

Response to Monitoring the business retail market from April 2017: a consultation by Ofwat

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Introduction

The Consumer Futures Unit (the CFU) sits within Citizens Advice Scotland (CAS). The CFU is the Scottish consumer representative body in the regulated markets of energy, post and water. It uses compelling evidence, expert analysis and research to put the interests of domestic and non-domestic consumers in Scotland at the heart of policy-making and market behaviour. It develops practical policy solutions that lead to consumers being informed, engaged and protected.

Our aim within the water industry is to challenge and shape policy to ensure it reflects the needs of consumers. CAS is a statutory consultee in relation to a number of policy and practice areas in the water industry, including the Deemed Contract Scheme. We welcome the opportunity to respond to Ofwat's consultation.

General Points

1. The CFU welcomes the provisions set out within the consultation 'Monitoring the business retail market from April 2017'. We believe that they will deliver a robust framework of tools that will ensure protection for consumers by driving accountable and transparent practices by industry stakeholders. Ultimately, this has the potential to raise consumers' awareness of choice, and their experience of engaging with and receiving services from the water retail market from April 2017.
2. We believe that the approach taken by Ofwat, which places greater emphasis on ex-post regulation based on overarching rules and principles, will drive greater autonomy and ownership of customer relations and good practices by service providers, and hence, will deliver better consumer outcomes in terms of awareness of choice, benefits and services. In particular, we are of the view that evidence-based policy and regulation will reassure consumers that the market is listening and responding to their concerns.
3. Market benefits were slow to reach SMEs and sole traders in Scotland after the market opened in 2008; many were not aware of choice until after 2012¹. Therefore, we strongly welcome Ofwat's acknowledgement of low market engagement from some groups of consumers and the need to target these appropriately to ensure they also have access to the benefits the market has to offer.

¹ Research carried out by Consumer Focus Scotland during 2012 evidenced very low levels of awareness of competition and choice among SMEs. Further research carried out by Citizens Advice and Citizens Advice Scotland during 2015 evidenced a significant increase in awareness among SMEs of competition and choice in Scotland.

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

4. The monitoring framework should include engaging with seldom heard from groups of consumers such as SMEs and sole traders. This will highlight areas of low performance, where more needs to be done to increase market penetration to bring about consumer benefit.
5. In order to strengthen the focus on consumer outcomes we suggest adding additional hallmarks or indicators to those set out within the consultation document under section 2.3. These could include:
 - a. Awareness of choice and the ability to switch is evident across a wide range of consumer segments, including smaller organisations.
 - b. Information provided to consumers about switching, services and benefits, as well as how the market operates, is available, simple, clear, accurate and useful.
 - c. When things go wrong, clear redress procedures with timescales are provided by service providers to consumers.
 - d. There is evidence of how consumer input influences outcomes by way of providing the right goods and services.
6. More generally, the experience of retail competition by some Scottish consumers has been marred by incorrect customer information e.g. size of meter, existing in the market that has affected how they have been engaged and billed by service providers. This can take a long time to emerge and put right². A robust review process of customer data to ensure it is accurate will support better consumer outcomes.
7. The complexity of the Market Code and the fact that it is largely technical in nature, does not necessarily lend itself to being accessible or understood by persons from out with the industry. However, consumers need to understand the rules that are applied to the services they receive, particularly when raising an issue with their service provider. Therefore the code should be accessible and be written in Plain English to ensure it is clearly understood by all.
8. Case evidence³ from micro-businesses in Scotland strongly suggest that universal levies such as flat rate late payment charges or legal action costs, can be disproportionate and detrimental to smaller organisations, which lack the financial resilience to absorb them compared to larger organisations. Knowledge and insight of an organisation's size and status will hopefully encourage the development of a package of reasonable and realistic fixed charges. We recommend that the monitoring framework includes proportionate flat rate charges.

² Issue first raised by licensed providers at Citizens Advice Scotland SME event August 2015

³ Issues raised by In Edinburgh Court Advisory Service during 2015 concerning debt recovery practices within the non-domestic market

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

9. Whilst a service provider may be compliant with conditions set out within the Market Code, this does not always necessarily mean that aspects of discretionary service provision are delivered well. Poorly exercised discretion and lack of insight can result in consumer detriment and hence, complaints. We therefore welcome a framework that uses redress data to identify where greater ownership of consumer experiences by service providers can drive more positive consumer outcomes.

Q3. Do you agree with the type and format of the information we are planning to obtain from the market operator?

We have no comments.

Q4. What information will retailers hold that will help us achieve our monitoring objectives?

We have no comments.

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.

We have no comments.

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.

We have no comments.

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.

10. Markets comprising of smaller organisations and sole traders are difficult to engage with; characteristics of these organisations are similar to those of households, as is alluded to within the consultation document. We have experienced the same difficulty issue in Scotland and have successfully engaged in partnership working with organisations such as the Federation for Small Businesses. Additionally, engagement with trade associations may support the development of a more comprehensive network that engages directly with sole traders such as plumbers, builders, etc.

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?

We have no comments.

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