

By email to: MarketMonitoringConsultation@ofwat.gsi.gov.uk

Market Monitoring Consultation
Retail Market Opening Programme
Ofwat
Centre City Tower
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10 February 2017

Dear Retail Market Opening Team,

We welcome the opportunity to comment on the proposed market monitoring framework for the retail market. We believe that an inquisitive and flexible monitoring framework is key to driving efficiency in the market.

We broadly support the proposals made in the consultation and make a number of observations that we believe will help to ensure the success of the market. In particular:

- Taking a soft launch approach to market monitoring and regulatory intervention
- Market monitoring should evolve with the market as it matures
- Either market participants should give MOSL permission to share information with Ofwat or the market operator should have an obligation in the codes to share information
- Consideration should be given to the information that is not captured in market performance framework

We look forward to working in collaboration with Ofwat and the wider industry in monitoring the market.

Kind regards



Ben Jeffs

Chief Executive Officer

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MOSL's response to Monitoring the business retail market from April 2017: a consultation

Summary:

We welcome this opportunity to comment on the consultation for monitoring the business retail market. We agree that Ofwat has a role in assessing the market structure; the conduct of market participants; and the customer experience and quality of service.

We support Ofwat's commitment to the customer and better regulation and agree that Ofwat should focus on the issues that pose the greatest risk of harm or detriment to customers. We also believe it is right that Ofwat's approach reflects better regulation principles including proportionality, accountability, consistency, targeting and transparency.

We welcome Ofwat's desire to strike a balance between formal decisions that establish precedents in the sector; and informal action that resolves concerns effectively, quickly and proportionately for customers and market participants. Building and maintaining trust and transparency between participants and the regulator will be an important cornerstone in striking this balance.

We broadly support the proposals made in the consultation document and would make a number of observations, which we believe will help drive the effectiveness and efficiency of the market. These, in turn, will help to build trust and confidence in water. In particular:

- MOSL will be working with members to try and make regulatory intervention a last resort.
- As part of our market monitoring framework we will visualise the market in near real time to allow market participants to self-select their behaviour and performance.
- We believe it is appropriate for Ofwat to have access to the same data visualisation tools that market participants have behind our firewall.
- The initial period of time after market opening should be used for monitoring the market, rather than intervening, to help to establish a self-regulating market.
- Market monitoring should evolve as the market matures in a proactive and dynamic manner.

We would encourage Ofwat to clarify how the output of its market monitoring framework will be shared/communicated to relevant stakeholders e.g. the Panel, the Performance Committee, MOSL and market participants.

Significantly, Ofwat has no direct jurisdiction over the Market Operator. MOSL, the Panel and its committees are bound by the confidentiality provisions of the MAC. Consequently, MOSL will either need collective permission from market participants to share much of the specific performance information and data noted by Ofwat or an obligation under the codes to do so upon the request of the Authority.

Responses to questions

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

We believe that the objectives described in the consultation document are suitable in monitoring the success of the market.

The period of time after the market opens is critical to the development of the self-regulation of the market. We believe that there should be an initial restraint on intervention in the market and a focus on monitoring to allow the market and market processes to mature.

We agree that interventions should only take place to improve the effectiveness of competition and to protect customers' interests. Making regulatory intervention a last resort will help to foster and facilitate a self-regulating market.

We would expect the monitoring framework to evolve with the market as it matures to ensure that it remains appropriately focused and cannot be gamed.

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

We agree with the issues proposed by Ofwat to monitor and would encourage Ofwat to avoid duplication by considering areas which are not identified in the performance framework of the codes, such as:

- The number of Third Party Intermediaries (TPIs);
- Services provided by market participants;
- Customer complaints data (including resolution);
- Compliance with Ofwat's Customer Protection Code of Practice;
- Assistance for vulnerable or sensitive customers;
- Customers enquiring about alternative offers;
- Customer satisfaction and trust; and
- Data on tariff levels.

We would also encourage Ofwat to consider how bi-lateral interactions can be monitored and the outcomes used to help drive market performance. How Wholesalers and Retailers co-ordinate operational activities is core to the performance of the market. The market performance framework includes a representative sample of bi-lateral processes which, if looked at out of context, could lead to misinterpretations about the actual state and performance of the market.

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

Interaction with the Panel: The Panel will receive regular updates on the market from MOSL's Performance Committee. We encourage Ofwat to engage fully with the Panel to avoid any duplication. We believe the Market Auditor's report will provide assurance to Ofwat on market processes. This is an opportunity to promote self-regulation of the market which we strongly advocate. Regulatory intervention should be a last resort.

Sharing information. MOSL, the Panel and its committees are bound by the confidentiality provisions of the MAC. Provisions do exist for sharing peer comparison information, but this is limited to be used for the purpose of the implementation or performance of the MAC.

