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By email to: covidbusinessretailmarket@ofwat.gov.uk

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Dear Georgina and Dan,

Covid-19 and the business retail market – consultation on next steps

Thank you for giving Water Plus the opportunity to respond to the consultation on Covid-19 and the business retail market, next steps.

Our responses to the eighteen consultation questions and four questions for the Industry Codes Panel are set out below. We appreciate the support provided by Ofwat to the non-household retail market through the first four months of the Covid-19 pandemic. However, we have serious concerns about ending this support prematurely given the significant uncertainties that still exist with regards to the ongoing economic impacts of Covid-19 on consumption in the market, and customers' ability to pay. We have therefore detailed our views on how the appropriate level of support for the market can continue to be provided over the coming months, our responses to the consultation questions.

We would be more than happy to discuss these points in more detail, so please do not hesitate to contact me.

Yours sincerely,

Kristin Garrett

Head of Legal and Regulation


A1. What are the benefits and risks associated with implementing different credit support requirements for Retailers who have and have not deferred wholesale charges?

[Redacted]

[Redacted]

A2. What assumptions are you making about the level and speed of return of NHH water consumption?

[Redacted]

[Redacted]

[Redacted]

[Redacted]

A3. Please explain the makeup of your credit support and levels of Unsecured Credit Allowances in the pro-forma on the following page.

[Redacted]

A4. Please tell us how regularly you reduce or increase credit lodged to match falls and rises in the P1 Settlement Report and explain what the associated costs are. Please also clearly state the monthly cost or saving you would expect to incur across your portfolio as a result of maintaining credit equivalent to July P1 vs credit equivalent to March P1 and provide supporting evidence where necessary.





Consultation question 1: Of the three options identified in relation to extending liquidity support, which option do you support and why? Please explain your answer and provide supporting evidence wherever appropriate. Which option is most compatible with furthering customers interests and why?

Option 3 would be our preferred option because it provides the most support to Retailers and therefore minimises the risk to customer disruption. Given Ofwat are already minded to ruling out this option however, our next preferred choice will be Option 2.

Following the imposition of lockdown on 23 March 2020, cash flows were impacted immediately, and payments from customers have continued to trend at c.30% below expected levels throughout the lockdown. Whilst it is still too early to tell what impact the opening of non-essential shops and bars throughout June/July has had, payments from customers have not significantly improved in July from April, May and June levels. Exact reasons are not known for this, but it is likely a combination of: continued hardship experienced by customers that have reopened, many are operating at a reduced capacity while incurring additional costs to maintain appropriate hygiene measures; and we have had reduced debt collection capability to ensure compliance with the changes to the Customer Protection Code of Practice.

So far, we have been able to pay all wholesale charges due by using pre-March cash reserves and making use of the temporary vacant status to reduce the level of wholesale charges. However, cash reserves are now running much lower and it remains to be seen how quickly payments from customers recover, though it is likely to be a long process, given the hardships mentioned above and all economic forecasts.

Our cash position will be adversely impacted for a period of time by: customer bills reducing (on the back of meter reads – see question 7) before wholesale charges 'catch up' at the next settlement run - which could be a number of months later; and as temporary vacancy flags are removed our exposure to increased shortfalls between cash collected and wholesale charges due increases.

Retaining an option to defer a portion of wholesale charges in August, September and October will provide a smoother road to recovery from Covid-19 and mitigate the risk of a Retailer failure.

It is important to recognise that Retailers may have chosen to defer less than the full allowable amounts to date, so as to minimise the associated interest burden (all but one Wholesaler are charging the maximum 5.98%). This does not necessarily mean the Retailer is in a strong liquidity position, allowing them to 'overpay', they are just seeking to reduce subsequent cash outflows.

Consultation question 2: If we were to implement option 2, should we retain the existing capped amount of liquidity support (i.e. 40% of primary charges from March to July), or should this be reduced to a lower level (e.g. 30%, or 25%)? Please explain your answer and provide supporting evidence wherever appropriate.

Our view is that you should maintain the existing 40% level of liquidity support were you to adopt option 2 because April, May and June were potentially some of the easier months for maintaining liquidity. Government support packages were rapidly put in

place and customers were primarily paying bills for consumption that occurred prior to lockdown using cash reserves already on hand. Pre-March cash reserves were also available to use in this period. In coming months, the withdrawal of government support combined with sustained reduction in consumer demand may mean that our customers' ability to pay does not improve at the same rate as the economy reopens.

