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Ofwat
Centre City Tower
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28 February 2022

Eligibility guidance for business customers in the retail market

Dear [Redacted]

Thank you for the opportunity to respond to the statutory consultation on the eligibility guidance for business customers in the retail market, which was published in February 2022.

We are supportive of the move to simplify, consolidate and make clearer the eligibility guidance and feel that the proposed revised guidance achieves this in the majority of cases. We do believe however that there are a range of scenarios relating to the 'extent of premises' principle, shared supplies and mixed-use premises that are complex and would benefit from continued industry dialogue.

We have also taken this opportunity to flag to you some discussions that we have had with Defra on the topic of temporary supplies for developers.

More detail on the points raised above and our answers to the questions included in the consultation document can be seen in the appendix accompanying this letter.

Should you have any questions or comments on our response, please do not hesitate to contact either me or my team.

Yours sincerely,

[Redacted signature block]

Appendix – response to consultation questions

Our answers to the 3 questions raised in the consultation document can be found in the sections below.

1. Do you have any concerns about our proposed changes?

We welcome Ofwat's clarification on the extent of premises and the guidance that properties that are assessed separately for the purposes of council tax and business rates should be treated as separate premises. This is a simple and easily understandable concept.

In practice however, there are a range of scenarios that may be less straightforward, particularly where changes are made to existing arrangements (either physical changes or commercial changes to ownership/occupancy). These could include, for example, where a landlord has (at some time in the past) requested a single supply point and installs a private distribution network downstream to enable water to be used in multiple buildings by multiple tenants; where a property owner splits or subdivides an existing premises without requesting additional connections; or where there are ownership and/or occupancy changes in a mixed-use premises.

As multiple occupancy, shared supplies and private pipes/networks are a complex area, we would encourage Ofwat to engage in a wider review of the appropriate treatment under these circumstances.

2. Is there anything in respect of eligibility for the business retail market that the proposed updated guidance does not cover that you consider would be useful? If so, please provide details of why this would be useful.

We feel that the revised eligibility guidance is sufficiently comprehensive, so have nothing to add.

We acknowledge that Ofwat's position on eligibility for the business retail market is subject to the legislation issued by Defra, however we wanted to highlight one further issue. During 2021, we expressed to Defra through their consultation on the Retail Exit Regulations our view that Temporary Building Supplies ("TBS") would better sit outside of the market as household supplies provided for non-domestic purposes. This would overcome significant challenges flagged by Retailers in managing TBS which result in revenues being lost for Wholesalers and would also address existing negative impacts on customer experience relating to being put into and taken out of the market.

Recognising the current legislative constraints, your revised eligibility guidance rightly retains TBS as being eligible for the business retail market. We will continue to work with Defra on this topic.

3. Are the scenarios provided in the updated guidance comprehensive enough? Are there any missing that would be helpful, or are there some scenarios that are no longer required? If so, please provide details of why you believe this to be the case.

We appreciate the work done by Ofwat in clarifying and detailing the methodology for determining if premises are eligible for the business retail market. Subject to a wider dialogue related to the complex issues associated with mixed-use premises, shared supplies and private pipes/networks, we think that the updated draft version is sufficiently comprehensive and clear. We do not think that any scenarios are missing, nor should any be removed from the list at this stage.