RETAIL MARKET OPENING PROGRAMME – REVIEW 2

Produced for Ofwat – 29 April 2016

REVIEW OF THE RETAIL MARKET OPENING PROGRAMME –

Introduction

1. This is the report of the second independent review of the Retail Market Opening (Open Water) programme commissioned by Ofwat in March 2016.

Background

The aims of the programme:

2. The Open Water programme aims to develop the framework necessary to allow retail competition for the supply of water and waste water to non-household customers in England and Wales. It involves the development of a series of market codes (which set out the required behaviours of those doing business in this market), licence documents (which will be issued to those wishing to engage in the market) and systems (which will provide for the linking of customers to retailers, retailers to wholesalers and associated payment and other information streams).

The driving force for the programme:

3. The retail market opening programme is a key reform within the water industry that was developed through the Water for Life White Paper, the Cave Review, and given effect through the Water Act 2014 that received Royal Assent on 14 May 2014. The reform seeks to improve the efficiency of, and stimulate innovation within, the industry through competition and thereby bring benefits to consumers in terms of price and service standards.

4. Ministerial commitment to ensuring the market opens in April 2017 was made during the passage of the Act and has been repeated subsequently.

The procurement/delivery status:

5. The programme contains a number of interdependent work streams involving a number of parties. The key delivery responsibilities have changed on more than one occasion through the life of the programme and revisions to the overall governance have been required.

Programme Review

6.   This Review is the second independent review of the programme. It is intended to give support to the programme Senior Responsible Owner (SRO) as well as providing independent assurance to the programme's stakeholders that it will achieve the Government's objective of timeous market opening.

7.   In line with the terms of reference, the review has considered the extent to which:

- Programme requirements, interdependencies and outcomes are clearly defined and any changes are auditable and managed;
- The right mix of skills and experience are available for the programme;
- Relevant stakeholders understand what the programme is for, how it works, and how it interacts with their work, as required for the success of the programme;
- Progress is consistent with published plans;
- Targets and timescales within the programme are realistic;
- Risks and opportunities are well understood and managed.

8.   The Review Team notes that, following its baseline review, Ofwat responded formally on 30 June 2015. That response indicated that Ofwat agreed with the majority of the recommendations and listed against each the actions taken (or to be taken) and the results and evidence. This response was published on the Ofwat website.

9.   This Review is complementary to the wider assurance framework for the Open Water Programme, developed by Deloitte and agreed to by RMOMG, which requires all parties at identified stages of the programme to evaluate and report in detail on their own readiness – further comment on the importance of this framework can be found below. It will provide further assurance to the various parties that share responsibility for delivery of the programme.

Code of Conduct

10.   This Review has followed the principles of the Gateway Review commonly applied to large programmes and projects within Government. Gateway Reviews involve independent practitioners from outside the programme using their experience and expertise to assess progress, and the likelihood of successful programme delivery. It has followed the structure of a Gateway 0 Review, which is a strategic assessment of the programme. The structure of the Gateway 0 Review is set out in Appendix A.

11.   This Review has been guided by the following code of conduct which was shared with all interviewees prior to their interview:

- The Review is not an audit. It is a snapshot of the project or programme at a particular point in its development. It is supportive of the project or programme.
- The Review Team will endeavour to add value by identifying success and good practice at the same time as suggesting possible improvements which will improve the probability of success.
- They will be open, honest and constructive and will encourage all interviewees to be the same.
- The team will respect the integrity and views of all interviewees and the Project Team.
- All interviews and discussions are confidential and information received in them will be strictly non-attributable.
- They will deliver a confidential report to the SRO at the end of a review. It is for the SRO to reflect on and respond to any recommendations.
- It is also for the SRO to consider further circulation of that report.

Conduct of the Review

12.   Evidence gathering and interviews supporting the Review were carried out between 22 March and 25 April 2016 in London or by teleconference. The team members and the people interviewed are listed in Appendix B.

13.   The Review Team would like to thank the SRO for his support and encouragement during the Review. They are also particularly grateful to Amanda Rooney of Ofwat to whom fell the unenviable task of putting in place the interview programme.

14.   Lastly, they are very grateful to all the interviewees for their willingness to engage and their open and frank approach in the course of the interviews and discussion.

Editorial note

15.   A large number of parties are engaged in this programme and its success depends on their individual and collective contributions. This report uses the term **programme partners** to refer to the constituent members of RMOMG ie DEFRA, OFWAT and MOSL. It uses the term **market participants** to refer to all who will engage in the market and this includes retailers and wholesalers, new entrants and incumbents; **companies** is used to refer to the incumbent water companies and **stakeholders** to refer to all these parties collectively.

DELIVERY CONFIDENCE

16.   In line with Gateway Review practice, the Review Team has given a Delivery Confidence Assessment, based upon the evidence available to it.   The definitions used for these status assessment are set out in the footnote below[1].

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The Assessment is AMBER/RED.

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17.   The following table provides the basis for the Review Team's classification.

