

11 January 2016

Dear Ofwat,

### Protecting customers in the non-household retail market – a consultation

We believe in the creation of an innovative and flexible retail market and are supportive of the general direction of travel in relation to Ofwat's proposals and recognise the need to establish customer protection where necessary. With that in mind, in providing our response to this consultation we are not answering all of the specific questions raised and instead have focused on what we believe are the key areas.

Our guiding principle around customer protection measures is that they should be primarily focused on the provision of information transparency, which is trusted and legitimate in the eyes of customers, enabling them to make sensible, commercial choices, rather than being focused on unnecessary additional controls or constraints. These arrangements could include a Customer Protection Code of Practice.

Our detailed response is set out in an annex to this letter, and we set out our key points below:

- **The rollover of fixed term / fixed price contracts:** We believe that rolling over fixed term, fixed price contracts would be appropriate and beneficial for the market and consider that such commercial practices should not be overly constrained for retailers or our customers who may benefit from such arrangements.

We consider that any contract should have clear contractual terms and adequate notice and information should be provided to the customer prior to the end of the contract.

- **The regulation of Third Party Intermediaries (TPIs):** TPIs are likely to be an important feature in the market and we support creation of an industry accreditation scheme for TPIs to ensure consistency of measurement and policy. Alongside the need for accreditation, a key issue within the energy market has been transparency of information provided by TPIs to customers, particularly around commission, and we would welcome measures to address this in the new non-household retail market.

- **Back-billing:** We consider that it is important that micro-businesses are not unduly burdened / impacted by back-billing where they are not at direct fault and that any back-bill policy will need to apply consistently between both retailers and wholesalers.

We would be pleased to provide more information about any point made in our response.

Yours sincerely

A handwritten signature in black ink that reads "A J Ball".

**Dr Tony Ballance**  
**Director, Strategy & Regulation**

## **Annex 1: Specific responses to the consultation**

Severn Trent Plc

### **General arrangements – Proposal 1**

We believe in the creation of an innovative and flexible retail market which drives value for customers through transparency of information, enabling them to make sensible, commercial choices and decisions. With this in mind, the market arrangements should in certain segments provide customer protection so that the sector remains trusted and legitimate in the eyes of customers. These arrangements could include a Customer Protection Code of Practice. We are supportive of measures that are proportionate and offer protection without creating barriers to entry, constraints to differentiation or forcing provision of a higher level of service protection than customers might be willing to pay for.

#### Defining smaller non-household customers

We support a method of distinguishing qualifying customers in a way that is simple to apply and is not subject to large variations over short time periods. The energy market uses several measures to identify and define micro-business which has created a degree of ambiguity; number of employees, consumption and company turnover. Our preference is a simple method of definition and consider the number of company employees to be a good indicator for SME clarification. We welcome further guidance on how often we will be required to review and / or reclassify customers.

### **Sales and Marketing – Proposals 2 to 4**

#### Protection for micro-businesses

The market should function in such a way that our customers know their options and fully understand the ramifications of their decisions and actions. Therefore, our preference is that the Code standardises minimum information requirements for micro-businesses and outlines principles for information provision rather than defining a prescriptive format. We consider that the implementation of a standard template format could potentially limit communication, inhibit innovation and destroy differentiation between brands and products.

#### Third party intermediaries (TPIs)

Our preference is that there is an industry accreditation scheme for TPIs to ensure consistency of standards and policy, and that retailers only deal with those TPIs that are accredited. We would also welcome increased transparency regarding TPI commission.

We welcome further clarity regarding what the specific concerns are regarding TPIs and consider the current proposals outlined to be unduly unfair on retailers and open to interpretation. For example, further definition may be required on what are considered to be 'reasonable steps' to ensure that any TPIs acting as agents on behalf of a retailer are aware of and understand how the provisions of the Code apply.

## **Contracts and Information – Proposals 5 to 10**

### Unfair or confusing contractual terms

On balance, we consider many aspects of proposal 5 to be good practice; the provision of fair, transparent contractual terms in plain language, and no unfair commercial practices. However, we disagree that rolling over a fixed term, fixed price contract would be bad for the market.

