



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

12 August 2016

Dear Sirs

Proposals to modify Instruments of Appointment under Section 55: a consultation

Thank you for the opportunity to make representations on your proposals made under Section 55 of the Water Act 2014 to change the instruments of appointment of water and wastewater companies.

We have responded to prior consultations and engaged with Ofwat through the modification process and are pleased to see that a number of our comments and suggestions have been reflected in the current proposals. In this response, we have not repeated previous representations where these have clearly been considered by Ofwat but not taken forward into the current proposals. While we remain disappointed at the complexity of the proposed Market Arrangements Code condition, particularly in view of the ambition for licence conditions to be shorter and simpler to understand, we acknowledge that Ofwat has given this careful consideration before finalising its proposals and has undertaken to review this condition once the retail market has opened.

There is, however, one substantive policy point which we consider has yet to be addressed in Ofwat's consultations and which we believe should be addressed to ensure that appointed companies undertaking both wholesale and retail activities (integrated appointees) are not disadvantaged when compared to appointed companies who have exited their retail non-household business to an associate WSSL. We explain this further below.

The WSSL standard conditions do not place any restrictions on how Licensees under common ownership trade with each other and share information. Subject to having first obtained customer consent, Licensees under common ownership may share information about their respective customers without limitation.

In contrast, under the current proposals, where an integrated appointee and Licensee are under common ownership, the retail non-household business of the integrated appointee is subject to restrictions under Condition R on how it trades with and shares information with its associate Licensee. Even having obtained the consent of its customer, the retail non-household business of an integrated appointee is prevented from sharing information about that customer with its associate Licensee.



We do not consider that this differential treatment of retailers is justified and therefore invite Ofwat to consider the appropriateness of maintaining in the licence conditions of appointees any restrictions on the way in which the retail non-household business of an integrated appointee trades with or shares information with an associate Licensee. We would be pleased to discuss this matter further with Ofwat if this would be of assistance.

We have set out in the table below some minor drafting comments in respect of the text of the licence conditions proposed.

Condition	Drafting comments
R7(4)(b)(i)	We think that the reference to paragraph 5(1)(b) should now be a reference to paragraph 5(1)
R8(1)(b)	We think that the references to water supply licences should be extended to include sewerage licences

If it would be helpful to discuss any of the points raised in these representations, please contact me on 01707 277196.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Tim Monod'.

Tim Monod
Director of Legal and Assurance