



Ofwat consultations on the Wholesale Retail Code & Market Arrangement Code

1. Introduction

- 1.1 The Consumer Council for Water (CCWater) is the statutory consumer organisation representing the interests of customers of licenced water and sewerage companies in England and Wales. CCWater has four regional committees in England and a committee for Wales.
- 1.2 We welcome the opportunity to respond to Ofwat's consultations on the Market Architecture Code (MAC) and the Wholesale Retail Code (WRC).
- 1.3 CCWater has been involved throughout the Open Water market design process. We have attended workshops looking at the early design of the Market Architecture Plans (MAP) and provided responses to numerous consultations from both Ofwat and Defra on the rules governing the new market. In addition a representative from CCWater attends meetings of the Interim Codes Panel (ICP).
- 1.4 We have addressed issues of concern as they have arisen through the evolution of the market documents and, as a result, are generally content with the Codes in their current form. However, there remain issues that we would like to raise for Ofwat's consideration in response to these consultations.

2. CCWater's Complaint Handling Role

- 2.1 While we note that Ofwat has stated that the Customer Protection Code of Practice (CPCoP) is out of the scope of the current consultation, we feel it is important that all market architecture documents are assessed together. Part 1 of the WRC (1.10) specifically states that the WRC and CPCoP should be read together; it is therefore important that they agree.
- 2.2 CCWater's complaint handling role is established in the Water Industry Act 1991 (WIA91), as amended, the WRC and the licence application. The CPCoP, as currently drafted, is out of step with the rest of the market architecture documents and should be revised to mention CCWater's statutory powers to investigate complaints against licensed water and sewerage companies.
- 2.3 Following Ofwat's consultation on licensing and policy issues in June 2015, the Operational Terms of the WRC were amended to clarify retailers' responsibility to provide customers with information about CCWater's role - in particular customers' right to refer complaints. In response to CCWater's representations, the guidance accompanying the WSSL licence application form was also amended to expand on the requirement for companies to "work positively" with CCWater. The amendment explains our powers to investigate complaints under section 29 of the WIA91.

- 2.4 CCWater intends to collect data on companies' complaint handling performance that will assist Ofwat with its market monitoring role. Our advice to customers and to retailers will also help reduce potential complaint backlogs relating to customer switches and new market processes. Such complaints are otherwise likely to go direct to Ofwat.
- 2.5 The omission of CCWater's role in the CPCoP creates an inconsistency within the hierarchy of market documents that has the potential to cause confusion for both customers and retailers, and harm the integrity of the market.
- 2.6 Section 10 of the CPCoP sets out the complaint handling process that retailers' should follow. At 10.3.5 we would like to see the following text inserted:

10.3.5 describe the right to refer the complaint to the Consumer Council for Water

The existing text about referral to an ADR scheme should then follow at 10.3.6.

- 2.7 When CCWater raised this proposed change previously Ofwat advised that the CPCoP was final and any change would be subject to a formal change proposal. We would welcome clarification about whether this minor change can be made without having to wait to make a formal code change request.

3. MAC consultation questions

- 3.1 We agree with the proposed amendments to the change proposal process outlined in the MAC consultation. Allowing Ofwat the authority to timetable required urgent or legislative changes is reasonable providing the ICP/Enduring Panel retains oversight and the opportunity to challenge any decision if they feel it necessary. Aligning the process for the WRC with the MAC is also sensible, and we support this proposal.

4. General Comments

- 4.1 The use of the term "supplier" to describe retailers is used in parts of the WRC (i.e. the Interim Supplier Allocation process) and is often used interchangeably with retailer to describe the provider of retail services. We suggest that that the codes could more consistently refer to "retailer" rather than "supplier" to prevent potential confusing among customers about the services that the retailer will be providing.

- 4.2 In our “Open for Business” research of lessons learned from the Scottish market¹ we found that customers lacked awareness of the relationship between wholesalers and retailers, and the responsibilities of each party. The use of the term “supplier” to describe retailers was a source of confusion leading some to believe this indicated responsibility for the water supply network. This confusion was seen as a potential barrier to participation as customers would be less likely to consider switching if there was perceived risk to the water supply.
- 4.3 There needs to be a responsibility on all market participants to communicate effectively the different roles of wholesalers and retailers to customers, and to explain what aspects of service are open to competition.
- 4.4 The hierarchy of market architecture documents contained within both the MAC and WRC consultations is a useful reference tool for understanding which document will have precedence in the event of any dispute. Ofwat should put this on its website along with a description of the process to be followed in the event of any dispute.
- 4.5 We recommend that a single searchable PDF version of all the market codes is created as this would be a useful tool for customers and market participants.
- 4.6 In addition customers have told us that they would value a concise, customer friendly summary of the market codes that sets out clearly the levels of service they should expect in the market - for example the timescales for switching and responding to complaints and enquiries.

5. Enquiries

Please send questions about this consultation to:

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¹ [CCWater - “Open For Business” August 2016](#)