Consultation question 3: If we were to implement option 2, should we continue to allow Retailers to opt into the scheme at any time up until October 2020? We also welcome stakeholder views on the most appropriate way a cap could be implemented into the current mechanism. Please explain your answer and provide supporting evidence wherever appropriate.

Whilst Water Plus has already opted into the scheme, we see no issues with allowing Retailers that have not currently opted into the scheme to opt in at a later date.

An appropriate way to cap the current mechanism would be to maintain the existing X and Y factor system already in place.

Consultation question 4: Of the three options identified in relation to unwinding liquidity support, which option do you support and why? Please explain your answer and provide supporting evidence wherever appropriate. Which option is most compatible with furthering customers' interests and why?

Option 2 is our preferred option as this can be introduced in a similar way to the existing deferral mechanisms and so creates minimal upheaval or complication whilst also being clear and transparent between Wholesaler and Retailer around the level of payment to expect each month aiding with forecasting. Additionally, adopting option 2 means that existing templates and reporting lines remain in place.

Consultation question 5: Under option 3 do you agree that 33% of deferred wholesale charges should be repaid by end November 2020 and that 66% should be repaid by end January 2021? Please explain your answer and provide supporting evidence wherever appropriate.

We agree with this proposal but would frame it within the terminology of the existing scheme. Doing so makes the requirement for option 3 unnecessary as the backstop is wrapped up in Ofwat's intention to increase the Y factor. For instance, rather than setting a back-stop value of 33% deferrals repaid, which would become another variable in the calculation of wholesale charges, we would propose to achieve the same affect through adjusting the Y factor on a cumulative basis.

This also allows flexibility for Retailers that have taken efforts not to have to pay all wholesale charges to the end of June, but who may face cash flow challenges in future months as wholesale charges increase but cash receipts from customers have not yet recovered. It is foreseeable that while we currently defer no wholesale charges, a small deferral may be necessary in the next quarter.

Consultation question 6: Do you agree that the option for Retailers to use the temporary vacancy flag should be allowed to expire on 31 July 2020? Please explain your answer and provide supporting evidence wherever appropriate.

We do not agree that the option for Retailers to use the temporary vacancy flag should be allowed to expire on the 31st of July 2020. This scheme has represented a critical financial relief for both Retailers and seriously affected customers during the initial months of Covid-19, and we believe that a premature expiry may threaten the positive impact it has delivered to date.

Whilst the majority of business premises are now allowed to re-open, there are still notable examples of businesses that are required to remain closed (for example theatres, music venues and nightclubs). As such, we believe that a uniform closure of the scheme on 31 July does not reflect current government policy. As those customers who are required to remain closed for the longest are likely to be those who are facing the most severe financial consequences of Covid-19, we do not consider it to be the right thing to mark these premises as occupied in the market while they are still closed, and for charges to be reinstated for these premises.

Once premises are open again, we agree that it is right for the customer to be expected to pay for their water and sewerage services. Indeed, Retailers have an incentive to bring premises back in to charge in order to be able to collect charges from these customers. However, whilst there are business premises which remain required to be temporarily closed because of Government restrictions, it is appropriate for them to remain marked as temporarily vacant in the market. Therefore, we believe the correct approach would be to ensure that the temporary vacant status of individual sites continue to be reviewed as the Government restrictions and advice evolves. We believe the guidance already put in place by Ofwat and MOSL requiring Retailers to gather and provide evidence for their use of the temporary vacant flag should provide the assurance necessary to ensure that the temporary vacant flag is not incorrectly used. If there are any instances of the flag being used inappropriately, we believe it would be more appropriate to take targeted action against the relevant parties rather than to remove the temporary vacant scheme completely, to the detriment of customers and Retailers as a whole.

This approach would also be better suited to the constantly evolving global pandemic, where there is not a clear 'trajectory' of the coronavirus. As already evidenced by the emergence of 'local lockdowns', it would be unreasonable to assume that Government restrictions will continue to unwind without exception and difficulty. In these circumstances, the need for a temporary vacancy scheme or equivalent remains critical. As the potential for a 'second wave' remains where many businesses may once again be told to close their doors, the removal of the temporary vacancy scheme mechanism would be inappropriate.

In addition, it is important to note that the removal of the temporary vacant status for sites also means that Retailers will be able to engage in debt enforcement activity relating to these sites, provided that a Covid-Repayment Plan is made available to the customer before any debt collection activities are commenced. If a business premises remains closed, any communications relating to a Covid Repayment Plan may go unanswered, leading to debt enforcement activity against customers whose sites remain closed.

