

Retail Market Opening Programme
Ofwat
21 Bloomsbury Street
London
WC1B 3HF.

E-mailed to: retaillicensing@ofwat.gsi.gov.uk

31 May 2016

Dear Sir or Madam,

Retail market opening - further changes to all instruments of appointment: a consultation

Further to the publication of your document on the 3 May and the workshop hosted by Ofwat on 20 May, Yorkshire Water is grateful for the opportunity to provide Ofwat with our views on 'Retail market opening - further changes to all instruments of appointment: a consultation'.

In establishing our views on the above consultation, we have revisited our responses to last summer's consultation on these matters, and your results and decisions document from December 2015.

The proposed modifications to the IoA, as well as the means of their introduction, appear to be appropriate in the circumstances, and subject to final drafting proposals of those areas not yet developed, Yorkshire Water are broadly supportive of the amendments proposed in this consultation document.

Our responses to your specific consultation questions are attached at Appendix A.

Should any matter be unclear or require further explanation, please do not hesitate to contact myself or my colleague Howard Smith at Market_Design_Team@yorkshirewater.co.uk.

Yours sincerely,



P.P.

Wendy Kimpton
Regulatory Strategy Manager

Retail market opening - further changes to all instruments of appointment: a consultation

Yorkshire Water response to consultation questions:

Q1	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.
A1	<p><u>MAC condition:</u></p> <p>We agree with the intent of this proposed condition; i.e. to require appointees to comply with the requirements in the MAC in the same way as Licensees and the Market Operator.</p> <p>We would however, propose the use of a simpler form of words to give effect to the MAC in the IoA, and believe a similar form of words to those proposed in draft condition 2 to give effect Customer protection code of practice' as being more appropriate.</p> <p>We understand the reason for repeating the sections of the MAC dealing with the content and modification of the code in the licence is to ensure the Panel is prevented from sanctioning a change proposal which fundamentally alters the structure, primary purpose, or operating model of the market. We believe the regulator already possesses the power to veto such a change, as the Panel can only 'recommend' changes to the MAC, which must be subsequently 'approved' by Ofwat before any change to the Code is implemented. Furthermore, any recommendation made by the Panel will always be on the basis that the proposed change is consistent with the principles of the MAC.</p> <p><u>Stapling condition:</u></p> <p>We agree with the intent of this proposed condition; i.e. to require non-exited appointees to apply the requirements in the Wholesale-Retail Code as if the non-household retail part of its integrated business were a licensee, and the means by which it is to be incorporated in the licence conditions.</p> <p>We have identified no issues with the wording of the stapling condition as proposed; however, we are unable at this point to confirm with certainty that there are no unintended consequences resulting from the incorporation of the wholesale-retail code into the instrument of appointment.</p> <p><u>CPCoP:</u></p> <p>We agree with the intent of this proposed condition; i.e. to require the retail part of a non-exited appointee's business to comply with the Customer Protection Code in the same way as a Licensee.</p> <p>We have identified no issues with the wording of the condition as proposed.</p>

Q2	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.
A2	<p><u>Terminology:</u></p> <p>We support the principle of undertaking necessary housekeeping amendments to align terminology and referencing with updated legislation. We will review the actual changes once they have been made available.</p> <p><u>Condition S:</u></p> <p>We support the principle of retaining elements of the CTP through a modified condition S for a limited period for the purposes of the introduction of water until the new Wholesale Authorisations are introduced. We would suggest the use of a defined term such as “Market Go-Live” rather than “April 2017” to provide flexibility if necessary.</p> <p><u>Condition R 1-4:</u></p> <p>We support the principle of retaining elements of the access code obligations through a modified condition R for a limited period for the purposes of the introduction of water until the new Wholesale Authorisations are introduced. We would suggest the use of a defined term such as “Market Go-Live” rather than “April 2017” to provide flexibility if necessary.</p> <p><u>Condition F6 A.2A:</u></p> <p>We have no objections to the proposal in principle. However, we believe it should be made clearer that a separate certificate is required in respect of just the <u>non-household</u> retail part of the appointed business, with the remainder of the appointed business (wholesale water, wholesale waste water, <u>and household retail</u>) remaining together on one (the original) certificate of adequacy.</p> <p><u>Condition Q:</u></p> <p>We support both the principle and wording of this proposal.</p> <p><u>Condition G:</u></p> <p>We have no objection to this approach, but will comment fully upon sight of the proposed amendments.</p> <p><u>Condition I:</u></p> <p>We believe this is already clear, but have no objection to this approach.</p> <p><u>Condition R7-9:</u></p> <p>We have no objection to this approach, but will comment fully upon sight of the proposed amendments to the WRC</p>

	<p><u>Condition F6:</u></p> <p>We have no objection to this approach, but will comment fully upon sight of the proposed amendments.</p> <p><u>Condition R5:</u></p> <p>We have no objection to this approach.</p>
Q3	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
A3	We do not have any objections to this approach, but have no specific suggestions.
Q4	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?
A4	We are supportive of this approach and will comment fully having had sight of the proposals.
Q5	Do you agree with our proposal to use section 55 of the WA14 to make these changes?
A5	We fully support the use of section 55 for the purpose of introducing these amendments.
Q6	Do you have any comments on the proposed drafting set out in the Appendices?
A6	<p><u>Draft Condition 3:</u></p> <p>The definition for "Retail Activities" requires separating out of the definition for "Eligible Premises"</p> <p><u>Condition F6 A.2A:</u></p> <p>We believe it should be made clearer that a separate certificate is required in respect of just the <u>non-household</u> retail part of the appointed business, with the remainder of the appointed business (wholesale water, wholesale waste water, <u>and household retail</u>) remaining together on one (the original) certificate of adequacy.</p>