

Everflow Response to Ofwat's CPCoP Call for Input

Summary

We welcome the opportunity to contribute to the ongoing review of the Customer Protection Code of Practice (CPCoP) and acknowledge the importance of a full review at this stage of the market's development.

We note that the trigger for this review is the recurring observation of three sources of market friction:

- Poor quality customer, consumption and asset data;
- Inadequate wholesaler performance; and
- Cumbersome or ineffective interactions between retailers and wholesalers.

We agree with Ofwat that all the above ultimately harm customers' engagement with the market by making it more difficult for customers to compare prices and understand their charges. It can also mean retailers and wholesalers are not effectively able to resolve customer issues when they occur.

We do not believe the CPCoP is particularly relevant to addressing these issues, however. It is designed to lay out the minimum standards for retailers in how they treat their customers, especially while so many customers remain with their default supplier. The CPCoP should not seek to compensate for poor market design (by which we are referring to the market's over-dependence on wholesaler performance). Changes to Code obligations are likely to incur costs to retailers, and in turn their customers, and so any changes which are made should be to address evidenced customer issues.

Our key points on this review are:

1. We should strive to retain the concise nature and original purpose of the CPCoP. It was intended to set out minimum standards – and the market must ensure that it does not become overcomplicated or too far reaching. Competition should act as the primary means of protecting customers wherever possible, and it is important that the CPCoP does not interfere with competition.
2. The Code should include new obligations to raise awareness of the market to enable more effective competition.
3. We should reduce barriers to TPI involvement in the market to help further competition.

We expand on these points through our answers to the consultation questions.

Current requirements and the Principles

1. What views do you have on the adequacy of the current requirements as they stand. Do you think they could or should be strengthened, and if so, do you have views on how they might be amended and any costs that may be incurred by doing so?

The purpose of the CPCoP is to outline a minimum set of standards for retailers in how they treat their customers. We feel that it does this although Ofwat has clearly already identified the areas that could be improved. Further into our response, we have suggested ways in which market awareness could be improved and asked for further clarification and potential rewording of several points.

2. Do you think the General Principles of the CPCoP should be modified to ensure a stronger focus on the interests of customers, and if so, how?

We would like to see an additional principle which states that, wherever possible, the code should seek to support the development of – and avoid interfering with – competition. This is essential, as stronger competition should ultimately reduce the need for regulation and may allow for future simplification of the code.

Levels of protection per customer size or type

3. What views do you have on the CPCoP offering differing levels of protection to customers as described above?

We support keeping provisions in place for microbusinesses until awareness of the market has increased and a higher proportion of microbusiness customers have engaged.

Customers of different sizes and sectors will always have different motivations and needs when engaging with any competitive market, and so naturally may require differing levels of protections as a result. These protections should, wherever possible, refrain from impeding retailers' ability to differentiate and offer competitive services to these customers.

While smaller customers may still require protection, cost savings is one of the most important drivers in these customers' procurement decisions. For as long as there is low financial gain to be made by expending their limited time and energy, smaller customers will remain less likely to engage even if they do become more aware of the market. More stringent requirements in the CPCoP to protect smaller customers will not necessarily allow them to engage more effectively.

4. What views do you have on extending additional protections to particular vulnerable customers, and what extra protections do you think it would be appropriate to consider adding to the CPCoP for these customers?

We would like some additional clarification on what is meant by vulnerable customers in the context of a competitive commercial market. In the domestic market, protections exist for vulnerable customers because there is a genuine risk to vulnerable households through factors such as illness, age and disability, but in a non-household setting these risks do not appear to be as great. We are unclear as to the type of additional protections that may be needed for vulnerable customers in the non-household context.

If additional protections were proposed for particular vulnerable customers, careful thought would also need to be given as to how these interacted with the competitive market. Increasing the regulatory burden around these customers could increase the cost to serve these customers, . If no changes were made to cost to serve allowances, then this could result in these customers being less attractive to serve and prevent them from accessing the benefits of competition.

5. What views do you have on whether the CPCoP should include protections for customers with critical infrastructure?

Protections already exist within the Wholesale Retail Code (WRC) for customers with critical infrastructure, and so we do not think there is a need to include this in CPCoP. If there are changes needed to the protections that already exist, we think they should be made within the WRC.

6. What views do you have on how the CPCoP could be strengthened to deal with emergency events?

We would not like to see additional measures in CPCoP related to emergency planning. Retailers are not all equipped or experienced enough to deal with emergency situations, and most refer customers to the wholesaler in these cases. It would make for a confusing, and potentially negative customer journey to further include obligations on retailers.

Customer experience, awareness and engagement

7. Do you have any thoughts on how the CPCoP could be strengthened to improve customer experience?

The CPCoP is, by design, intended to only outline the minimum standard for interacting with customers. Retailers will choose how they may go over and above the minimum standards to differentiate themselves from the competition, as is in their best interests and this should remain open to competition. There is a risk of interfering with competition by attempts to homogenise the customer experience through regulation to improve the customer experience.