Consultation question 7: Do you agree that in the event of (1): reduced consumption, and/or (2) any local lockdowns, Retailers should seek to obtain meter reads to reflect actual consumption in the market (or in the event a meter read cannot be obtained engage with customers to obtain an accurate estimate of consumption (YVE))? Please

explain your answer and provide supporting evidence wherever appropriate. If you do not agree, please set out an alternative proposal.

Whilst we support the principle that Retailers should seek to obtain meter reads (or customer contact) where there is reduced consumption, we believe that the effective delivery of any such requirement will be a significant challenge for trading parties.

In addition to representing a significant cost to Retailers, requiring highly manual engagement for each site affected, it may not always be possible for this to be achieved. We expect that access to many sites will remain fairly limited in the coming months, and even when access is possible there may be delays at individual sites to accommodate social distancing measures.

Since the introduction and enforcement of government measures, Water Plus has seen an approximate 25% drop in the performance of our meter reading providers. Whilst there has been a marginal improvement since the easing of restrictions, we are still observing a high proportion of skip codes on the basis of 'health and safety' indicating that Covid-19 is continuing to cause a high level of access issues. Whilst it is difficult to forecast when performance will return to pre-Covid-19 levels, we do not expect this change to occur in the immediate future.

In a local lockdown scenario, we believe the most appropriate method of dealing with sites that are temporarily closed because of Government restrictions is the continued use of the temporary vacant flag. It is likely that many affected sites will be closed not only to customers but to staff. In these circumstances, it may simply not be possible to get in touch with a customer to obtain a more accurate estimate of consumption.

Consultation question 8: Do you agree that following the expiration of the temporary vacancy flag Retailers will have until the end of September to remove these flags from CMOS? Please explain your answer and provide supporting evidence wherever appropriate.

If the temporary vacant flag is allowed to expire on 31 July, we will endeavour to deliver the removal of temporary vacancy flags from CMOS in the required timeline, however the impact of unwinding Covid-19 related measures cannot be overstated.

We would highlight that the removal of these flags represents a further financial and administrative burden for Retailers, requiring manual intervention and customer contact in many cases.

Due to the complexity of the unwinding process, we expect that there may be some sites that take longer to accurately restore in the market. We believe that many customers will remain unavailable in the short term, which may drive delays to the process.

We have already started to receive challenges from Wholesalers as to the eligibility of certain sites for the temporary vacant flag, which we expect to continue in the coming months. Resolving these disputes accurately and fairly, in the interest of customers, continues to be a priority however will drive additional delays in delivery. Please see our answer to question 12 for further detail.

Consultation question 9: Do you agree that a new MPS should be introduced from 1 October that focusses on the timely removal of all temporary vacancy flags? If so, what are your views about how this standard should be designed? Please explain your answer and provide supporting evidence wherever appropriate.

Whilst we would support the measurement and review of Retailer performance in removing temporary vacancy flags, we believe that the introduction of a full MPS measure would be excessive at this stage.

The introduction of the temporary vacancy flag provided an immediate financial relief in the market which has not only protected customers but also helped strengthen the liquidity of Retailers in the short term. We believe that the implementation of Market Performance Charging in this area would counteract the positive steps made in this area.

In addition to adding unjustifiable financial pressure at such a critical time, we also believe that the implementation of market charging may incentivise more trading parties to simply bulk move customers without the required consideration.

Consultation question 10: Do you agree that an additional MPS (or alternatively an API) should be introduced to monitor the use of YVEs in the market and incentivise the submission of more accurate consumption data? Please explain your answer and provide supporting evidence wherever appropriate.

We recognise the need for improved accuracy in the overall market consumption data, and as such support the development of analysis and market reporting on YVEs. The availability of comparative data between trading parties will provide a strong reputational incentive for trading parties, as well as better equipping these trading parties on where they can improve.

We would not however support the inclusion of YVE data as a full Market Performance Standard, with an associated market penalty, as we do not believe this represents a proportionate response to the challenge.

Consultation question 11: If we were to introduce a financial incentive on YVEs, how could arbitrarily low YVEs entered into CMOS be identified in a proportionate way (for example via one or more simple rules)? If we were to introduce a reputational incentive on the use of YVEs, how could such a reputational incentive be strengthened?

We believe that the introduction of an automatic financial incentive on inaccurate YVEs would not be appropriate for the market, as inaccuracy in this area does not necessarily represent fault on behalf of the trading party.

