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Consultation on Updated Eligibility Guidance

We welcome the opportunity to comment on Ofwat's Updated Eligibility Guidance. Eligibility is a complex area and we believe it is therefore essential to have cross-industry alignment of understanding to enable licensees to satisfy their legal obligations, as well as ensure long term effective functioning of the market for its non-household customers.

Our responses to the two (2) specific consultation questions are set out in **Annex 1**. As regards to Question 1 (alignment with relevant provisions of the Water Act 2014) we believe that there is broad consistency and alignment. We have not identified any specific matters of concern.

With regards to Question 2 (inconsistencies between the eligibility rules and the supplementary guidance), we believe the Supplementary Guidance would have allowed companies to use their own data to inform the assessment of principal use, whereas the updated guidance does not make provision for using company's own data to do so. Within our response, we have also drawn attention to a situation regarding what would currently be "aggregated" premises where we believe that application of the eligibility rules may mean slightly different outcomes for the customer dependent on historic network configuration.

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

Yours sincerely

A handwritten signature in black ink, appearing to read "Ian Dearnley".

Ian Dearnley
Head of transformation

ANNEX 1

Q1. Whether any of the updates are not either consistent to commencements of the relevant provisions of the Water Act, the development of our thinking on the transition from the water supply licence regime to the water and sewerage supply licence regime and the position reflected in our supplementary guidance?

We believe that the updates made appear to be consistent with the relevant provisions in the Water Act. We also believe that the amendments to the guidance sensibly reflect Ofwat's proposed approach to transition from the WSL regime to a WSSL regime with additional wholesale authorisations.

Q2. If there are any inconsistencies between the eligibility guidance and the Supplementary Guidance what are they?

We note that the hierarchy of considerations for determining eligibility in this eligibility guidance has omitted the step 2 that appeared in section 1.3.1 of the Supplementary Guidance. Specifically, this signalled to companies that "in the majority of instances [principal use] should be sufficiently clear to allow premises to be placed within the household or non-household market" as a precursor to a step 3 assessment of Business Rates and/or Council Tax to approximate principal use where this was not clear.

We considered the Supplementary Guidance step 2 of value as it allowed the opportunity to use existing company data to support the eligibility assessment and thereby drive better confidence in the outcomes. We nevertheless note the role that Business Rates and Council Tax play in the primary assessment of the extent of a single set of premises for which eligibility needs to be determined which is discussed separately below.

Within this guidance, Ofwat has provided helpful increased clarity around what constitutes a single set of premises. This has particular relevance to large customers with multiple buildings over a contiguous expanse of land, e.g. some Universities, Hospitals, and other large customers. We have been considering this further since the Supplementary Guidance.

We note that where there is a single supply point this should be treated as a single set of premises and for those customers with more than one supply point, it will mean that the premises are required to be disaggregated in order to undertake eligibility assessments against each single set of premises via an assessment of the application of Business Rates, Council Tax or both as a mixed use. It is a separate question as to whether they could continue to be billed on an aggregated basis which would be determined by charges scheme rules.

If we then take the example of a University which has more than one supply point, this would need to be disaggregated into a number of individual sets of premises, each of which would need to be assessed for eligibility. The assessment may then determine that some of the premises are not eligible for the market (e.g. self-contained/self-catering accommodation which is not rented out by the University for other purposes outside of term time and is not dependent on external facilities provided by the university or its service provider).

We would wish to note that there is a scenario where there may be different outcomes for the customer contingent on the historic configuration of the network e.g. where for some customers an additional supply point was added over time for resilience purposes as the University developed.