There is currently no obligation under the Market Arrangement Codes or the Wholesale Contract that oblige the Market Operator to share information with the Authority. However, we do recognise that Ofwat has concurrent competition law powers to request information as part of an investigation.

As such, market participants would need to collectively give MOSL the authority to share aggregated market information with Ofwat as part of the market monitoring framework. Alternatively, a code change could be raised to give MOSL the obligation to share information with Ofwat when requested.

Specific comments on the requested information. We have provided specific feedback to the metrics listed in Appendix 1, of the consultation in the appendix, to this response. The most notable data item missing from the consultation is cancellation of a transfer - which has been discussed in the erroneous transfer row in the Appendix.

We note that the consultation has primarily focused on data items but there are other measures of data in CMOS, such as transactional data, that will provide valuable insight into the performance of the market.

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

We do not have any comments on question 4.

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 broadly support the use of informal tools to monitor and engage with the market, as it offers access to a wider range of information, which reduces information asymmetry. Information symmetry in the market will be fundamental to the self-regulation of the market, as it allows participants to react to poor performance. Moreover, using informal tools as means to engage will help to build trust and transparency in the market.

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 do not have any comments on question 6.

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 have four specific comments in response to the proposed segmentation:

- There should be some clarity on the definition or methodology of segmenting consumption into high, medium, low etc.;
- It may be more valuable to aggregate SIC codes into categories such as public sector, private sector etc., to compensate for inconsistencies of application of SIC code categorisation;
- Another way to segment the market which may provide valuable insight is the service component profile e.g. water, trade effluent and surface water drainage; and
- Sharing postcode information could infringe on data protection law and MOSL's confidentiality obligations. Consideration should be given to using aggregated data at a regional level.

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 welcome Ofwat's commitment to transparency and acknowledgement that commercial and personal confidentiality must be preserved.

As noted under the response to question 1, MOSL will be undertaking its own market monitoring which will be presented in our data visualisation tool in near real time for market participants and Ofwat to access.

We note Ofwat's suggestion that, in the future, it might be desirable to provide live application programming interface (API) links between data held on CMOS and analysis providers to make sure market information is as up to date and as accessible as possible (similar to live service updates provided on transport sites).

However, we consider it essential to have strong and effective controls in place to manage access to the data and information that comes from CMOS. We have had discussions with Ofwat on this matter and welcome further discussion and input from market participants about how to utilise this technology with the greatest benefit to the market.

Enquiries

Please address any enquiries to this response to:

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Appendix – Market Data from the market operator

Data item (as per Code Support Documents)	Ofwat Rationale	MOSL comments
Supply point identification (SPID) allocation between retailers, and changes thereof	Allows us to identify trends of individual and groups of premises. Allocation of SPIDs between retailers will allow us to determine switching rates and market share.	Retailer ID by SPID can be used to determine market share and this can be used to determine switching rates.
Supply point effective from date	Shows the spread of supply point registrations throughout the year.	It is not clear how this data item will contribute to the state of the market. Would this replicate the information Ofwat receives as part of developer services reporting?
Occupancy status	This will inform us how many vacant premises there are in each wholesaler area. Significant changes year to year or across regions could suggest resilience or demand issues.	No comment
New connection type	This will help us analyse the type of new connections in each wholesaler's area and how this may impact future retailers.	The connection types are "New", "Gap", "Change of use". Coupling this information with the supply point effective from date would provide a more detailed view.
Building water status	This will inform us how many building water sites there are per wholesaler area or within a specific postcode/region. This would help to indicate future demand and also provide insight into areas where new customers are likely to be active.	This data item does not provide much useful detail for indicating future demand. e.g. whether the new customers will be household or non-household or how many.
Volume transfer flag	Provides an indication of the number of retailers dealing with multi-site customers.	This indicates whether a SPID has been through a volume transfer process (i.e. an orderly exit) not that a Retailer deals with multi-site customers.
Date of invoice in dispute	Provides information on disputes between retailers and wholesalers caused by	MOSL does not have sight of debts\payments between Wholesalers and Retailers.