In our experience, amendments to YVE are either made following consultation with the customer or following a clear and justifiable estimation process using actual consumption data. In either of these circumstances we believe it would not be appropriate to penalise a Retailer acting in good faith with a financial penalty.

Whilst we agree that any trading party acting in bad faith through the introduction of 'arbitrarily low' YVEs should be penalised, we do not believe that an automated

solution would be appropriate. Instead, if such potential activity is discovered it should be investigated and considered by the regulator and market operator.

Consultation question 12: What are your views on how we can better (financially or reputationally) incentivise Wholesalers to work constructively with Retailers during the unwinding of the temporary vacancy flag and to improve the accuracy of data in CMOS?

To deliver an effective unwinding of the temporary vacancy flag, and ensure that the accuracy of data in CMOS is as strong as possible, we believe that there will need to be need to effective communication and collaboration between Retailers and Wholesalers. Whilst Water Plus would be hesitant to support strict financial incentives on behaviours that are inherently hard to assess, i.e. there is no clear metric for 'working constructively' we have identified a few key areas of improvement to the regulatory framework that would better support engagement between trading parties.

Whilst we believe that all trading parties are acting in good faith, one of the key barriers to effective cooperation to date has been the high level of inconsistency between Wholesalers. There has been significant variation between wholesale areas in both procedures followed and to how the existing rules have been applied; for example the calculation of 'normal' pre Covid-19 consumption to assess levels of reduction when applying the eligibility criteria for the temporary vacant flag has been assumed very differently by region. We believe that it will be critical for the regulator to provide further guidance to trading parties on these key issues to reduce this existing friction, and to also ensure that the interests of the customer are better protected.

To safeguard the success of trading party collaboration, we would support a framework that ensure that Wholesalers are working with the Retailers and in turn the customers to progress data corrections and resolve eligibility disputes. This could follow the format of R-MEX, creating a reputational incentive for Wholesalers by providing an additional opportunity to comment (following agreed consistent questions) on the key areas of Wholesaler engagement. These key areas may include:

- How constructive the discussions have been
- Has additional data been shared, such as meter reads, where possible
- Have reasonable SLA's on eligibility disputes be implemented
- Is the impacted customer at the heart of decision making
- Is reasonableness and logic being applied to more complex customers that fall into the 'grey areas' of the guidelines

On the basis that eligibility and the waiver of all charges only applies when the customer consumes 5% or less of their 'usual' consumption, a uniform approach when calculating 'usual' should be implemented. This approach should be a representative timeframe (12 months), which allows consideration of seasonal usage. This also circumvents the risk that customers are not being treated fairly in relation to eligibility if multiple Wholesalers use a different process. For example one Wholesaler is suggesting using a three month timeframe; Nov 2019 – Jan 2020. We do not believe three months is a representative timeframe nor does it take into consideration any seasonal usage. To assess who is and isn't correctly flagged we need to ensure this calculation is accurate, fair and consistent across all sites. There also needs to be

acceptance that one policy cannot accommodate all scenarios in relation to the impact of Covid-19 and overall business restrictions across the customer base and business types.

Consultation question 13: Do you agree with the expectations set out above, which will guide trading parties through the unwinding of the temporary vacancy flag?

We broadly agree that the principles and expectations set out in the consultation document should ensure that the unwinding of the temporary vacancy flag is delivered effectively to protect the interests of the customer and market.

Whilst any additional expectations of Retailers in this area will drive additional cost, we believe that the specific guidance established here is both justified and in line with what Water Plus has already been undertaking. We have already issued communications to customers advising of the options available to them as a result of our Covid-19 measures. All communication and updates are published on our website and are easily accessible, and any direct engagement with our customers on Covid-19 related matters will be stored in an engagement log attached to the customer's account within our billing system.

To ensure our customer's expectations are set in line with market guidelines of using the temporary vacancy flag, a dedicated team of agents has been implemented. This is to enable deeper engagement during eligibility assessment for customers that fall into 'grey areas' of the guidelines. For example, sites marked as temporarily vacant but showing greater than 5% consumption, but where all other criteria were met will require investigative conversations with the customer to obtain demonstrable evidence of working within the guidelines. To ensure we are acting in the best interests of the customer and the market, individual conversations with customers and resource intensive processes are unavoidable. Given the volume of customers that need assistance, the resource burden on Retailers during the 'unwinding' should not be underestimated.

