

United Utilities consultation response

Guidance on Ofwat's approach to competition law in the Water and Wastewater sector in England and Wales

United Utilities welcomes the opportunity to provide feedback on the proposed new competition law guidance. We recognise the importance of clear guidance at this juncture ahead of non-household market opening. This guidance, alongside a raising of the profile of competition law and the responsibilities of companies, has brought appropriate focus to this topic. For the effective functioning of the market retailers must have confidence that they are competing on a level playing field. The content of the guidance appears, in our view, to provide sufficient detail without being too complex. It would be extremely difficult and inadvisable for this guidance to seek to provide a detailed guide to all aspects of competition law.

We consider that it would be helpful to make a clear statement up front about the purpose of the guidance. This should make explicit that it is the responsibility of companies to decide on the appropriate steps they may need to ensure compliance with competition law, that the guidance provides no indemnity from non-compliance and that ultimately it will be companies and the directors of those companies to be responsible for ensuring that the mitigation they deem necessary is in place. It should be made clear that this guidance is not legal advice and should not be taken as such. Whilst this is covered within the text of the guidance we feel that this is important to flag at the start of the guidance to ensure that casual readers do not interpret it as a manual for companies to follow to ensure compliance.

This guidance and wider messages on competition compliance have focussed on the enforcement and the investigatory powers of Ofwat. This is understandable as it looks to make certain companies are appropriately motivated to ensure they are creating the appropriate culture to facilitate a level playing field. We do not suggest that this focus be diminished, however we would welcome any information in terms of horizon scanning that can be provided to guide our continuing compliance activities. This sharing of information across the sector would support the minimisation of a recurrence of the same issue across different companies. In addition having real examples of issues helps companies make this issue real for those employees in a similar position, bringing home the importance of making sure a level playing field is maintained.