	<p>outstanding debt. Continued disputes suggest the market is not functioning correctly. Insight into which wholesalers and retailers are often in disputes which could need further investigation.</p>	<p>This data item is when a transfer SPID transfer is requested by an incoming Retailer, but the transfer is cancelled by the outgoing Retailer on the grounds of unpaid pre-defined debt. CMOS does not hold this value and it is not visible to the incoming Retailer.</p>
Gap site allocation status	<p>This will allow the monitoring of gap sites. These are potentially 'lost revenue' and in the first few years of market opening (based on the experience in Scotland) we would expect to see the number of these decrease as they are identified as billable customers. As such, this would be important to monitor across each wholesale area/postcode.</p>	<p>This indicates if a Retailer has opted in and can be allocated gap sites as part of the direction to supply process. This list is published on any change in 1 BD.</p> <p>The rationale here can be applied to the new connection type and effective from date data items.</p>
Debt: Total outstanding amount on account	<p>This will allow the monitoring of potential bad debts between wholesalers and retailers and should provide an indication of market efficiency and any potential issues with payment.</p>	<p>MOSL does not have sight of debts\payments between Wholesalers and Retailers, as a data item in the codes this relates to customers trying to switch Retailer but being stopped by their current Retailer as they have a defined debt.</p>
Original due date of invoice	<p>This will provide an indication of how long debts take to be resolved, which is important alongside the measure above.</p>	<p>We do not have sight of this information. CMOS calculates settlement but the transfer of debts and payments is done bilaterally.</p> <p>As above, this data item provides information on the debt between their current Retailer and the customer (if they try and switch).</p>
Erroneous transfer	<p>There are a number of variables for erroneous transfer. These would be used to assess who had triggered the approval/rejection and why across the various retailers and wholesalers. This may identify customer issues,</p>	<p>Erroneous Transfers can only be initiated by the new Retailer and can only be used because the SPID was selected for transfer in error.</p> <p>The data item Cancellation code (D4005) would meet the</p>

	systems issues or business practice issues.	rationale set out here. It is sent to cancel the transfer of a SPID is used by Retailers to specify the cancellation reason.
Customer classification – sensitive customer	This classification identifies sensitive customers, and combined with items such as erroneous transfers, customer type, volume and postcode data would help to identify if there are any specific customers that are at risk.	There is currently no standard definition of a sensitive customer. MOSL is collaborating with a working group to develop a standardised definition.
Public health related site specific arrangements flag	Any sites with plans in place relating to public health issues across the market. Suggests if customers are still being served correctly by the wholesaler. This is important in monitoring compliance with public health issues.	Is Ofwat intending to monitor compliance by cross-checking if sites have been appropriately flagged in CMOS?
Interim supplier allocation status	This is important because if triggered Ofwat would need information on this to ensure minimal disruption to customers.	This data item relates to whether a Retailer has opted in to the Interim Supplier Allocation Process i.e. if the event occurs, they will be on the list to be allocated SPIDs. The List is published on any change in 1 BD. MOSL provides Ofwat with the list of SPIDs as part of the Interim Supplier Process.
Retailer ID by SPID	When a customer switches their retailer ID will change. Tracking these changes will allow us to calculate switching rates.	A T108 time series could show actual switching rates rather than deducing rates from market shares over time periods.
Landlord SPID	This provides an indication of the number of premises that are reliant on a landlord for engagement in the competitive market and cannot directly engage. For a given wholesaler ID (area) this would indicate if there was any tendency to provide such aggregated supply points and restrict customers’ potential ability to engage in the	If a premise is eligible it will be in the market. When there is a landlord SPID, but tenant SPIDs exist for the other service component, then they can engage in the market. If there are no tenant SPIDs then the business cannot engage in the market and the premise SPID is not denoted as a Landlord SPID.

	market. At the retailer level it may help to show if there is a tendency or a shift towards a retailer targeting 'larger grouped customer' premises.	
Interim duty supply flag	This will let Ofwat know the current number of premises in an interim supply situation in any 3-month period. This helps to inform us of customers' engagement with the market.	<p>All SPIDs that are a part of an Interim Supply Process and their allocated Retailers are provided to Ofwat during the process and on completion (CSD 0004).</p> <p>Providing this data item would duplicate the information provided under the codes.</p>
Trade effluent	There are a number of indicators – such as Reception Treatment Indicator, Primary Treatment Indicator, Marine Treatment Indicator, Biological Treatment Indicator, Sludge Treatment Indicator, and Ammonia Treatment Indicator – which could be used to monitor these services and how they are being delivered in various locations.	No comment
Wholesaler charges	There is a wide variety of charging variables across the various activities wholesalers provide. These would allow monitoring of how charges change over time.	<p>All primary and non-primary charges are detailed on Wholesalers Tariff Documents which are published on their website. This would duplicate information that is publically shared.</p> <p>MOSL holds tariff information to calculate primary charges but all other activities are carried out and charged outside of CMOS.</p>
Remote read flag	Provides an indication of how many companies are using remote meter read functionality, improving efficiency and convenience for customers – is a particular wholesale area better for technology than others? Is a particular retailer better for technology than others? Are	<p>This data item is found on meter details and shows if there is the capability for taking remote reads.</p> <p>Meter Read Method on meter reads shows whether this is being utilised.</p>

	they targeting customers using such an offering?	
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