We fully support the principle of trading parties working together to maintain accurate occupancy status for customers and identify sites where there has been consumption despite being marked as temporarily vacant. However we strongly believe that there is a need for an industry-wide set of principles to guide decisions on 'grey areas' for example where there has been consumption over 5% of 'normal consumption' for a site in order to favour the customer and ensure a consistent approach across all wholesale regions. We believe Ofwat and MOSL may have a role to play in facilitating the development of these industry principles. Please see further detail on our proposals for this in our answer to question 12 above.

Consultation question 14: Should Market Performance charges come back into effect from end September 2020 or end October 2020? Please explain your answer and provide supporting evidence wherever appropriate.

Of the two listed options, we would prefer the end of October 2020 however we do not believe that either of the dates suggested represent an appropriate date for the re-introduction of Market Performance charges.

We believe that a longer timeframe will be required to ensure that the MPS charging is both fit for purpose (reflecting actual performance) and does not present as large

a potential threat to the cash flow of trading parties at such a critical time. As Covid-19 has led to a number of operational challenges and resource constraints for trading parties, we expect that there will still be a drop in performance across most standards in the coming months compared to a 'business as usual' position.

We believe that the best way to support the market would be to implement Market Performance Standards over a more reasonable timeframe, which will then be responsive to any further changes e.g. local lockdown.

In addition to the above, we would appreciate further clarity from the regulator as to how the reimplementation of charges will be practically implemented. To give a specific example, MPS charges are incurred on the basis of failing a standard against a specified time 'window'. We would appreciate clarity on whether this 'window' will reset from the date of charge reimplementation, or effectively rollover from the pre-Covid-19 period.

Consultation question 15: Should OPS charges be introduced before MPS charges? Please explain your answer and provide supporting evidence wherever appropriate.

We believe that there is a stronger case for the reintroduction of OPS charges than MPS charges due to the clear and direct impact on customers felt as a result of poor performance.

Consultation question 16: Should non meter reading MPF charges come into effect before meter reading MPF charges? Please explain your answer and provide supporting evidence wherever appropriate.

Whilst we would not support the early re-implementation of any Market Performance Charges at such a critical time, we recognise that there is less justification for further delays to performance charging where a site visit is not necessary. As such would support the non-meter reading MPF charges come into effect before meter reading MPF charges.

Consultation question 17: Note – responses to this question will be shared with MOSL. Of the 3 options identified in relation to credit security requirements, which option do you support and why? Please explain your answer and provide supporting evidence wherever appropriate. Which option is most compatible with furthering customers interests and why?

We agree with Ofwat's view on this matter – of the 3 options, option 2 helps share the risk appropriately between Wholesalers and Retailers. Wholesalers will no longer shoulder the risk of temporary vacants coming back into charge without adequate credit support being in place, but Retailers will benefit from reduced capital lockup where consumption has reduced or customers have been marked as permanently vacant.

We also agree with the proposals in CPW100. Where a Retailer has not opted into the wholesale deferral scheme, and given that the temporary vacant status will soon be removed, the Retailer does not pose an increased credit risk for Wholesalers beyond the risk flagged and accounted for by lodging the appropriate credit support against the current month's P1.

Consultation question 18: Do you agree that the CPCoP does not require amendment in light of the proposals set out in this document? Please explain your answer and provide supporting evidence wherever appropriate.

We do not believe that the proposals set out in this document will require further amendments to the Customer Protection Code of Practice, as these changes will not directly affect the rights or protections between a Retailer and customer. However, it is important to consider the impact of previous amendments to the CPCoP on trading parties. As required by Ofwat, after a period of pausing all enforcement activities, Retailers have had to offer the majority of customers in debt a Covid Repayment Plan. Whilst Retailers have maintained flexibility in how these plans are designed to best support customers, the fact remains that the availability of these schemes will reduce the cash-flow expected in the immediate months. As such, we believe that the continued availability of such plans may impact on the ability of Retailers to repay all wholesale charges back by the 31st of March.

We would also note that whilst the availability of an effective repayment scheme on their water bill will provide relief to customers, it will not resolve all financial troubles. We expect that there may be a number of cases that a customer actively engages with their Retailer and begins a repayment scheme only to then be forced to close due to other financial obligations. In such cases, despite whatever support provided the Retailer will remain in a bad debt position. Whilst we continue to support the availability of this scheme and previous amendments to the CPCoP, we believe that the cash flow impact and increased bad debt risk they have presented must be considered when making further decisions on policy, particularly in relation to the extent of protection provided to Retailers for bad debt over the threshold position previously noted by Ofwat.