Delivery Confidence Assessment	AMBER/RED
The Review Team finds that in line with the definition below successful delivery of the programme is in doubt with major risks or issues apparent in a number of key areas. Urgent action is needed to ensure these are addressed, and whether resolution is feasible.	
In reaching this assessment the Review Team acknowledges the significant progress that has been made since the previous review. Overall issues of governance and structure are not of such concern as previously. Budgetary control has been established. Except in the areas identified in the paragraphs below, resources are not an issue. All involved are approaching the challenges with confidence and commitment. There is real momentum behind the programme. The Review Team congratulate all those who have made significant contributions to those positive developments.	
There is significant reputational risk for all the stakeholders in not being able to deliver against this date which should provide a strong incentive to address and manage the programme risk.	
Nevertheless the timetable to the planned market opening date is exacting in the extreme. Despite the efforts and progress noted above, there are a number of uncertainties which are reviewed in this Report.	
Success depends on many actions by many parties – the central system building, the codes defining market behaviour, the licensing and the exit processes, and the readiness of market participants to engage – none of these is without challenge. A number of major tasks still lie ahead and the efforts of a large number of participants have to be marshalled and coordinated. The focus on the delivery of the central systems has dominated the programme for much of its life; it continues to be demanding but attention is now moving to the readiness of market participants. There is still much to be done in this area. The timetable has little if any flexibility to accommodate delay or disruption or lack of clarity in any of these areas and there is no	

contingency plan. These are areas of major programme risk.

The recent assurance review revealed a range of concerns by programme partners and market participants in a number of areas, principally the readiness of the IT systems on which the market must depend and issues associated with the quality of data to be entered into those systems.

The timetable forces these systems to be designed and tested in an overlapping process. Although this has been understood to be a feature of the programme from the outset, it remains an approach which is by its nature highly risky.

The Review Team noted that MOSL, the organisation charged with the delivery of the systems, awarded its programme a red status in February. While part of its reason for doing so was to assist it gaining senior level attention from its delivery partner and additional resources to improve the prospects of success, this action confirms the level of underlying challenge in successful delivery. It is a strong signal to the other stakeholders of the level of risk in the programme. The plan has no contingency; fall back options are limited.

Further confirmation of the level of challenge came during the period of this review itself, when it was necessary to defer the delivery of Phase 1 central systems, needed to enable the start of the planned user acceptance testing, from the developers to MOSL by 3 weeks to ensure readiness. This may or may not of itself prove of irreversible damage to the overall programme timetable but it further illustrates the time pressure MOSL and market participants are under, and puts greater pressure on subsequent stages.

However, a very positive observation made by the Review Team was that stakeholders appear well aware of the level of challenge they face and are preparing seriously to address it.

If the programme is successfully to address these challenges, continuing strong leadership through the RMOMG will be necessary. As this Report makes clear, coordinated and consistent communication at all levels will be of significant importance to fulfilling this role. Also important will be finding a way of assessing contingency options without undermining the continuing momentum.

While reaching the opening date presents significant challenges it is also important that proper attention is paid to the structures necessary to support the market once it opens. Those structures should recognise that there are likely to be areas for further development and resolution following market opening.

Engagement with customers has deliberately taken a relatively lower priority, but work is now beginning to gain momentum in this area and needs to be

systematically developed both at programme and at company level.

Finally, although it is in strict terms outside its field of interest, the Review Team did note that a number of interviewees continued to express concerns that the market may not succeed. There is continuing discussion at the high level about how to define and assess the critical success factors. The expectations of customers will be significant in the assessment of those factors.

The paragraphs below consider the issues in more detail and make a number of recommendations. The majority of these are directed to RMOMG as the pinnacle of the governance framework. The Review Team recognises that, within RMOMG's oversight, detailed work in relation to the recommendations will be the responsibility of other groups within the governance framework.

[1] In Gateway Reviews The Delivery Confidence assessment RAG status uses the definitions below.

RAG	Criteria Description
Green	Successful delivery of the project/programme to time, cost and quality appears highly likely and there are no major outstanding issues that at this stage appear to threaten delivery significantly
Amber/Green	Successful delivery appears probable however constant attention will be needed to ensure risks do not materialise into major issues threatening delivery
Amber	Successful delivery appears feasible but significant issues already exist requiring management attention. These appear resolvable at this stage and if addressed promptly, should not present a cost/schedule overrun
Amber/Red	Successful delivery of the project/programme is in doubt with major risks or issues apparent in a number of key areas. Urgent action is needed to ensure these are addressed, and whether resolution is feasible
Red	Successful delivery of the project/programme appears to be unachievable. There are major issues on project/programme definition, schedule, budget required quality or benefits delivery, which at this stage do not appear to be manageable or resolvable. The Project/Programme may need re-baselining and/or overall viability re-assessed

Findings and recommendations

State of the Programme

18**.**   At the time of the Review, the first phase of the assurance exercise on readiness had just been completed with key stakeholders returning Letters of Assurance to Ofwat and thereby to DEFRA. Following evaluation, DEFRA reported their overall assessment "green", reflecting the fact that, while these letters identified a range of critical risks and key issues of concern to stakeholders, on the whole the necessary planning and other stakeholder actions are reported to be in place. Shortly after this assessment MOSL reported that their programme has a "red" status reflecting their concern about whether they could deliver the start to User Acceptance Testing on time, this activity being the most imminent critical path milestone. It still had that status at the time of this Review.

19.   The Review Team did not have the opportunity to review the entire set of assurance letters, but saw a small selection (volunteered by participants) including those from MOSL and OFWAT. It also saw a summary of the key points arising from the full set of responses. While it noted that respondents have reported that, in accordance with the requirements of this stage of the assurance process, they had the necessary planning procedures in place, they also highlighted a range of issues of concern both within their control and where control lay elsewhere. There was a significant degree of consistency in these responses with the issues of systems and data most frequently identified.

