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Customer Focused licence condition

Thank you for providing opportunity for us to respond to your consultation on the proposed licence condition aimed at promoting high standards of customer service and support for the full diversity of customer needs across the water sector.

We wholeheartedly support the proposal that companies should continue to seek to engage with a wider range of customer organisations seeking to improve service. Measures to incentivise improvements in customer service and experience are a longstanding component of the regulatory framework. For example, since the introduction of the Service Incentive Mechanism and subsequently the Customer Measure of Experience, companies have increased their focus on delivering ever-improving levels of service to their customers.

We do have reservations whether a licence modification is strictly necessary or the most appropriate mechanism to incentivise this within the wider regulatory framework and Ofwat's existing suite of tools. The consultation notes that the new licence condition will 'incentivise the best'. However, there are no details on how the principles set out in the proposals would be assessed in practice. On this basis, it appears the new licence condition represents a minimum expected standard.

As with other recent licence modifications, a critical part of enacting the licence modification practically will be the underpinning guidance which supports the proposals. As a matter of good practice, we consider that draft guidance should be shared in tandem with proposed licence modifications. This would enable the full breadth of considerations to be reflected and for companies to gain a better view of how Ofwat proposed to enforce the revised licence condition.

Notwithstanding the previous points, as requested, we set out some headline comments to the questions posed in the consultation.

Consultation question 1: Do you have any comments on the outcomes or examples?

Customers are well informed

We fully support this outcome and agree with the related examples. Customers want companies proactively to inform them where there is a need, something done daily by most companies. However the scale and reach of this proactive messaging does

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vary, e.g. by some in the event of a service interruption only; by others on a much broader basis including proactive bill alerts and notifications.

Whilst proactive service communications may be favourable to the customer, consideration will be needed in relation to the current C-MeX methodology, which measures inbound customer contact only and may work contrary to an ambition to promote proactive outbound service messages. Should the C-MeX methodology not be aligned with this ambition there is the risk that varying levels of proactive service across companies will lead to lack of fairness and a bias towards companies with lower levels of proactive contact.

When something does go wrong, affected customers have confidence their company will put it right

“Doing the basics” brilliantly is one of our key service strategies. However inevitably things do on occasion go wrong. A customer has every right to expect a speedy resolution and for companies to do as they say they will. For this reason again we fully support this outcome and aim.

The previous Service Incentive Mechanism measured unwanted / repeat contacts; perhaps this is a metric that could be considered for reintroduction.

The full diversity of customers' needs are identified, understood and met by companies in the services and extra help they provide

As one of the first companies to attain the new ISO22458 and Kitemark, we are committed to providing an inclusive service. Working closely with partner organisations in our region we have been able to learn to better identify and support the needs of all customers where possible, including developing new and improved tailored communications.

The introduction of a requirement for an external accreditation, such as through the ISO22458, would maintain the industry’s focus not only on identifying customers in vulnerable circumstances, but also on delivering a continually improving service to those customers.

We would like to better understand how the new licence condition would facilitate and incentivise the sharing of good practice and learnings to encourage companies to go above and beyond the minimum licence condition level.

Consultation question 2: Do you have any suggested changes to the proposed wording of the principles to meet our specified outcomes for households?

Given the overlap with existing regulatory tools and incentives, it is reassuring to note Ofwat’s preference for the licence condition to be principles-based rather than mandate specific service provisions. This will allow companies the freedom to learn from other industries, innovate and tailor their services according to their changing customer requirements.

Condition G4.1

Reference to “the right information at the right time” seems at the same time very specific but also very vague. Interpretations of what is considered “right” will vary depending on both customer preferences and the nature of the service interaction. We recommend alternative texts such as “providing appropriate information within a reasonable timeframe” which allows for tailoring of this timeframe to the specific situation and customer circumstances.

Condition G4.2

Reference to “easy” seems similarly vague. It is understood that Ofwat will be issuing guidance, but we suggest it would be reasonable if Ofwat published the draft guidance before companies commit to the licence condition change.

Condition G4.3

We have said in our previous consultation response that we have some concern that customers may think, as a result of this licence condition, that companies represent a solution to all water-related problems. There are two main reasons where this is not so. First, companies’ solutions will be limited to their functions and their duties; secondly, companies have to make difficult investment decisions that sometimes do not favour a full and final solution to a given customer’s problem.

Certainly, we consider that the use of the word “appropriate” in the first part of condition G4.3 is helpful in respect of the first assumption. As for the second assumption, we wonder whether this may be strengthened by a modifier, for example in this way:

The Appointee provides appropriate support for the Appointee's customers when things go wrong and, *to an appropriate extent*, helps to put things right.

It is clear that the guidance to be produced will have to make it clear what “things” are considered under this condition and how this interacts with companies’ existing duties and responsibilities.

G4.6

Reference to “support” again seems vague for a licence condition; is it any degree of support (from the minimum up to total alleviation of the problem) or is it “an appropriate” level of support? This also has implications in respect of Condition E that we set out below.

Condition G5

We are also concerned with the current wording in relation to licence condition G5 that ‘there be an expectation that the Appointee consult the Consumer Council for Water and take its representations into account *before* making or revising any policies or processes...’

In practice in response to customer feedback, a company makes countless amendments and changes to its processes on an almost daily basis. We propose that the wording here be amended to ‘there be an expectation that the Appointee consult the Consumer Council for Water and take its representations into account before making *any significant* revisions to any policies.’

