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Emailed to: CPCOPcodechange@ofwat.gov.uk

09 December 2020

Dear Sir / Madam,

Thank you for providing us with an opportunity to comment on your proposal to further amend the Customer Protection Code of Practice in light of the developing Covid-19 pandemic. Due to the virus' significant impact on the economy, the non-household retail market and individual customers, we recognise the need for support to be available throughout the industry.

Water Plus remains committed to supporting our customers during this difficult time. However, as we have highlighted previously, providing support to customers in the form of extended payment terms is not without significant financial and operational impact on retailers. The Covid-19 pandemic has not only been challenging for customers, but retailers have already witnessed significant financial impacts including reduced cash flows that pose a real threat to the ability of licensees to continue to maintain their businesses. We are therefore concerned that, without any further protections or support for retailers in the short-term, there is a risk of systemic retailer failure in the market.

Given the financial and operational challenges already faced by retailers, capacity for complying with additional operational obligations is severely limited. Any additional obligations on retailers to provide support to customers in the absence of support to retailers being made available, must therefore be weighed carefully against this risk.

Water Plus is committed to doing the right thing for our customers. As a result of this consultation we are undertaking an internal review of our processes to identify whether there is anything more we can do to ensure that all customers are aware of the support available to them, and how to contact us regarding taking up that support. However, we are concerned about the potential for this change to impact on our ability to collect from customers who can pay. There is a risk that the changes proposed in this consultation further increase costs and negatively impact on cash collection for retailers at a time when there is no support in place for retailers who are also being impacted by Covid-19.

We would welcome the opportunity to discuss this with you and your team. Please do get in touch if you would like to discuss further

Yours sincerely,



Kristin Garrett
Head of Legal and Regulation
Water Plus Limited

Appendix 1: Consultation Questions

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.

The amended change proposal would ensure that customers adversely affected by Covid-19 are provided with a consistent level of 'protection' across the market, however it is not clear that this protection would reflect the 'appropriate level'. As we have previously pointed out, the level of support available to customers during this second wave of Covid-19 (and the various national and regional lockdowns) has been significantly lower than previously experienced during the initial lockdown period. This has led to a number of complaints across the industry, as customers understandably do not understand why the same support as available previously (which retailers simply cannot provide without additional industry support) is unavailable. We believe that the 'appropriate level' of protection for customers must be considered, as the current proposals merely reflect a payment deferral which is insufficient in the eyes of many customers, and yet still difficult for retailers to financially and operationally deliver.

We do agree that repayment plans should be put in place for customers struggling to pay as a result of Covid-19. However, this will always be dependent on the relevant customers engaging with us to agree a plan.

We already provide all customers with information regarding repayment plans – via our website, on our bills and in any reminder letters that are sent following missed payments. However, where a customer does not contact us, or we are unable to contact a customer, we will not be able to confirm whether the customer needs support or should be expected to pay. We cannot put in place repayment plans without agreeing them with the customer so, where no contact is made, we must be able to continue down the debt collection path.

As the amended CPCoP does not necessarily provide appropriate support to the customers who need it and instead would potentially drive additional operational costs, we are concerned that the package overall may weaken the retailer position and ultimately reduce the protections available to the customer.

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

There is a risk that the introduction of obligatory additional or more firmly defined processes for retailers may create additional barriers to recovering payment from customers who are able to pay, in a timely manner. Whilst this group of customers is not the intended group for these additional protections, the additional complexities and constraints is likely to make the recovery of charges from customers in general, including those customers who can pay, more difficult.

Whilst we recognise the case for the support of customers adversely financially impacted by Covid-19, the current proposal does not offer any additional avenues or recourse to better enable the pursuit of unaffected customers and as such the package fails against this objective.

As stated above, retailers are unable to put repayment plans in place without agreement from the customer. Where no contact is made despite our attempts to do so, therefore, we must be able to continue with standard debt collection activities. We would encourage Ofwat to publish guidance providing a clear message to customers that, while retailers should engage with them to agree an appropriate repayment plan if it is needed, where the customer can pay, they should and retailers may carry out enforcement activity in this situation.

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

The amended change proposal does ensure that retailers take certain steps 'to differentiate and categorise customers based on the information available. However, our concern is that the specific obligations that the change imposes are both arduous and inefficient, going significantly further than what we would define as 'necessary', without always achieving the desired aim.