20.   In the course of this Review the decision was taken by MOSL with the agreement of RMOMG to defer the delivery of Phase 1 central systems, needed to enable the start of the planned user acceptance testing, from the developers to MOSL by 3 weeks to ensure readiness.

Risk management

21.   The programme timetable is such that the programme remains high risk. The capability to identify, manage and mitigate risks between a number of stakeholders is therefore of critical importance to the success of the programme. It must lie at the heart of the governance of the programme. A subsequent section of this report considers further aspects of the revised governance (para 45ff). However this section considers the key area of risk management and the related issues of the assurance process.

22.   The Review Team found evidence of well-structured risk management processes in place and risk registers being used at all stages and levels in programme management and the governance process. Mitigating actions are fully described and reviewed. The Review Team heard that there was a good level of understanding of key programme risks across programme partners and consistency

between them in what were regarded as the key risks to success. The publication by RMOMG of the programme risk register is a welcome development.

23. The most recent version of the programme risk register (dated 17 March 2016) made available to the Review Team identifies four red risks, all of which are shown as mitigated down to amber, but not yet at their target risk scores. While the target dates for mitigation to the target level in a number of cases are in 2017, it is not clear from the presentation of the mitigating action what the probability or level of confidence of that target score being achieved is. The programme dashboard gives the programme an amber status. It is important that its meaning is properly understood.

24. At the baseline review there was difficulty in identifying clearly how the overall programme budget was being managed and monitored. The most recent evidence is not only that the costs of the programme are much better understood, but that the most significant costs (namely those in MOSL) are being tightly and effectively managed.

Issues:

25. All programme partners recognise the inherent level of risk in the programme and this view is widely shared by participants. The Review Team understands that a workshop on de-risking the programme was facilitated by *Indepen in December*. The Review Team did not see the detailed output of this workshop, although it understands that a report was published. It believes it was considered by attendees to be a highly useful event. It is may be that similar sessions at later points in the programme will prove equally helpful. Options identified in these sessions should be carefully considered by all stakeholders, and by RMOMG on behalf of the programme as a whole.

26. The apparent absence of contingency within the programme was raised with the Review Team by several interviewees. To an extent, the riskiness of the programme is driven by the tightness of the timetable and the consequent difficulty of accommodating contingencies to deal with risks should they crystallise. This is particularly relevant to the delivery of systems. The Review Team fully recognises the potential diversion of focus and momentum from the primary goal of delivery which a consideration of contingency scenarios might cause. However, at this stage in the programme, and in the light of what the risk register shows, the Review Team would expect appropriate attention to be given to the extent of contingency within the programme.

27. It is not for the Review Team to suggest what those contingencies might be although they note that a number of suggestions in this area were made by interviewees. They understand that previous suggestions of phased implementation were rejected. Nevertheless some interviewees continue to advocate options of this kind.

Recommendation 1

RMOMG should consider how to identify and evaluate contingency options.

28**.**   Overall, the risk register appears to present a comprehensive view of risk identification, management and mitigation among the partners. However, it was less clear to the Review Team that there is an effective programme-level response to those risks or that escalation through the governance system is operating as effectively or transparently as desirable. This can be inferred from the award by DEFRA of a green status to the programme following the assurance process. While the Review Team understands that this assessment was driven by the conclusion that at this stage in the process all the necessary planning processes were in place, it is difficult to square the green assessment with the reality of underlying evidence from the programme risk registers and the Letter of Assurance process. A number of interviewees told the Review Team of their difficulty in understanding this.

29.   The Review Team notes that a number of key risks eg the delivery of IT systems and new entrants' concerns about overall attractiveness of the market, are still at a level above their target score, despite the mitigating actions identified. This is confirmation of the high level of delivery risk in the programme. It is important that there is an appropriate programme level understanding of and response to this.

30.   Looking more closely at these two areas of risk, the delivery of IT systems was prominent in the evidence presented by all the interviewees. The Review Team is clear about the amount of activity underway to address this area.   MOSL's assessment of its programme as red has been a driver for them to gain more focus and resource from their delivery partner and the Review Team saw evidence that both MOSL and CGI had engaged at a very senior level and had risen to the challenge.

31.   The concerns about the attractiveness of the market are of a different nature but no less important. They look beyond the simple physical event of getting the market open.   It is not clear that there is a concerted programme of activity to address the underlying issues in this area. Consideration of such issues as level playing field and margins did not seem to have advanced much from the position at the last review, although Ofwat published further views on margins as the Review Team finished its interviews. It may be that complete agreement on these issues between all stakeholders cannot be achieved, but it is undesirable that some market participants should continue to discount the efforts made by OFWAT to address the issues.

32.   The Review Team heard reference to further discussions about success factors for the programme – by the recently convened Assurance Group (see further below) and by the CEO group. While these may prove valuable it was unclear to the Review Team whether these discussions are intended to address these areas as they are described in the risk register.

33.   The risk register does not identify specifically the risk associated with the state of readiness of market participants. Given the range of states of readiness that the Review Team was led to believe exist among market participants, the issues raised by participants in the assurance process and the increasing importance of participants' readiness as the go-live date approaches, this absence seems open to question. Some consideration requires to be given to how this area of risk is presented in the register and taken account of in the programme dashboard and what programme level mitigating actions can be identified.

Recommendation 2

RMOMG should review the risk areas which concern the attractiveness of the market and the readiness of participants and confirm that all possible mitigating actions have been identified and are being taken forward.

