The voice for water consumers
Llais defnyddwyr dŵr

CCW Response to the Water Services Regulation Authority (Ofwat) – The Business Retail Market: Customer Bad Debt

CCW response **September 2021**

1. Introduction

1.1 The Consumer Council for Water (CCW) is the independent voice for water consumers in England and Wales. Since 2005, we have helped thousands of consumers resolve complaints against their water company, while providing free advice and support. All of our work is informed by extensive research, which we use to champion the interests of consumers and influence water companies, retailers, governments and regulators.

1.2 We welcome the opportunity to respond to the consultation on the proposals to address customer bad debt arising from the COVID-19 pandemic. However, as well as responding to the specific areas that Ofwat is seeking views on, we also take the opportunity to comment on the decisions made that will have the largest impact on business customers.

2. General comments

2.1 In our response to the previous consultation on customer bad debt, we agreed that there needs to be a sharing mechanism where costs exceed the 2% threshold, but the right balance needs to be struck. Customers should not be required to bear an undue share, especially as so many continue to struggle financially due to the impact of the COVID-19 pandemic. We are, therefore, disappointed at the decision that customers should bear 75% of excess bad debt costs. We urge Ofwat to implement a more equitable solution which shares the burden across customers, retailers, and wholesalers.

2.2 We are concerned at the justification for the 75:25 sharing factor, specifically regarding the undue emphasis that has been placed on simplicity. While we agree that it may be simpler to apply one threshold, instead of the two originally proposed by Ofwat, the solution also needs to be fair. The principle of simplicity could equally have been satisfied by introducing a 50:50 sharing factor, which would have introduced greater fairness. As it stands, customers will be required to bear an undue burden of costs, which may increase the financial strain on those continuing to financially recover from the pandemic.

2.3 In addition, such a disproportionate weighting sends a message to customers that protection of the market is considered more important than protecting those who are served by it. While systemic retailer failure would be undesirable, any measures taken to minimise the risk of this happening must not fall disproportionately on customers, many of which will not have enjoyed the same protection in their own sectors.

2.4 We agree that retailers should be responsible for managing bad debt, including where there are variations in economic cycles. In normal circumstances, it would be unreasonable to ask wholesalers to bear a share of any bad debt costs. However, the impact on the industry from the COVID-19 pandemic could not have been reasonably anticipated, as Ofwat has acknowledged. In these circumstances, we believe it is reasonable for wholesalers to be sharing some of the burden of excess bad debt costs, given their monopoly position, and access to lower costs of financing. Sharing the burden across the three main market participants is the fairest solution, which would help lessen the financial burden on customers.

3. Response to Consultation Questions

Question 1 – We [Ofwat] are presently minded to 'pool' (the customer portion of) excess bad debt costs across all customers and apply a corresponding uniform uplift to REC price caps. Do you agree with our approach here?

3.1 As Ofwat has decided to uplift the price caps under the Retail Exit Code (REC) to allow retailers to recover bad debt costs, we agree that these should be 'pooled' across all customer groups. The key risk of not pooling costs is that financially vulnerable customers in customer groups 1 & 2 will face higher bills if these end up carrying a larger proportion of the recoverable debt costs. As we outlined in our response to Ofwat's April 2021 consultation, this proposed pooling option should help to ensure that those who have been the hardest hit are protected from having to pay a higher proportion of the cost recovered.

3.2 'Pooling' costs across all customer groups is the fairest way of delivering this particular solution, but we do not believe that the solution itself is the fairest option for customers. We remain concerned that the current approach could mean that it is only customers subject to price caps who will bear the burden of price increases. Whether or not a customer has engaged in the market should not be a relevant factor in whether they bear some of this burden. It is only fair that all customers pay a share of excess bad debt costs, including customers that are charged outside the REC. We urge Ofwat to make this part of its decision making process.

Question 2 – Do you see merit in the idea of not pursuing a true-up?

3.3 It is difficult to say at this point whether or not there is merit in not pursuing a true-up for the reasons that Ofwat has stated in the consultation document. While retailers' latest data shows that the 2% threshold has only marginally been exceeded, this could be subject to change when further data is provided in response to the October 2021 RFI. We consider it would be a risk for Ofwat to substantively rely on evidence provided to date, as we would not want a 'minded to' position to be formed while the picture is still incomplete. We therefore welcome Ofwat's decision to issue another RFI. We also reiterate the point we made in our response to Ofwat's April 2021 consultation that the true effect of the pandemic may not be realised for some time.

3.4 There is another reason why there is merit is delaying the decision to pursuing a true-up, aside from the one Ofwat has identified. Customers are already expected to bear 75% of costs exceeding the threshold, so the impact of this could be worsened if the current estimates of bad debt were revised upwards ahead of the adjustment to the REC taking effect. While we acknowledge that a true-up could also lead to estimates revising downwards (thereby benefiting customers), the opposite is more likely given how long debt recovery processes take to exhaust, and bad debt levels revised. Therefore, a true-up may exacerbate an already inequitable situation for customers.

Question 3 - Do you agree with our approach to the 'true up', in the event we pursue one? Please explain your views.

3.5 As outlined in our response to Ofwat's April 2021 consultation, we support a prescriptive approach in this area to ensure that retailers' reporting is consistent, and that the accuracy of data is optimal. We therefore agree that the proposed approach outlined by Ofwat should largely meet this criteria. However, further scrutiny of retailers' debt recovery processes may also be needed. While it may be legitimate to 'write off' debts from customers who have ceased trading, those who are still solvent may be able to manage payment under an appropriate debt repayment plan. We would not want retailers to true up this debt without at least trying to recover their costs in a reasonable way first. Therefore, Ofwat should require assurance of this in addition to the requirements already stated.

3.6 If Ofwat proceed with implementing a true-up, and this results in bad debt costs increasing, this provides another reason why the 75:25 sharing factor needs to change. As outlined in our answer to Question 2, customers are already being expected to bear an unfair percentage of the burden, so this would be compounded further if the amount were to increase. Many customers have already suffered a poor experience of the market, which could be exacerbated by the inherent unfairness of bearing the bulk of bad debt costs. We therefore urge Ofwat to re-visit the sharing factor to address the concerns we have raised.

Enquiries

Enquiries about this response should be addressed to:

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