As you mention, fixed term contracts provide a natural engagement point to encourage switching and shopping around. We consider that a fixed term, fixed price contract with a rollover provision should have clear contractual terms and that adequate notice and information should be provided prior to the end of the fixed term and fixed price period. We do not believe that commercial practices which encourage innovation in the market should be overly constrained for retailers or for customers who may benefit financially from such arrangements.

Regarding other requirements relating to termination / end of contract notification, we welcome further consideration regarding the application of termination fees. If no termination fee applies to early termination of a fixed term contract, then we do not consider it to be a fixed term contract.

### Minimum levels of information / provision of SPID numbers

As stated previously, we welcome principles in the Code regarding information provision but we do not consider it necessary for information provision to be prescribed in format or unduly prescriptive. Appropriate principles might include the need for retailers to be upfront and transparent, for example, no hidden charges / clauses in the contract, the need for plain language and the need for clear timescales.

Where practical, we believe that SPID number(s) should be on the front of all bills and consider this achievable for micro-business and single site companies. There may nevertheless be constraints on how this could work in practice for large multi-site companies where our preference is that this information forms part of the contract for such customers.

### Cooling off periods

Severn Trent Plc

We support protection against mis-selling and erroneous transfers but we are unclear how a cooling off period would support this. Furthermore, we consider that there should be consistency across market timescales and that any cooling off period proposed should be measured in business days rather than calendar days. This is consistent with the switching timetable proposed and allows for bank holidays which benefits both retailers and customers.

### Contracting with customers through a preferred TPI

With regards to TPIs and brokers, it is our preference that an accreditation scheme is established to ensure consistency and remove any undue burden on retailers to regulate the activities of TPIs. The process for proposal 10 needs further clarity and we do not consider it appropriate for a customer to have to speak to a broker and then a retailer in order to switch. Our preference is that TPIs gain a letter of authority from the customer which is then shared and accepted by the retailer.

### **Switching – proposals 11 and 12**

We support the proposal that retailers will be required to take all reasonable steps to ensure that they have a valid contract with the customer before they request a switch.

If retailers are not able to block customer switching due to outstanding debt, there is a risk that to the market that some customers generate and build up debt with multiple retailers. Therefore, we consider that the market arrangements need to ensure that such debt risks are manageable and fair to all market participants. Debt thresholds are used in the energy market to protect against bad debt and we consider that it would be appropriate for Ofwat to set such a threshold as a trigger for blocking switching in the non-household market.

We agree that an outgoing retailer should be required to inform all affected customers of the reason for any cancellation of the switching process and advise the customer on the process and timeframe to resolve the issue. We note this is in line with the approach proposed recently by WICS.

### **Billing, back-billing and data quality issues – Proposals 13 to 17**

We consider it reasonable for retailers to be required to produce one bill based on the most accurate information available at that time. We believe that the Codes contain meter reading obligations and therefore these should not be duplicated elsewhere.

We agree with the requirement for retailers to base their final bill on the transfer read provided by the incoming retailer in principle, but consider that a clear dispute process is required as is a process where an actual read cannot be taken and an estimate is used. We also consider

that customers should be able to take their own reads and that retailers should accept them as billing and transfer reads in order to speed up and encourage switching.

We consider that it is important to strike a balance between ensuring that micro-businesses are not unduly burdened / impacted by back-billing where they are not at direct fault while not creating a barrier to entry for retailers as they have no opportunity to re-coup any of the costs of a data error. We also believe that any back-bill policy will of course need to apply equally to both retailers and wholesalers.

We consider that working with customers to develop reasonable payment plans, allowing the customer to pay in a number of instalments, is good practice and does not need to be dictated by a Code.

### **Complaints handling and dispute resolution – Proposal 18**

We support the use of a standard industry process for complaints handling and dispute resolution in principle, and welcome consideration of a single process for dispute resolution for both the Scottish and English markets.