34.   The Review Team considers that the assurance process is important to the success of the programme. It has been well designed and is well supported by advice and guidance. All participants have responded positively to its demands. However, the first phase has given rise to a number of issues.

35.   As has already been remarked, a number of interviewees found it difficult to reconcile the green assessment assessment by Defra with careful examination of the programme risk register, or the dashboard, or with the reports prepared in the assurance review or the wider evidence the Review Team heard. Some interviewees indicated that they believe that the green rating may give a misleading or confusing impression of the programme's true status to stakeholders, given the challenges which remain. This would not be helpful and care should be taken to ensure that any such view does not affect adversely the credibility of the assurance process or the governance structure. The Review Team recognises that Defra's assessment reflected the fact that they have used a narrow set of criteria relevant particularly to this stage of the programme. This should be clearly explained to avoid the feeling of ambiguity which was reported by some interviewees.

36.   The next stage of the assurance process will be of critical importance. It will address issues of more detailed readiness on the part of participants and there may be a range of assessments across those participants. Key areas of risk might be identified requiring immediate attention. The criteria and process for reaching on overall view of the programme must be clear.

Recommendation 3

For the next stage of the assurance process, RMOMG should consider the use of a consistent set of criteria which will provide a clear basis of assessment for stakeholders.

37.   A number of interviewees said that the overall programme status should not be seen as a simple summation of the individual Letters of Assurance, but that a proper programme-wide assessment needs to be carried out. The Review Team understands that MOSL, Ofwat and DEFRA each reviewed all of the individual Letters of Assurance, as well as conducting an assessment of their own actions. However, there was no overarching review or assessment by RMOMG and there is therefore no single programme-wide view. This may indicate that RMOMG is till maturing into a fully-functioning leadership group, rather than a body for coordinating actions between the partners. This will be considered in the next section of this report.

38.   The continuing focus on readiness at a company level has been noted above as a significant area of risk both to the companies themselves but also to the overall programme. The risk register should recognise this risk more clearly.

39.   A Licence Condition has been agreed by Ofwat to enforce readiness. The Review Team recognises that this is a significant development and should prove helpful to the next stages of the programme. Whereas the assurance process is largely a post-hoc assessment, the condition has the potential to identify issues within companies that may pose programme risks and the means of addressing them timeously. Companies may find themselves at risk of a targeted review by Ofwat and the reputational implications of this are expected to be a strong driver at company level. The promulgation of this condition will need to be supported by clear guidance in key areas. Ofwat has recognised this and is taking action including identifiying the resource implications.   At the time of this Review the condition had yet to be included in the programme plan; once it is, identification in the risk register should follow.

Recommendation 4

OFWAT should ensure clear guidance to support the promulgation of the market readiness condition.

40.   It is clear that the most recent assurance process has been valuable in focusing attention at senior management and board level within market participants on what requires to be done. This has been positive to programme momentum. The Review Team considers that this focus should continue into subsequent phases of the assurance process.

41.   The next formal assurance stage will be of critical importance to the go-live decision.   An interim assurance report is expected in October 2016, followed by the full assessment in February 2017. These stages interface with the planned period of the Shadow Market. For the full assessment, companies may have to do the preparation prior to Christmas, in order to meet the timescales of their internal governance processes, effectively foreshortening the length of the Shadow Market

period in terms of its ability to inform that assessment. This possibility appears not so far to have been recognised as a risk on the high-level registers.

Recommendation 5

All programme partners and market participants should consider the practical implications of having to undertake the assurance process during the Shadow Market period.

42.   The recent convening by DEFRA of the Assurance Group has not assisted the clarity of the overall assurance process. As it was set out in the governance structure following the previous review, that Group was to play an important role in determining whether the market could open – the Secretary of State would look to it for conclusive advice on this question. However, its role seems to have moved from that purpose and the Review Team heard different views of the Group's role from programme partners and market participants.

43.   The Review Team understands that at its inaugural meeting the Group was asked to look at the success criteria for the programme as a whole; separately there was a recent session with CEOs to review success criteria for the market. It is not clear to the Review Team that these processes are linked or coordinated or whether it implies anything about the criteria of success for the market originally stated during the legislative process.

44.   It will certainly be helpful to identify success factors beyond the fact of the opening of the market. A range of factors is likely to be important and simple metrics may be difficult to identify. The qualitative experience of customers and new entrants (and retailers vis-à-vis wholesalers) will be fundamental - nor should the central importance to market success of the level playing field and retail margin issues and their impact on innovation be ignored. Such an assessment is a longer term task, indeed RMOMG may wish to consider whether there is a continuing role for it or some successor group in this regard. At this stage in the programme it is unlikely that any set of factors can significantly influence the market architecture prior to opening. Their value would seem to lie in providing a template to guide continuing development of the market and from this point of view they should embody a high level of ambition.

Recommendation 6

RMOMG should coordinate the consideration of success factors to ensure the development of a single set of criteria that provide an ambitious template for the continuing development of the market.

Governance

45.   Following the previous review's recommendations, the governance structure has been transformed.   Ofwat has assumed primary responsibility for overall programme management.   MOSL has been constituted as a member organisation with a clear remit to develop the central market systems and the associated codes. A procurement process has been identified and implemented. The governance structure, with accountabilities of its key groups and named key personnel, has now been published.   In the main the overhaul has been successful.   There is a greater sense of cohesion and purpose within and between partners and between them and other stakeholders.   Levels of trust are much higher.   However, a number of interviewees indicated their view that there remain points of ambiguity within the revised structure.