Consultation question 3: Do you agree with our proposed approach to exclude non-households from the condition relating to customers struggling to pay or in debt, consistent with corresponding non-households served by a retailer?

We agree with Ofwat’s proposed approach to exclude non-households from this condition G4.6 relating to customers struggling to pay or in debt.

Whilst we have natural sympathy for struggling businesses, we do not consider it the function of a water company to support unviable or unsustainable commercial undertakings (nor to have to adjudge the extent to which they are unviable or unsustainable). Furthermore, we consider that the appropriate place for intervention to protect non-household customers is the retail market, since for the most part, the customers are not wholesalers' customers.

Consultation question 4: Do you agree with our proposed approach that the remainder of the licence condition apply to non-household customers without a retailer?

Predicated on the above, we agree with your proposed approach to apply this condition to non-households not served by a business retailer.

Consultation question 5: Should any areas of customer service be prioritised in our development of the guidance? If so, which areas?

With the proposed removal of the reputational performance commitment for the PSR we would recommend that expectations of service delivered to customers in vulnerable circumstances be developed as a priority. We make this statement based solely on Ofwat's duties under section 2 of the Water Industry Act 1991: we do not feel that it is appropriate for water companies to express opinions based on any political stance.

Consultation question 6: Which matters / company activities will benefit from having more detailed guidance, and which less?

Vulnerable Customers

As above clarity around expectations from companies when dealing with customers in vulnerable circumstances, both financial and non-financial, would be beneficial.

This is an area where changes to services for these customers are made there could be significant opex implications and hence strong interactions with the wider regulatory process. For example, we would expect the performance in this area to translate into the requirements within the retail price control cost allowance.

The relationship between principles-based licence conditions and enforcement

Although we have said that we agree with a principles-based licence condition, and this is to a large part is what is proposed, this approach does bring with it a challenge of its own.

That challenge is a level of certainty on the part of companies, their investors, Ofwat, any appeal tribunal and the public as to whether or not a company is compliant in a given circumstance. There are, of course, a huge range of approaches that companies could have in applying principles; and furthermore, there are always countervailing considerations – the efficient application of resources, the avoidance of undue discrimination or preferences or of inappropriate cross-subsidies, for example.

Principles-based regulation is ideal for promoting conversations. But we can foresee legitimate and sincere divergences of views, especially in view of the countervailing considerations that we mention, as to whether a given company policy or attitude crosses the line when it comes to principles-based regulation. At present, the licence is long on simple obligations, where it is easy to tell whether or not a company has complied, and short on principles (save perhaps in the area of "sufficient management and resources", an arguably dry area of less interest to the public than the proposal at hand).

The proposed areas of guidance will certainly mitigate and we are grateful for them; but equally we think that it would be impossible for guidance to cover everything. Hence, we think that a well-considered enforcement policy specifically for this licence condition would be enormously helpful.

Consultation question 7: Do you agree with our proposal to include reference to CCW as a consultee within guidance?

We agree to an extent that CCW should be a consultee but as previously mentioned due to the nature and speed at which we make process and procedural change having to consult CCW on all of these would slow the change process down, negatively impacting on our customers. It is not clear whether consideration has been given to the workload impact to CCW when considering the volume of company led changes in response to engagement with customers.

We would however support the requirement to consult with CCW before making any significant revisions to our policies.

Consultation question 8: How can we gather further insight on company performance in this area?

An understanding on what you propose to do with the insight would be useful in order to better inform a response on how this insight could be gathered, i.e quantitative or qualitative insight?

Consultation question 9: What are your views on annual reporting requirements to monitor compliance against the licence condition?

We will be open to annual reporting and the sharing of our performance over the year however care should be taken on what measures companies will be required to report on.

Should this be used for any comparable benchmarking across the industry, or wider, then the measures on which we will be reporting will need to be much more prescriptive suggesting that the licence condition wording will also need to be more prescriptive rather than principles-based. Put another way, we think for the most part that in the context of measuring company policies against a principles-based licence condition, it is more or less impossible to compare like with like and may also serve only to stifle innovation and trials-based development of policies and initiatives.

Consultation question 10: What are your views on our proposed timescales for implementation?

The timetable for implementation needs to enable sufficient time both for Ofwat to reflect on the responses to the consultation and to meaningfully engage with companies on the guidance which will underpin the licence modification. To that end, it is difficult to comment.

Consultation question 11: What are your views on consequent changes to other conditions in licences and are there any other changes we should make?

We agree that there are overlaps with the current condition G and condition J and support the proposal to remove condition J and incorporate the monitoring and reporting requirements into the proposed new customer focused licence condition.

Principles G4.5 and G4.6 of the new licence condition require companies to provide adequate support for customers in vulnerable circumstances, including those struggling to pay. We would like to highlight that, to varying degrees, the ability of companies to fulfil this requirement, now and in the future, is constrained by the current interpretation of what may constitute undue discrimination in charging under Condition E of companies' licences.

We would welcome assurance from Ofwat that in line with the principles-based approach, and its objective of ensuring companies adequately support financially vulnerable customers, it will interpret licence condition E on a basis consistent with the proposed new licence condition, broadening what it deems to be due discrimination and preference accordingly. An updated perspective taking account of the new duty and wider economic circumstances would empower companies to effectively meet customer needs and to fully discharge their responsibilities under the new licence condition.

Yours sincerely

Darren Rice
Regulation Director