



Our Ref
Your Ref

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Retail Market Opening Programme
Ofwat
21 Bloomsbury Street
London
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By email: retaillicensing@ofwat.gsi.gov.uk

2nd June 2016

Dear Ruth,

Thank you for the opportunity to respond on this consultation, please accept our apologies that we are slightly after your deadline.

Overall, we are supportive of the proposed changes to the instruments of appointment that will support the market opening process. We welcome the approach Ofwat has adopted of consultation and collaborative drafting with companies prior to imposition of changes.

Our comments largely relate to the proposed drafting of the changes, and in particular the extent to which some of the wording for the MAC condition could be removed.

Please let us know if we can be of further assistance on this.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read "T. Kiedrowski".

Tom Kiedrowski
Director of Strategy and Regulation

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1. Do you agree with the proposed new conditions summarised in Table 1.1? In your response, please provide comments on each of the proposed new conditions separately.

- a) MAC condition – we agree that introduction of this condition is appropriate, and are already party to the intended arrangements through work with MOSL. We suggest some proposed amendments to the drafting as set out in our response to question 6.
- b) Stapling condition – we agree with the introduction of this condition.
- c) CPCoP – we agree that the introduction of such a condition is necessary. We suggest that a framework be established for reviewing and consulting on any changes to the drafting once the code of practice is in place.

2. Do you agree with the proposed changes to existing conditions as summarised in Table 1.2? In your response, please provide comments on each of the proposed changes separately.

- a) Overall we agree with the proposed changes, subject to some suggested amendments to the drafting as set out in our response to question 6.

3. Do you consider that derogations may be required for small companies and/or companies whose supply systems are wholly or mainly in Wales, due to their limited number of eligible customers? Please state what any such derogations should cover.

- a) Whilst this is primarily a matter for the companies concerned, our view is that it would be preferable to avoid any derogations from the standard licences. This would retain consistency across all companies' licences, and support the proposed modernisation project.

4. Do you agree with our proposal to use a combination of 'sunset' and/or 'sunrise' clauses for the changes so that we can implement these changes ahead of the Secretary of State's decisions on retail exit?

- a) Yes, we agree that such an approach is appropriate in order to ensure the timeframe for the changes is clear.

5. Do you agree with our proposal to use section 55 of the WA14 to make these changes?

- a) We agree that having undergone a process of consultation with companies and relevant stakeholders, it is appropriate to use section 55 to enact the proposed changes.

6. Do you have any comments on the proposed drafting set out in the Appendices?

- a) We propose some amendments to the proposed drafting as follows:

Market Arrangement Code:

- We suggest deletion of the section 'Modification of the Market Arrangement Code', as we believe the key objective is facilitating the MAC principles so this provision on how to supervise modification is too cumbersome.
- If the above recommendation is accepted then sub-paragraph (1) (b) (ii) should also be deleted, and (iii) changed to (ii).

Draft condition 3 – Application of Wholesale Retail Code:

- We suggest that the definitions of 'eligible premises', 'retail business', 'wholesale activities' and 'wholesale business' as used in the MAP are incorporated into this condition.

Conditions R & S:

- We suggest that a consistent definition of retail market opening is included in the opening paragraphs of these conditions, aligned with wording used in the MAP.

Condition F: Section 6A.2.A

- A sunrise clause would help as it would spell out that that this is relevant as from accounting years starting 1 April 2017.
- Secondly as all undertakers will still be operating for retail household customers should a distinction be drawn here about just what certificates the divisions of an undertaker must give. E.g. for a Water only Company that is not exiting the retail market is it two certificates for household retail and wholesale activities, or three certificates for both household and non-household retail and wholesale activities?