Issues:

46.   At the time of this Review, while the governance arrangements appeared comprehensive, their functioning had not been fully stress tested through having to deal with any major disruptions to or divergences from plan, or disagreements between programme partners.   The Review Team has noted that the programme partners were able to address and agree how to respond to the imminent delay on the critical UAT phase in a pragmatic and timely manner.   Market participants also responded pragmatically to this event.   This response should ensure that there is minimal impact on the overall delivery and reflects positively on the new governance structure and behaviours of key individuals within it.   This encouraging outcome allows the Review Team to believe that the hugely increased level of trust between the programme partners can facilitate the leadership capacity that will be necessary in the next phase of the programme.

47.   As the programme advances it will be important to develop RMOMG's leadership capacity further and to maintain the pragmatism and speed of decision making that this episode has demonstrated.   Clarity of decision and effective communication will be increasingly important.

48.   MOSL's own assurance letter also correctly identified the high level of interdependence between the stakeholders.   The coordination of these interdependencies is likely to go beyond a simple management challenge as the go-live date approaches.   RMOMG is at the pinnacle of the governance framework and will be looked to provide strategic leadership.   It is important that it recognises and prepares for that role.   It may be that some participants have difficulty in either understanding or accepting RMOMG in such a role, so continued explanation and communication of it will be necessary.

49.   The new governance structure has clarified roles and responsibilities.   This has been welcomed by stakeholders and has contributed to the evident progress that has been made.   However, the Review Team heard from a number of

interviewees concerns about a lack of clarity on some points, notably between Ofwat and MOSL on issues to provide data definitions and clarify the quality and completeness of data required for successful implementation. Market participants seemed to be looking to Ofwat to provide guidance or decision but in practical terms MOSL had provided the market with the Data Strategy and related documentation. It may be that this response is associated with the degree and level of operational detail but if there is uncertainty in the minds of market participants about such areas of responsibility, care must be taken to avoid the risk at least of confusion, but at worst of delay and disagreement.

50.   The Review Team heard evidence that some market participants find a lack of clarity between the roles of RMOMG, PMG and the Policy Group. The Policy Group, which relies on industry inputs, may have been less active than might have been envisaged. This seems to be because policy issues are being addressed outwith this group eg by the Codes Panel. This raises questions of both communication and transparency of policy decisions and how they are taken. Any uncertainty over structure or responsibility can lead market participants to claim that policy decisions are not being taken or communicated; this is not necessarily the case - what participants may well be expressing is their disagreement with the decision that has been taken

51.   The Review Team heard that market participants considered that decision making and communication within and from MOSL was very transparent and timely. There was, however, concern that equivalent transparency and timeliness did not yet extend to the RMOMG. While account needs to be taken of the different roles and status of MOSL and RMOMG and the fact that some of this concern relates to market participants' ambivalence about RMOMG as it is constituted and aspects of the overall programme purpose, there is an issue to address here. Other members of RMOMG ie OFWAT and DEFRA need to ensure their own communications are as transparent and timely as those of MOSL.

52.   As it further develops its leadership role RMOMG, will need to ensure that its own delivery capability is beyond criticism. Continued and accurate stakeholder communication and engagement will be key to this. This should assist improved understanding of the governance structure and enhance its legitimacy. Further commentary on communication issues can be found in a later section of this report (para 65ff) .

Recommendation 7

RMOMG should continue to develop its strategic leadership role. Fundamental to the success of that role will be clarity of and timeliness of decision taking and communication.

53.   At the higher levels of the new governance structure membership is deliberately confined to the DEFRA, MOSL and OFWAT, the programme partners.

Company participation is significant at the lower, working levels. Some market participants commented, however, that some adjustments to membership of the governance groups should be considered in order better to represent the interests of customers and non-incumbents. The Review Team noted that, while at the time of the previous review significant focus was being placed on the retail activity, the central importance of the wholesale activity had more recently been the pre-dominant focus. Interviewees wondered whether the programme might have become overly driven by the interests of the wholesalers as a result. It is important to be sensitive to this, particularly in the design of the enduring structures that will govern the market. Wholesale remains the monopoly business, while success of the retail market and the introduction of innovation relies on dynamism of retailers and on new entry being actively promoted. Wholesalers must facilitate this. Continued concerns about the boundary between retail and wholesale in the price-setting process are a further illustration of this sensitivity.

Recommendation 8

The status of non-incumbents within the governance structure should be kept under continuing review by all parties.

54.   This report has already commented on the Assurance Group. The published governance structure identifies a high-level Assurance Group, chaired and convened by DEFRA, "to inform the development of policy advice given by officials to the Secretary of State in relation to the decision to open the non-domestic market to retail competition". The Review Team found it difficult to understand this Group's role and how it relates to the other parts of the governance structure and the highly-structured assurance process, the first stage of which has been completed prior to the formation of the Assurance Group. The Review Team's difficulty in understanding this was shared by a number of stakeholders during the interview process. It is important that the role and status of this group is clarified at the earliest opportunity. If, as was suggested by a number of interviewees, it has no formal role in the detailed assurance process then it might be helpful to rename it.

Recommendation 9

RMOMG should clarify the role and purpose of the Assurance Group.

