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[casemanagementoffice@ofwat.gsi.gov.uk](mailto:casemanagementoffice@ofwat.gsi.gov.uk),

Competition law guidance consultation  
Competition Policy  
Ofwat  
21 Bloomsbury Street  
London  
WC1B 3HF

20 January 2017

Dear Sirs

**Competition law guidance consultation**

We are writing in response to the above consultation.

We note the responsibilities of companies summarised in Section 1.4 of the document along with the range of options that are available to Ofwat in order to bring an investigation to a conclusion, summarised in Section 2.6.

It is helpful to have confirmation as to Ofwat's approach to market definition (set out in section 3.3 of the document). We note (in Section 2.6) that Ofwat may issue guidance in the form of an opinion and believe that it would be of considerable benefit to the sector if Ofwat could offer a fuller opinion as to the definition downstream retail market. In particular, it would be helpful for the following statements to be expanded such that there is greater clarity as to Ofwat's view of both the service and geographical dimension of the non-household retail market: "... where some retail markets are open to competition and others are not, and differences exist on the basis of geography, it may be appropriate to draw a distinction between customer groups" and "if a large customer is located near a boundary with another water company, it might be reasonably served by both. In such a case, we might include both companies in the relevant geographic market".

Cont....



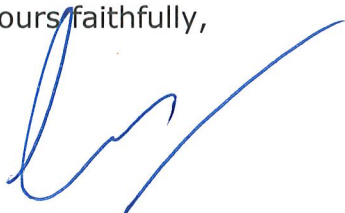
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Registered in England  
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**an AWG Company**

Lastly, we take reassurance from the statements made in section 4.5 of the draft guidance which acknowledge that Ofwat is required to “carry out our CA98 investigations and makes CA98 decisions in accordance with the principles of administrative law, ensuring our procedure is fair. We are required to follow the CMA’s procedural rules when undertaking an investigation or taking enforcement action under CA98 or Articles 101 and 102 TFEU and we will also take account of the CMA’s procedural guidance”.

Yours faithfully,

A handwritten signature in blue ink, appearing to be 'CR', with a long horizontal stroke extending to the right.

**Claire Russell**  
**Legal Director**