

Date: 7 December 2020

Ofwat
Centre City Tower
7 Hill Street
Birmingham
B5 4UA

By e-mail: CPCOPcodechange@ofwat.gov.uk

Dear Sir or Madam

Covid-19 and the business retail market: Proposal to amend a Customer Protection Code Change Proposal – CP0009

Thank you for the opportunity to provide comments on the above consultation

In Appendix 1 we set out our responses to the specific consultation questions.

We hope that you find our comments helpful. Please contact us if you would like further detail.

Yours faithfully



**Sally Mills
Regulatory Director**

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Question 1: Do you think the amended change Proposal will achieve the following policy aims (and if not, what changes would you suggest making to ensure that it does):

a) That those customers adversely affected by Covid-19 are provided with appropriate levels of support and protection.

Yes, we believe that those customers adversely affected by Covid-19 would be provided with appropriate levels of support and protection and that this will achieve this policy aim. This change proposal will ensure enduring, enhanced protection for Non-household (NHH) customers who have been forced to close as a result of Covid-19 restrictions under relevant Government Covid-19 legislation, where premises are not allowed to open for workers, the public or visitors.

Updating the 'Covid-19 Affected Customers' definition will ensure that the intentions behind Ofwat's amendment to the CPCoP made on 1 June 2020 remain in place. Importantly, this means that businesses experiencing the greatest tier lockdown restrictions are provided with continued appropriate levels of financial support and protection. The need for this appropriate level of protection is born out of rising complaint evidence that suggests some Retailers are prepared to take enforcement action against customers who do not adhere to their agreed repayment plans even where they are closed under government restriction.

b) Customers who are able to pay should be incentivized to pay in a timely manner.

Yes, we believe customers who are able to pay should be incentivized to pay in a timely manner and that this will achieve the policy aim after following the proposed changes to the CPCoP in Appendix 1. The reasonable steps suggested will strengthen protections for all customers who have been forced to close as a result of Covid-19 restrictions and then allow Retailers to take further steps to maintain contact with customers on (and continuing to offer) Covid-19 repayment schemes. This will ensure Retailers need to understand NHH customer circumstances and tailor their plans before any kind of debt collection action is pursued.

Since these NHH customer engagement steps are identical to those required in the first Government imposed lockdown a continuation of these measures should not represent a significant difficulty.

c) Retailers should take the necessary steps to differentiate between those customers who genuinely need support and those who should be expected to pay.

Yes, we believe Retailers should take the necessary steps to differentiate between those customers who genuinely need support and those who should be expected to pay. Engaging proactively with any businesses that they are aware may, or definitely will, meet the revised definition will provide much needed financial relief and support where appropriate. A further requirement to display the new definition of 'Covid-19 Affected Customers' in a prominent position on Retailers websites will better advertise the support available. This might also encourage affected NHH customers to make contact with Retailers and provide evidence that their business has been required to close under current government guidelines thus avoiding any NHH customer uncertainty around the support available.

Question 2: In addition, we would welcome the views of respondents on:

a) The costs and associated risks of implementing the amended change proposal within the proposed timeframe;

Regarding the costs and associated risks of implementing the amended change proposal within the proposed timeframe this may have a potential impact on Retailers' existing systems, financial liquidity, and operational and management processes which could attract additional cost and risk. The full extent of these would be Retailer specific. Retailers are still able to benefit from current deferral payment measures which were agreed by the market and continue up until April 2021 to offset some of these.

Although Retailers will be expected to react within three working days of an Ofwat decision to accept this proposal, we believe that many of the costs and associated risks will be minimal as Retailers will be reverting back to measures which were in place three months ago. Retailers will also be able to build on customer good will, demonstrating financial consideration, while at the same time being consistent with Ofwat's previous CPCoP minimum standards of behaviour.

b) The scope and operational impact of the amended change proposal;

Regarding the scope and operational impact of the amended change proposal this will be felt every 14 days by Retailers given this will be the time frequency Government will show consideration to which tiers change across which regions.

Although this will be felt fairly, consistently and clearly, attempting to classify those customers which meet the criteria and the subsequent data quality and communication issues with Covid-19 will be a significant challenge for Retailers.

The variation in dealing with NHH customer support and protection is stark; some Retailers commented in the consultation pack that "they will not pursue late payment interest, threaten disconnection, or initiate enforcement proceedings": while others "are prepared to take enforcement action including for those on repayment plans under a Covid-19 repayment scheme". It is important, therefore, to give scope to customer protections within the CPCoP for those customers adversely affected by Covid-19 closed enforcement orders and ensuring a minimum compliance is maintained.

c) Whether the respondents consider that the proposal is in line with the principles of the code and our statutory duties.

Yes, we consider that the proposal is in line with the principles of the code and our statutory duties in respect of both 4.1.1, 'Retailers shall be fair, transparent and honest; while putting the customer at the heart of their business'; and 4.1.2 'Communication with Non-Household Customers shall be in plain and clear language'. Both principles are clearly met and upheld within this change proposal.

3. Do you have any comments on our proposed implementation date?

Yes, the implementation date of three working days after the date of MOSL's decision, which is expected during the week commencing 14 December is fair and reasonable due to the urgent nature of this change proposal and Covid-19 regional tier implementation already in place. This is also important as in some cases Retailers might be initiating debt enforcement action, without adequately engaging with their customers to fully understand how Covid-19 has had an impact on their trading arrangements.

4. Do you have any other comments on our proposed change to the CPCoP as set out in Appendix 1?

Our comments on the proposed changes to the CPCoP regarding the specific drafting of Appendix 1 are that it seemed to us that the information Retailers are required to publish on their website (and update on a monthly basis) is rather onerous (see last paragraph of Appendix 1). The consultation document does not specify if this is consistent with any existing obligations on Retailers to publish such data or whether this is a completely new requirement; if it is the latter it does seem like it will take some effort to pull together this data and publish it on the Retailer's website. We also consider that sub clause (b) should be clarified to limit the timeframe of the data to be published in the same way as sub clause (d) is. Regardless of this opinion, neither of these points would appear to have any direct concern to ourselves as the Wholesaler.