Organisational Capabilities/Capacity and the Transition from Shadow to Real

55.   Following the previous review, critical resourcing issues have been addressed. Ofwat's capability has expanded in key areas and it recently closed its contract with the development partner following the completion of its assigned tasks. MOSL has been able to bring significant additional resource to the project through its relationship with CGI and other contractors. The Review Team has been advised

that the company assurance letters show an increased level of commitment and activity at company level. Pressures on resources are going to remain intense, and possibly increase in the run-up to go-live and this needs to be kept under continuous review by all parties. Nevertheless, some capability issues were raised with the Review Team. The Review Team has also considered the needs of transition from Shadow Market to Real operation of the market from a resource and capability point of view.

Issues:

56.   Communications capability is a key issue both for this and subsequent phases of the programme. Its importance is such that it is considered in a separate section below.

57.   There is a series of issues relating to how companies can best be prepared, and prepare themselves, for both Shadow Market and go-live. Stakeholders appeared clear about the role of MOSL in the coordination of development and testing of central market systems and processes. However, there was less clarity on the extent to which such coordination should apply to supporting the development and testing of bilateral processes between MOSL and individual companies or between wholesalers and retailers. This seems to be an ambiguity about the boundaries of accountabilities outside the central processes and the processes through which confidence should be gained that these accountabilities are being effectively discharged.

> ***Recommendation 10***
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> ***RMOMG should consider and clarify accountabilities for testing activities outside the central systems and processes and should propose how adequate assurance be given in these areas.***

58.   It was also apparent from the recent assurance process that data issues dominated most participants' concerns. The Review Team takes the view that some expectations for early precision are likely to be unrealistic in that the quality of data is going to be a continuing challenge which the industry will need to manage. Effort is required to address the issues identified in last summer's data pilot exercise.

59.   In the run up to go-live, there is a balance to be struck between the degree of hand holding by MOSL or Ofwat that is sensible and/or practicable and the need for participants to rely on their own resources. The Review Team fully supports Ofwat's aspiration to move its method of regulation from a prescriptive approach to a principles based approach. The Team does not underestimate the challenge in making such significant change or the levels of discomfort that this might cause participants either collectively or individually. The issues therefore have to be approached with care.

60.   MOSL's introduction of identified portfolio managers to liaise with companies has been welcomed. It may be that Ofwat would find a similar approach helpful to

complement the requirements of the new market readiness condition, allowing them to gain confidence that companies are making proper progress on market readiness.

61.   Consideration has been given to the possibility a phased approach to data input might reduce the challenge in the programme. While the Data Catalogue produced by MOSL sets out the requirements and provides helpful guidance to market participants as to what is needed, some interviewees continue to advocate such an approach to the Review Team.   At some point, a judgement will have to be made as to whether the quantity and quality of data over the market as a whole is good enough for immediate purposes ie to allow market opening. Ultimately, it will be Secretary of State who makes that decision but she will do so on the advice of RMOMG and its constituent members. RMOMG needs to clarify how it will approach reaching a view on this issue and communicating the conclusion.

> *Recommendation 11*
>
> *RMOMG needs to clarify how it will approach decisions on market opening and communicate the conclusion*

62.   Similarly, not all policy issues which will arise as the market opens and develops will be capable of being addressed before market opening.   The experience in Scotland shows how continued effort has been required to respond to the developing market and the behaviours of participants.   While in some aspects the English programme is ahead of the equivalent Scottish programme, the overall landscape is more complex. The greater number of players of differing sizes and attitudes means that issues will inevitably arise on a continuing basis. Structures and processes for addressing these this will need to be established and it will be on Ofwat that this will fall in the first instance.

63.   While market opening was some 12 months off at the time of this Review, it is important that as early as possible consideration is given to the enduring structures necessary to support that market. Key decisions are likely to be needed well before the opening date in order that those enduring structures have been designed, that resources have been secured to populate them and that market participants have a high degree of confidence in their fitness for purpose. In particular:

- **Ofwat** – Following market opening there will be a continuing role for Ofwat in licencing, monitoring and reviewing aspects of market operation – activities which did not exist previously. Ofwat will need therefore to have designed these structures and ensured that they are adequately resourced. There is resource engaged in programme activities which needs to be assessed for its suitability in meeting this enduring need. An appropriate balance between contract and permanent staffing will need to be established.

- **MOSL** – There is a widespread assumption that MOSL will assume the enduring market operator role. It is taking steps to that end and if possible

this should be done to allow MOSL's status to be clarified well in advance of shadow running. MOSL's Articles of Association will also need to be reviewed. This provides an opportunity to consider whether its governance structure should reflect a wider range of interests than those who have been represented so far. In considering the enduring arrangements and MOSL's current heavy reliance on contractor staff, the appropriate balance between contractors and permanent employees can be established.

- **Codes Panel** – The arrangements for the Interim Codes Panel allow for it to continue in its present form and with its current accountabilities unless or until replaced by an Enduring Codes Panel. The Review Team has seen no evidence of a precise trigger or future planned date which would cause this to take place, although they are aware that these matters have recently been referred to a transition group. The balance between retailers wholesalers and between incumbents and non-incumbents on the Enduring Panel will be significant issues. It procedures must be dynamic and flexible to the demands of the evolving market.

- **Companies** – In the run-up to go-live companies face significant demands across a range of activities. Alongside the mechanics of interfacing with the central systems, they must also put in place new corporate structures and systems and address fundamental cultural and behavioural changes necessary for the future market.

