

## Ofwat Consultation on monitoring of the business retail market

### Business Stream response

Thank you for giving Business Stream the opportunity to respond to your consultation on monitoring the business retail market, please find our responses below.

#### Consultation questions

#### **Q1 Are there any other objectives that market monitoring could or should fulfil in addition to those mentioned in section 2.3?**

Broadly speaking, we agree with the objectives set out in section 2.3. However, there are two aspects to the proposed monitoring framework that we think need further clarification:

- Although the appendices state which aspect of performance each data item relates to, it is not clear how these will be used to actually measure performance. The consultation does note that at this stage it is difficult to be precise about this, which is certainly true, but at the same time we would like to understand more about how Ofwat plans to analyse the data items listed and how that will fit into the overall monitoring framework.
- Monitoring of the market will be undertaken by a number of different bodies. MOSL has a number of responsibilities relating to market performance (as set out in CSD0002), while CC Water has a well-established role in monitoring complaints. Given that Ofwat plans to use a number of the MOSL reports itself, it would be helpful to understand how they view overlaps in responsibilities and how they will avoid duplicating obligations on participants. CC Water meanwhile will retain a keen interest in understanding customers' experiences of the market and the level of complaints, so again it would be good to understand how Ofwat sees its own monitoring interacting with that.

We also think that Ofwat's market monitoring should be more focused on those aspects of the market that have no self-regulating ability. If a customer receives poor retail service, then they have the ability to punish the retailer responsible by switching their business to another supplier – this is of course the fundamental point of introducing competition. However, if a retailer receives poor service from a wholesaler then they have no option but to keep dealing with them if they want to carry on supplying their customers.

This highlights a second point: if a customer receives poor service, then this could be due to the performance of either the retailer or the wholesaler. While retailers are the contact point for the customer there are a number of situations where a negative customer experience could be a result of operational failures and/or a Wholesaler not meeting its Service Level Agreement with the Retailer. While some metrics in Appendix 1 and 2 will highlight when elements of the market are not working we would like more clarity as to how these metrics will be applied to judge why things have gone wrong. In other words, there is a need to identify whether the failure is caused by the retailer or the wholesaler or by the overall market arrangements.

The proposed monitoring, if not expanded to include reporting related to wholesalers, will not be able to establish precisely where in the value chain a potential issue is and regulators will therefore be unable to effectively address these issues.

**Q2 Do you agree with the issues we propose to monitor? What issues do you think should be monitored particularly closely?**

Alongside the three areas of performance set out in section 2.3, we believe that there needs to be an additional category of market architecture, to monitor whether the processes and policies that have been put in place allow for smooth and efficient interactions between all participants. While a great deal of work has gone into developing the market documents, it will not be possible to predict how they will work in practice until the market goes live. In addition, much will depend on the policies set by the wholesalers, many of which are only just starting to be made clear through the wholesale schemes of charges. These will be one of the most significant factors influencing the success or otherwise of the market and it is therefore important that it be properly monitored.

In addition, we are not sure why the proposed monitoring arrangements are restricted to data collected from the market operator and from retailers. To gain an accurate picture of whether the market is working or not, we think that Ofwat should also look to obtain data from wholesalers and also from customers themselves. Good wholesaler operational performance is crucial to the success of the market, and we therefore propose the Peer Comparison of Wholesaler Performance should be added to the list of items requested from the market operator, and that an additional list of items should be developed for wholesalers to provide. In relation to customers, overall customer satisfaction should be one of the most important metrics of market success, and a regular survey should be able to provide this data.

Finally, we believe that Ofwat should tailor its monitoring to reflect the concerns that have been raised by market participants over what they perceive as the greatest risks to successful market opening. We have previously highlighted four main areas of risk:

- That inconsistency in wholesaler policies and charges will result in a series of regional markets rather than a single national one.
- That there will not be a level playing field for new entrants in comparison to the associated retail businesses of the incumbent wholesalers.
- That the lack of margin will largely exclude customers of certain segments and in certain regions from the market.
- That issues with data quality will hinder customers' ability to switch and their overall experience of the market.

By analysing data on wholesaler performance in the way we have suggested above, Ofwat would be able to monitor whether the first two issues indicate any cause for concern. In terms of the third, the data on customer switching (categorised by segment and by region), combined with the margin data from PR16, should be largely sufficient to determine whether this is a significant issue for the market. Monitoring use of the data correction transactions will help to identify the extent of data quality issues, and this is also likely to be evident through complaints from customers and from market participants.

**Q3 Do you agree with the type and format of the information we are planning to obtain from the market operator? We welcome views on:**

- **the choice of metrics, their usefulness for our assessment of the market and ways of ensuring they are as useful as possible; and**
- **the availability of that information, the opportunities and limitations of obtaining information from the market operator, including sources that could supplement it**

As a general point, we think that Ofwat should look to source its information from the market operator as much as possible. There are two reasons for this:

- It ensures that the data is collected in a completely consistent manner.
- It reduces the regulatory burden on market participants, in line with Ofwat's principle of proportionate regulation.

There are of course some types of information that can only be provided by participants, but we think that two items listed in Appendix 2 would be better sourced from the MO, specifically:

- **Retailers operating in both English and Scottish markets.** The market operator is ideally placed to provide this information for England and Wales, while an arrangement could be made with the WICS and the CMA in Scotland to provide data on the Scottish market. Importantly, the MO could also provide full detail on which areas of England retailers are active in – as section 3.3 notes, confirming that active competition is taking place in all regions is at least as important as understanding the extent of cross-border competition.
- **Consumption data.** Again, the MO would be best placed to provide comprehensive and consistent data on the level of consumption across the market, and whether reductions are taking place in different segments or regions.

