



Market Monitoring Consultation
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Strategy & Regulation

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Dear Sir or Madam

Market Monitoring Consultation

Thank you for the opportunity to comment on this matter.

We believe that it will be important to the success of market monitoring that clear distinction is made between:

- assessing the success of the market as experienced by customers; and
- monitoring the compliance of Market Participants with the statutory and regulatory framework which has been established for the operation of the market.

While both of these are important, we consider the former should be the primary focus for monitoring the success of the market.

Please see our more detailed comments in our response to Question 1, in our responses to the questions, which are attached.

I hope you find our comments useful. Please contact us if you would like to discuss them further.

Yours faithfully

A handwritten signature in black ink that reads "Nick Fincham".

Nick Fincham
Director of Strategy & Regulation

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 it will be important to the success of market monitoring that clear distinction is made between:

- assessing the success of the market as experienced by customers; and
- monitoring the compliance of Market Participants with the statutory and regulatory framework which has been established for the operation of the market.

The first activity we believe should be the focus of market monitoring, to determine what is required in order to measure the success or otherwise of the market from the customers' point of view. We must jointly develop clear measures which reflect the customers' experience of the market and whether their expectations and wishes are being met. We must work together to specify whether the success criteria will be specific measures or assessments, and what is the collection strategy, frequency and reporting methods.

The second activity, compliance monitoring, we believe to be quite distinct from measuring market success and is adequately covered in the existing framework:

- the Market Performance Framework (CSD0002); and
- the Market Performance Committee, operating under the auspices of the Enduring Code Panel.

Where there is any indication of non-compliance emerging from either of these, or from any other source, such as other Market Participants or customers, then we would expect Ofwat to take enforcement action, as described in the recent enforcement approach document.

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

As previously noted, we believe the most important area of focus should be on market performance, particularly on customer outcomes, to which we suggest we add "treating customers fairly" and "quality of the switching process" from the market conduct topic.

We would appreciate your clarification as to when you use the term "customers" you include retailers or is this only a reference to end customer?

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.

We understand the choice of datasets which you propose to collect and look forward to working with you on the evolution of measures which can be used to help understand how the market is

operating. We note that a number of the data items in themselves will just quantify the extent of the situations, without providing insight as to the effectiveness of associated processes. We would point out that we believe that the majority of the information required from CMOS is contained in the current Market Data Set Reports, which would minimise the effort and cost of additional data extraction.

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;
- 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 (e.g. 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.

Our comment above, in answering Question 3, applies here also. With few exceptions the data items will need to be developed into meaningful measures before they will be of use.

We suggest that the derogations process could be extended to ease the regulatory burden for smaller retailers.

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 agree with your proposal to explore the scope of informal monitoring, utilising techniques such as those which can extract useful information from large datasets or streams of data. We do not have any specific suggestions or recommendations regarding these at the moment.

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 believe the initial focus should be to develop a clear understanding of their service offerings. In the longer term we believe that the best way of involving Third Party Intermediaries in your monitoring framework is to have them brought under a regulatory framework and that the provision of information should be a requirement of a mandatory Code of Conduct.

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 feel that this information should best be captured or derived centrally within CMOS.

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?

The provisions of the Competition Act 1998 will clearly apply. We believe that this is an important topic and that a working group under the Code Panel could be set up to consider how to balance the benefits of transparency with the risks and obligations identified.