Recommendation 12

All Stakeholders need to address the requirements of enduring structures necessary for market functioning, and greater clarity, particularly on the market operator, should be established prior to Shadow Market.

64. The Review Team heard concerns that not all companies might be viewing Shadow Operation and its purpose in a similar manner. In effect, to enter Shadow Market companies need to be fully ready to operate in the market; this is not a further period of months to allow them to get their act together. Companies will therefore need to ensure that their enduring processes are in place and resourced for the beginning of Shadow Market in order to replicate as fully as possible the working market. Nevertheless there is uncertainty about the extent to which Shadow Market will accommodate real market behaviours. Such uncertainty suggests that the scope and form of the Shadow Market will require careful communication. Both Ofwat and MOSL need to contribute to this activity and RMOMG should ensure there is a single programme-wide communication plan. Further consideration of the implications for Shadow Market is to be found in paras 71ff below (Readiness for Next Phase).

Communications and Engagement

65.   There are, unsurprisingly, differing views on the effectiveness of communication in the programme. A large multi-party programme of this complexity under such severe time pressure inevitably throws up many and varied communications challenges both within and between the partners - DEFRA, Ofwat, MOSL - and beyond them to the potential market participants, both companies and customers. The governance framework correctly recognised this and identified a Communications Group with responsibility for developing and delivering an overall communications and engagement plan. This is still work in progress. As with other aspects, the communication requirements at a programme level go beyond those of the individual stakeholders. Any plan should be based on a strategy which identifies these various levels and draws together contributions from both stakeholders and other participants. Consistency of message will be important.

66.   As the programme gets nearer to go-live this will become increasingly evident and important. The proposed Communications Group and plan is a necessity. With this in mind, and in view of the size and complexity of the programme, the Review Team has some concern that there is not a communication resource dedicated exclusively to the programme to lead this process.

Issues:

67.   The Review Team recognises that there are some very strong communications activities eg the recently re-established CEO calls (which are a positive development); a newsletter which effectively complements these calls; MOSL's overall transparency has been commended and a number of companies are working hard on communications tasks at their level; a communications forum has recently been established on MOSL's website.

68.   However, looked at from the point of view of the programme as a whole, a number of communications issues can be identified:

- The overall communications strategy or detailed plan is still being developed.

- While Ofwat has identified a communications manager, she is not exclusively allocated to the programme, but has other corporate responsibilities.

- Reliance on different websites with varying levels of user friendliness (including in some cases clunky search engines) poses the risk of undermining the cohesion of the programme and make finding out what is happening more difficult than it should be.

- The timing and form of communicating decisions and developments varies between the RMOMG programme partners.

- Communication with customers has so far had a relatively low priority reflecting the overall timetable. The time is approaching when this must make

a step change. The need for guidance and information on how to access the market and engage with it is increasingly evident.

69.   The Review Team has noted that the RMOMG has decided not to appoint a communications lead dedicated exclusively to the programme, but to rely on members of their corporate teams. This may be understandable in its context, but poses the risk that these staff may be diverted by other corporate demands. This arrangement can also make it more difficult to present a programme view, rather than a view mediated, or seen by participants as mediated through one or other of the programme partners.

70.   The communications strategy once developed will need to cater for a number of significant complexities. Profound cultural and behavioural changes are required in market participants – a sound communications strategy can begin to set the context for, and stimulate, those changes.

Recommendation 13

The Communications Group and associated plan as envisaged in the governance framework should provide leadership, structure and momentum to the continuing communications activity.

Readiness for the next phase – Delivery of outcomes

71.   For the purposes of this review the next phase is the Shadow Market, planned to start on 1 October 2016. All stakeholders are aware that achieving this is a significant challenge and the current levels of intensity are likely to increase as that date nears. The timetable is extreme. Some additional actions, which are not at present in the overall programme plan have been identified and some policy issues are still in the process of being clarified. Strong leadership by RMOMG will be necessary to maximize the prospects of success. Planning for life after market opening, including securing the necessary enduring resources, is an important part of this.

72.   Increased communication with customers in the form of customer awareness activities is also a key part of the move towards Shadow Market.

Issues

73.   There is a considerable amount of work to be done prior to Shadow Market. This report has already touched on the issues arising in the programme as a whole which will have a key impact on successfully starting the Shadow Market. The success or otherwise of the delayed code drop to allow user acceptance testing will also be a critical factor. Specific to Shadow Market and the lead up to it is the need to establish clarity and consistent understanding of the scope and structure of this phase. Critical to this are clarity of the data quality issues. Expectations about the number of testing environments that MOSL will prepare also need to be managed.

How those bilateral issues are going to be identified, managed and addressed through the shadow phase must also be resolved and communicated clearly.

74.   Retail Market Opening involves a large number of market participants of greatly varying sizes and complexities and, as the assurance process has already identified, differing states of readiness. These issues are no less challenging for the start of the Shadow Market.

75.   As discussed above, the design and plan for evaluation of the Shadow Market should take account of the fact that a key stage of the assurance process is planned to take place within it. Market participants have been asked for their returns in mid-February. These will be critical to the go-live decision. The Review Team has been advised that the practical implication of this is that companies will have to prepare their assurance documentation prior to Christmas – thus shortening the time that the shadow process can be used to inform their responses. It will therefore be important that key parts of the Shadow Market are properly planned in the first half of the period.