In relation to the data items listed in Appendix 1, we think that all of these will provide Ofwat with useful information, but they vary widely in terms of how they are likely to be used, and what they would be used for. A number of them – such as building water status – seem more related to long-term issues to do with resilience and the overall impact of economic development on the industry. This is valuable data, which would not have been readily available without the market, but has less bearing on the question of whether the market is successfully delivering on its objectives.

The listed data items seem to divide broadly into three types:

- Informational data (eg building water) – this does not indicate anything “right” or “wrong”, but helps to develop the bigger picture.
- Binary measures (eg Interim supplier status) – items that allow Ofwat to satisfy itself that there is no cause for concern (and to take action if there is). For example, so

long as an adequate number of retailers are registered for interim supply then there is little need for further analysis, but if it drops below that level, then this may need to be addressed as a priority.

- Success metrics (eg switching levels) – measures which are the clearest indicators of market success and where trends will need to be carefully analysed to understand their implications.

We think it would be helpful to provide some categorisation of the items along these lines, and also to give an indication of prioritisation – clearly some measures will be much more important than others and participants would benefit from understanding what Ofwat will focus most closely on.

One additional metric that we recommend including in Appendix 1 is the number of transfer cancellations that occur in the market. This would be a good indicator of the ease of switching for customers, and monitoring the comparative rates of cancellation between different retailers would help to highlight any issues that were occurring in this process.

**Q4 What information will retailers hold that will help us achieve our monitoring objectives? We welcome views on:**

- the choice of metrics, their usefulness for our assessment of the market and ways of ensuring they are as useful as possible; and
- the availability of that information, including where else we could obtain the information that we would like retailers to provide;
- the best way for retailers to share that information with us (eg most appropriate format);
- whether retailers will be able to segment information in the way we require; and
- the best way to make sure the regulatory burden is proportionate, especially for smaller retailers

Please see our answers to Q3 (in relation to the metrics that should be used, the availability of information and the proportionality of these reporting obligations) and Q7 (in relation to the question of segmentation).

**Q5 We would welcome views on our proposal for informal monitoring, any other tools we could use, and how we might make the best use of the information available.**

Informal monitoring of news and social media can undoubtedly provide additional information about how the retail market is working. However, each of the potential platforms have their own issues:

- displaying these (in particular social media feeds) in real time with no vetting of the fairness or validity of statements may detract from actual issues. On the other hand, applying vetting raises questions over who will do this, and whether it could run the risk of appearing to show favouritism (if it included praise or criticism of a particular participant).

- a portal for customers, their representatives and market participants to log concerns will only be useful in the long term if there is clear evidence that issues raised via the portal are investigated and (if necessary) acted upon in a timely manner. We doubt that this will be effective long term as merely a facilitator of informal exchanges of views

Overall, we feel that the potential downsides to using the Open Water website as a platform outweigh any additional insights it would provide. We think that more reliable sources of information are likely to be industry associations and trade bodies, who will no doubt receive feedback from a variety of their members, and will therefore be in a good position to provide a more rounded view of the market is developing and what key issues have emerged. It would be sensible to have discussions with the key groups to look at what the most useful method for getting feedback would be. The most important bodies to contact would be the FSB, the CBI, the IoD and the MEUC.

**Q6 We would welcome views on how best we could involve third party intermediaries in our monitoring framework, which information would be best to collect and how we could obtain it.**

TPIs have been the subject of much scrutiny in other utility markets, and as a result other regulators have already given much thought as to the issues that can arise with them, and how these can be monitored. We therefore think that a sensible approach would be to identify best practice from other industries, and make use of this as appropriate for the water market.

**Q7 We would welcome views on how best to collect useful information on market segments. In particular, we would welcome views on challenges to deriving the market segment information we envisage and ways of overcoming them.**

We agree that the three segments listed are all important ones to monitor, though there are a number of points to note in relation to them:

**Customer type**

Segmenting customers by business size (whether measured by revenue or employee numbers) will be difficult due to the challenges for retailers in collecting this information. Retailers are unlikely to possess this data for all customers they serve at the opening of the market. It will therefore only be built up over time, meaning that there will not be a complete dataset to make meaningful comparisons on. Retailers are also only likely to collect this information at the point where they contract with customers, as it is not practical for them to then keep it permanently updated as customers shrink and grow. We therefore do not think that there will be a reliable dataset available based on this measure and would recommend that customer segmentation is based on consumption volumes instead.

**Wholesaler area**

We agree that it is crucial to monitor differences in how the market develops in different regions, and this underlines the need to collect data on wholesaler performance, which will provide context and insight into why these differences might be emerging.

## Retailer type

The difference between retailers starting with an existing customer base and those without one is an important distinction, but there are other segments that it is also important to monitor, in particular:

- Incumbent retailers that are part of the same group as a wholesaler are significantly different from those (such as ourselves and Castle Water) who have purchased the customer base from an exiting wholesaler, as there is the potential for incumbents to receive favourable treatment from the parent, whether deliberately or accidentally. It is essential that there is careful monitoring of this segment if Ofwat is to satisfy itself that a level playing field genuinely exists in the market.
- New entrants with an explicitly different strategy: Waterscan has already announced its plan to assist large customers with self-supply, with the first one already applying for a licence. These should be treated as a distinct group from new entrants looking to supply customers in a more traditional manner.
- New entrants from groups with that hold utility licences, such as energy and telecoms (for example Clear Business Water). Identifying these would help with the objectives noted in Appendix 2 relating to tracking the evolution of the market.

**Q8 How can we best make sure that relevant information is shared in a transparent and useful manner, whilst also being mindful of commercial and personal confidentiality and without prejudice to competition law?**

No comments.