The one area where we do think there is a case for additional regulation is in the area of customer awareness. Customer awareness of the market is clearly necessary for customers to engage and benefit. Where a customer is dissatisfied with their service, they should understand their options and know they are able to switch to receive improved services. We have commented on this further in our response to Q12.

8. Do you think the CPCoP could be strengthened to improve how Retailers provide customers with information relating to the end of their contract and terms of supply?

No, we feel the current provisions are sufficient.

9. Are there any service areas that are missing from the current CPCoP that we could consider for inclusion when updating it?

No, we feel the most essential areas are already included or being considered as part of this review.

10. Is there is scope to update or standardise the existing Letter of Authority arrangements?

We think that the aim of the current LOA arrangements should be to keep it as simple and concise as possible to make it easy for customers to engage. We also suggest that verbal authorisation should be accepted in the same way that verbal contracts are recognised in the code provided that they can be evidenced with audio recordings. Customers would remain protected by the requirement for a cooling off period for any contract, which would still run from the period the relevant information and Terms and Conditions were provided. This would be particularly beneficial for preliminary sales activities such as quoting.

It should be noted that in the commercial energy market, many suppliers accept verbal LOAs to complete various market activities.

11. Should any changes to the CPCoP falling under questions 7 to 10 be differentiated by size or type of customer?

No, we think that current requirements in these areas are fine for all customer sizes. We do not feel there needs to be other customer types included under CPCoP as this would add unnecessary complexity.

12. Do you have any views or suggestions as to whether and how the CPCoP might be used to improve customer awareness and engagement in the market?

Yes. A new obligation under CPCoP to engage deemed customers would be beneficial to raise awareness of the market and make customers aware of their ability to switch. There could be a requirement for all retailers to include a statement on deemed customers' bills to inform them of their out of contract status and of their ability to switch retailer at any time or negotiate a better deal with their current supplier, perhaps with a link to the Open Water website. This statement should be required to be prominently placed on the bill to ensure customers will see it and take notice.

Similar provisions exist in Scotland under the Deemed Scheme at present, as well as in other competitive markets. This would motivate customers to renegotiate their existing agreement or switch retailers, stimulating market activity and improving the customer experience.

Customer credit balances

13. Do you have views on whether and how the implemented changes have impacted your business and delivered on the intended aims. To what extent do you consider that these changes have resulted in a noticeable difference in customer awareness in terms of credit balances or alternative payment options available?

We appreciate that these measures were brought in to improve customer protection where their credit may be at risk but have not seen a significant change in customer behaviour as a result. Most credit on our customer accounts is built when additional reads are submitted, but our customers have actively chosen to switch to us on these terms to make additional cost savings in a market where savings are generally low (especially for lower-consuming customers).

We have seen a natural increase in customer credit refunds since the implementation of the change, which has mostly come from account closures. We believe this means customers are generally happy with the current arrangements and that the changes have improved the customer experience by streamlining the customer journey at point of account closure.

14. Do you consider there are merits of introducing any of the options described above (further protections for smaller customers, ringfencing credit balancing, obliging Retailers to provide annual letter/notifications or obliging Retailers to refund customer credit balances on an annual basis) and why? Please provide your views of possible pros and cons on any options, including any possible implementation challenges, costs, or unintended consequences that Ofwat would need to consider.

We have expanded on each of the options below.

Protections for smaller customers:

Most of our customer base is made up of smaller customers, and we have done extensive work around credit balances since the implementation of the changes to CPCoP last year. Part of this has been to analyse the level of credit accumulating on customers' accounts, and what financial risk this may be to them. In recent work, we have identified that where an account is in credit, it is most likely to be between £10-30. It is a rare exception for customers to build up materially significant sums of credit on their accounts, and we make significant efforts to resolve this with customers. Because of this, we do not feel it would be beneficial to introduce additional protections to smaller customers in this area. If further requirements were to come in, we feel it would be more suitable to include all customers, not just by size.

Ringfencing credit balances:

As a result of the misuse of customer credit balances and the lack of financial resilience in the energy market, Ofgem have done significant work in the domestic energy market to investigate the benefits of ringfencing credit balances, but ultimately realised that this was a complex issue and chose to revise their plans due to the cost which would be passed onto customers.

We have expanded on our views in question 15.

Additional obligation to provide annual notice:

There are already significant requirements within CPCoP to communicate credit balances at a minimum of every three months. We do not feel that additional requirements to provide annual letters or notifications would add much further protection.

Annual refund of credit balances:

We do not support CCW's proposal to annually refund credit balances to customers.

Introducing this proposal into the market would increase costs for customers from a number of perspectives (operational costs, working capital, bad debt, bank charges).