> *Recommendation 14*
>
> *RMOMG should ensure that the Shadow Market is clearly scoped and communicated to all market participants well in advance.*

<u>Summary of Report Recommendations</u>

76.   The Review Team makes the following recommendations which are prioritised using the definitions below.

While the majority of these are directed to RMOMG as the pinnacle of the governance framework, the Review Team recognises that, within RMOMG's oversight, detailed work in relation to the recommendations will be the responsibility of other groups within the governance framework.

Report Ref:	Recommendation	Critical /Essential /Recommended
1.	*RMOMG should consider how to identify and evaluate contingency options. (following para 27)*	Critical
2.	*RMOMG should review the risk areas which concern the attractiveness of the market and the readiness of participants and confirm that all possible mitigating actions have been identified and are being taken forward. (following para 33)*	Critical
3.	*For the next stage of the assurance process, RMOMG should consider the use of a consistent set of criteria which will provide a clear basis of assessment for stakeholders . (following para 36)*	Essential
4.	*OFWAT should ensure clear guidance to support the promulgation of the market readiness condition. (following para 39)*	Critical
5.	*All programme partners and market participants should consider the practical implications of having to undertake the assurance process during the shadow market period. (following para 41)*	Essential (Prior to Shadow Market)
6.	*RMOMG should coordinate the consideration of success factors to ensure the development of a single set of criteria that provide an ambitious template for the continuing development of the market. (following para 44)*	Essential (prior to market opening)
7.	*RMOMG should continue to develop its strategic leadership role. Fundamental to the success of that role will be clarity of and timeliness of decision taking*	Critical

	and communication. (following para 52)	
8.	*The status of non-incumbents within the governance structure should be kept under continuing review by all parties. (following para 53)*	Essential (Prior to Shadow Market and subsequently)
9.	*RMOMG should clarify the role and purpose of the Assurance Group. (following para 54)*	Critical
10.	*RMOMG should consider and clarify accountabilities for testing activities outside the central systems and processes and should propose how adequate assurance be given in these areas. (following para 57)*	Critical
11.	*RMOMG needs to clarify how it will approach decisions on market opening and communicating the conclusion. (following para 61)*	Essential (during Shadow Market
12.	*All Stakeholders need to address the requirements of enduring structures necessary for market functioning and greater clarity, particularly on the market operator, should be given prior to Shadow Market. (following para 63)*	Essential (prior to Shadow Market)
13.	*The Communications Group and associated plan as envisaged in the revised governance framework should provide leadership, structure and momentum to the continuing communications activity. (following para 70)*	Critical
14.	*RMOMG should ensure that the Shadow Market is clearly scoped and communicated to all market participants well in advance. (following para 75)*	Essential (at least one month prior to Shadow Market)

Critical (Do Now) – To increase the likelihood of a successful outcome it is of the greatest importance that the programme/project should take action immediately

Essential (Do By) – To increase the likelihood of a successful outcome the programme/ project should take action in the near future or by the identified date.

Recommended – The programme/project should benefit from the uptake of this recommendation.

Subsequent Reviews

76.   It is for the SRO to consider whether or when a further Review would be helpful.

APPENDIX A

Purposes of OGC Gateway™ Review 0: Strategic assessment

- Review the outcomes and objectives for the programme (and the way they fit together) and confirm that they make the necessary contribution to overall strategy of the organisation and its senior management.

- Ensure that the programme is supported by key stakeholders.

- Confirm that the programme's potential to succeed has been considered in the wider context of the organisation's delivery plans and change programmes, and any interdependencies with other programmes or projects in the organisation's portfolio and, where relevant, those of other organisations.

- Review the arrangements for leading, managing and monitoring the programme as a whole and the links to individual parts of it (e.g. to any existing projects in the programme's portfolio).

- Review the arrangements for identifying and managing the main programme risks (and the individual project risks), including external risks such as changing business priorities.

- Check that provision for financial and other resources has been made for the programme (initially identified at programme initiation and committed later) and that plans for the work to be done through to the next stage are realistic, properly resourced with sufficient people of appropriate experience, and authorised.

- After the initial Review, check progress against plans and the expected achievement of outcomes.

- Check that there is engagement with the market as appropriate on the feasibility of achieving the required outcome.

- Where relevant, check that the programme takes account of joining up with other programmes, internal and external.

APPENDIX B

Review Team and Interviewees

Review Team:

Review Team Members:	Adam Green Managing Director, Carillion Construction Services
	Bob Irvine Deputy Director, Scottish Government
	Jon Carlton, Director, Guille Carlton Solutions Limited

List of Interviewees:

Name	Organisation/Role
Mark Abbott	RMOP Programme Lead, United Utilities
Martin Baggs	CEO, Thames Water
Adam Cooper	Director and SRP for RMOP, Ofwat
Susie Delaney	Head of Programme, MOSL
Johanna Dow	CEO, Business Stream
Tim Griffiths	Director and Programme Manager for RMOP, Ofwat
Sarah Hendry	Director, Water and Flood Risk Management, DEFRA
Ben Jeffs	CEO, MOSL
Tara McGeehan	Utilities Director, CGI
Sarah McMath	Director 2017 Programme, Thames Water
Karma Ockenden	Editor, Water Report and MEUC
John Reynolds	Director, MOSL and Castle Water
Helen Robinson-Gordon	Corporate Communications Manager, Ofwat
Cathryn Ross	CEO, Ofwat
Martin Silcock	Director of Market Services, MOSL
Holly Yates	Water Reform Team, DEFRA