As stated in response to Part (a), we already provide all customers with information regarding repayment plans – via our website, on our bills (to confirm) and in any reminder letters that are sent following missed payments. Following failure to make payments under an agreed payment plan, we contact the customer directly, asking them to get in touch with us regarding payment. However, where a customer does not contact us, or we are unable to contact a customer, we will not be able to confirm whether the customer needs support or should be expected to pay.

We cannot put in place repayment plans without agreeing them with the customer so, where no contact is made, we must be able to continue down the debt collection path.

We believe that it is reasonable to expect some element of proactivity from customers who are truly experiencing financial difficulties, and that Ofwat should consider this when defining the 'necessary steps.' Customers are more aware of their individual circumstances than retailers will be, and the priority for retailers should instead be ensuring that the appropriate support is both available and communicated to the customer base in general.

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;

The costs and risks of implementing this change will depend in large part on the interpretation of the requirement to take 'reasonable steps to engage'. As detailed above, our processes already include provision of information to customers regarding repayment plans. We also ask customers to get in touch with us if they miss payments under a repayment plan, before we proceed down the debt collection path.

As a result of this consultation, we are undertaking an internal review of our processes to identify whether there is anything more we can add into our processes to increase our confidence that all customers are aware of the support available and how to contact us regarding taking up that support.

However, as noted above there will always be some customers who do not respond to our attempts to contact them. In the absence of any response from the customer, we must be able to continue down the debt collection path to avoid an increase in bad debt.

Publication of information on retailer websites

In relation to publication of information on our website on a monthly basis, Water Plus' Covid-19 repayment plans are offered on equivalent terms to our 'Other' repayment plans. As such, we cannot currently distinguish between 'Covid-19' and 'Other' repayment plans in our system.

It would be costly, and not beneficial for our customers to go back and identify which plans in our system are as a result of Covid. Therefore, we would propose that to meet the requirements in the updated CPCoP, we would assume that all repayment plans put in place from a certain date (say April 2020) are Covid-19 repayment plans, and any put in place before that date would be classed as 'Other.'

We would also like to ensure that there is clarity over what is included in the definition of debt recovery activity for the purposes of reporting on parts (c) and (d) of the new requirements, to ensure reporting is done on a like-for-like basis, and comparison across retailers is possible. We understand that part (c) and (d) of the reporting requirements are referring to customers who have had a repayment plan in place but have come off that plan (i.e. due to failure to make payments). We would also like to confirm our understanding of what is included in debt recovery activity – we are interpreting this to include DCA fees, the application of interest, late payment fees, the issuing of legal proceedings and disconnections. We welcome a further discussion with Ofwat on this in due course.

We do not carry out debt recovery activity against any customer who is on a repayment plan. However, if a customer fails to make repayments due under that plan, debt recovery activity may take place (following on from attempts to contact the customer regarding re-instating the plan).

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

Please see our response to question 2a.

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

We have concerns that the proposal is not clearly aligned with either the principles of the code or Ofwat's statutory duties. As identified above, there is currently significant financial strain within the non-household retail market and the proposal will add additional financial burden to retailers who are already facing the threat of systemic retailer failure.

Whilst the proposal is clearly intended to *protect the interests of consumers* in line with Ofwat's statutory duties, this threat to the health of the market will not only impair the ability of *water supply licensees and sewerage licensees to properly carry out their licensed activities and statutory* but ultimately fail against the objective of protecting customers interest in the event of retailer failure.

Unless further protections and support for retailers is made available in the industry, we consider that the amended change proposal is not in line with Ofwats statutory duties.

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

Whilst we do recognise that for measures in support of customers (or trading parties) to be effective they must be delivered in a timely fashion, we have significant reservations about the proposed implementation date of Mid-December.

As mentioned above, we are undertaking an internal review of our processes to identify whether there is anything more we can add into our processes to increase our confidence that all customers are aware of the support available and how to contact us regarding taking up that support. Should we decide to implement changes, this will be unlikely to be able to be implemented this month. For example, if we were to change the wording on some of our letters this would take up to 2 weeks.

We will be able to publish information on our website relatively quickly. However, as referred to above, we do not currently distinguish between 'Covid' and 'Other' repayment plans in our system, so would need to be able to use reasonable assumptions in order to be ready to implement changes this month.

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

The draft legal text contained within Appendix 1 does appear to deliver the intent of the change proposal. In line with the rest of our response, we remain concerned about the efficacy of this change however we have no further comments on the proposed change at this time.