It is not clear that customers are asking for this (given if they want a refund they only have to request it), and increasing costs for all customers at a time when the cost of running a business is at its' highest does not seem in the best interests of UK businesses.

There are several reasons a customer may generate credit on their account, including that customers genuinely choose to maintain a credit balance. Some seasonal users choose to build credit during their off season, for example, to cover higher charges during peak trading. Customer choice should not be ignored or overridden by regulation in a competitive market.

We believe that the requirements that were implemented to CPCoP in 2022 are sufficient to ensure customers are made aware of their account balance, and their option to request a refund at any time. The requirements also ensured that customers are regularly reminded of the risk to their credit should a retailer exit the market. Once customers are aware, it is their choice to manage their accounts how they wish.

The frequency at which bills are recalculated and credit accrued may be seen as a negative, but the existence of credit can actually lessen the effect of corrections to charges or a leak. The introduction of smart metering technology will increase the frequency of reads, reduce leakage, and improve billing to ensure customers are being charged more accurately with fewer recalculations. We feel the focus should be on delivering this to address the root cause of inaccurate billing rather than treating a symptom.

We should add that credit balances are not inherently bad and should not be treated as such. We are concerned that the narrative around this change has been that account credits are bad and only pose a risk to customers. We have responded on several occasions demonstrating how, where customers choose, they are benefitting from better savings and better bill management through advance payment terms, which may result in an account credit.

15. Are there are any other options we could consider or anything we can learn from other sectors or markets on this issue? If so, please provide your views on possible pros and cons on any suggested alternative approaches, including implementation challenges, costs, or unintended consequences that Ofwat would need to consider.

The fundamental concern behind the existence of customers credits is around the financial resilience of the retailer. There are many possible answers to this concern.

Ofgem have carried out significant work in this area for domestic customers, but have now revised their plans on several occasions due to the complexity of the issue and the cost to customers. Their work has stemmed from the volatility in the gas and power markets over the previous few years, which led to multiple suppliers exiting the market at substantial costs.

Currently there is little evidence to suggest such risks in the NHH water market, which in comparison is much more stable and subject to less change. Before any additional solutions are proposed, the market must first seek to understand whether there is a risk, and to what extent this prevails.

Governance and Housekeeping

16. Do you agree that a similar process to the WRC/ MAC changes, should be introduced to replace the current CPCoP change process?

No. the CPCoP is designed to set out minimum standards and compliance is linked to a retailer's licence. As such it should not frequently change.

Changes to the Code should be carefully considered, and we appreciate that this may take time and more detailed investigation. Where rapid change is needed, Ofwat has proven that it can be done – for example during Covid where requirements were added to the Code in rapid response to an unprecedented global issue which was a significant risk to customers and retailers. These cases are few and far between.

Simplifying the CPCoP

17. Do you consider that the current CPCoP has redundant or unnecessarily complex elements? If so, do you have any suggestions to reduce complexity or redundant elements of the CPCoP?

We would support the gradual removal of Covid-19 provisions to simplify the Code as these become less relevant.

18. Do any definitions contained within the CPCoP need updating or amending?

No.

Monitoring and Compliance

19. Do you have any views on whether we could protect customers better by taking further steps to increase our assurance that Retailers are compliant with their obligations as set out in the CPCoP and if so what in your view is the most effective way to do this?

We would suggest that retailers should provide an annual evidenced statement of compliance with the CPCoP alongside their Retail Exit Code compliance statements, or financial resilience statements. This should be board assured.

20. Do you have any views on any areas that have not been considered by this CFI that you believe could improve or strengthen the CPCoP?

We would like to see clarification around 6.3 regarding TPIs representing retailers in sales and marketing activity. We appreciate that Ofwat are mindful of TPIs' involvement in the market and acknowledge their presence as essential to driving switch behaviour. TPIs have driven most of the switching since market opening, and we are proud to be one of the most active retailers in the market through our engagement with them. We want to work with Ofwat to demonstrate the benefits this has delivered to customers and ensure that their involvement in the market remains positive.

The ways in which retailers may interact with TPIs is complex and should be open to competition. For example, some TPIs may choose exclusivity agreements, others may maintain relationships with multiple retailers, while others may set up comparison sites or offer tendering. This is for them to choose based on their own commercial needs, based on the type of customers they work with and want to attract.

We would like to see Section 6.3 clarified and simplified to reflect this.

We suggest a simplified wording which may look like:

"Where Retailers have commercial agreements in place with TPIs, they shall take all reasonable steps to ensure that these third parties are aware of, understand their responsibilities under the Code and shall take steps to ensure the Principles of the Code are upheld in their relations."

This could still be monitored by Ofwat, by requiring retailers to be able to provide evidence of the steps they have taken to reduce risk to customers by engaging in commercial relationships with TPIs, while still allowing retailers and TPIs to interact in a variety of ways. This would remove several barriers to TPI engagement, stimulating switch activity and improving customer engagement in the market.