
New Appointee charging for non-household customers in an area affected by retail exit

15 December 2017

Earlier this year we wrote to new appointment variation providers (NAV's) regarding charges for non-household customers in areas where the undertaker has exited the non-household retail market.

All NAV licences (with the exception of Albion Eco) have a licence condition that requires that they charge no more than the 'Relevant Charge' of the previous incumbent. The Relevant Charge is defined by reference to the previous incumbent's charges scheme. However, since the retail business market opened in England earlier this year, many incumbents exited that market and are therefore no longer required to publish tariffs for non-household customers.

Most, but not all, incumbents that have exited included non-household charges in their charges schemes for 2017/18 and for that reason this issue did not present significant difficulties for most new appointees for the current charging year. As a short term solution, we proposed that for the current charging year, new appointees should set their non-household charges by reference to Condition E of their appointments. This requires that no undue preference is shown to, and that there is no undue discrimination against, any customer or potential customer or between classes of customers. We also said that there were a number of factors that could be taken into account in determining the most relevant comparative charge, and we expected companies to take all relevant factors into account, but that our initial view was that for small non-household customers receiving a domestic supply the most likely comparator would be household charges.

For the charging year 2018/19 and beyond, it will no longer be the case that incumbents that have exited the market will include non-household charges in their charges schemes and a longer term solution is therefore required. We are therefore intending to consult on a potential longer term solution in early 2018. This may result in a licence change for new appointees. We would endeavour to obtain the consent of all new appointees to such a licence change. As with all licence changes by agreement, this would also require a statutory consultation.

One option may be to link requirements for NAVs' non-household retail charges to the default tariff that applies to licensees in the relevant area. These tariffs are published by the acquiring licensees based on the principles set out in the Retail Exit Code (REC). There are also other options that could be considered such as pegging charges to the domestic tariff of the incumbent, at least for small businesses, as we suggested in our initial letter.

A further issue is that retailers may want to compete for NAVs' business customers, or business customers may want to switch to new retailers. Since the business market in England is open, retailers are entitled to do this. As NAVs are not subject to the price control process and therefore do not have a wholesale revenue control, there is no cap on the total revenue they can collect from their wholesale charges. However, they are subject to the wholesale charging rules. These rules set out, among other things, that any prices set must reflect the long-run costs associated with providing the relevant service. Charges must also be compliant with competition law. We need to consider whether these provisions are sufficient or whether further action, such as additional guidance, is needed.

To the extent that the resolution to either of these issues involves licence changes, we will carry out a formal statutory consultation once we have new appointees' agreement to those changes.

In order to advance the process for agreeing any changes that are required, we will hold a workshop with interested parties in January 2018 to explore the issues further. We are proposing to hold it at our London office on either 16 January 2018 from 12-2pm or on 17 January 2018 from 12-2pm.

In the meantime, we would welcome any initial views on the proposals we have outlined above with respect to retail and wholesale charges. You can send your comments to John Kennedy on e-mail. The e-mail address is:

john.kennedy@ofwat.gsi.gov.uk.