparency, our preference is an aligned policy for all customers which should be mirrored exactly between wholesalers and retailers. We consider that the back-billing policy for all other customers should also be clarified to ensure consistency. Our assumption in the absence of specific limitation is that it is six years.

Back-billing start date

We do not consider that it is appropriate that the new back-billing policy is implemented from when the shadow market starts operating in October 2016. We consider a more practical alternative would be to start the back-billing policy from the beginning of the financial year i.e. 1 April 2017. This aligns with billing cycles and market opening and also maintains the focus on market readiness and mitigates the risk of one or more participants being late for shadow market operations.

Payment plan duration

We consider it good practice to work with customers to develop reasonable payment plans, allowing the customer to pay in a number of instalments, and that it does not need to be directed by a code. We believe it is for the retailer and the customer to agree what is appropriate and an alternative more flexible option would be to include a maximum debt payment plan period e.g. 36 months.

Governance

We agree that the code of practice will need to evolve and change and the proposed change management arrangements are proportionate and efficient. We understand that there will be a condition in the licence requiring us to adhere to the customer protection code. To maintain a proportionate and expedient approach we would want to avoid any change to the code requiring a change to the licences which, would require two consultation processes and could become unduly burdensome.

As we stated in our responses to the retail exit and interim supply codes, we would support the use of a code panel to govern and assist with changes to the code. This panel could consist of retailers and CCWater.

We consider that CCWater, as the statutory representative of customers, should be able to raise changes to the code of practice. Should other customer representatives be able to do so, consideration should be given as to how to ensure that they have a legitimate role to represent customers.

The route of appeal does require consideration and we would support engagement with Defra regarding the Secretary of State's power under WA14 to introduce regulations that provide for Ofwat decisions to be appealable to the CMA.

To ensure that change remains efficient and proportionate, we consider that all such consultations should consider implementation timescales and costs. One option for consideration would be that the number of changes made to the code should be limited within any 12 month period.

We would be pleased to provide more information about any point made in our response.

Yours sincerely

A handwritten signature in blue ink, appearing to read "ATB", with a long horizontal line extending to the right.

Dr Tony Ballance
Director, Strategy & Regulation