



Modifications to the Retail Exit Code - CCWater's response to Ofwat's consultation

1 Introduction

1. The Consumer Council for Water (CCWater) is the statutory consumer organisation that represents the interests of customers of water and sewerage companies in England and Wales. CCWater has four regional committees in England and a committee for Wales.
2. CCWater has responded previously to Defra's consultation on retail exit regulations and to Ofwat's consultation on the retail exit code (REC).
3. We welcome the opportunity to reply to Ofwat's consultation whereby it is proposing to modify the REC as follows:
 - a. Amend the existing provisions in the REC that require, in all instances, individual customer consent before a licensee can terminate its supply. The amendment proposes to allow a licensee to include in its scheme of terms and conditions a provision allowing it to terminate its supply in a limited set of circumstances; and
 - b. allow retailers the ability to adjust their charges in line with changes to appointed companies' wholesale charges.

2 CCWater Feedback

4. Overall, CCWater accepts that Ofwat's proposed modifications to the REC are required for practical reasons. However, we believe that protecting customers, particularly those who have not elected to actively switch, is an important hallmark of a well-functioning market.
5. The proposed modifications, the first in particular, might increase the chance of customer detriment. We have suggested below some areas where Ofwat could consider strengthening the REC to protect customers who have not actively elected to change their retail service provider.

Proposed modification one

No worse off

6. Ofwat considers that requiring individual customer consent before a licensee is relieved of its duty could act as a barrier to a bulk transfer of customers. It therefore considers that including a limited set of circumstances within a scheme of terms and conditions where a licensee is relieved of its duty without individual customer consent is permissible. Ofwat has proposed modifications to the REC that will provide that the licensee may be relieved of its duty either by consent or in circumstances where a licensee has secured a commitment from another licensee to supply customers on equivalent terms.
7. We accept that there are some circumstances where removing the requirement for explicit consent makes sense. However, we have concerns that unless the set of circumstances is carefully defined, this might be detrimental to customers.

8. Before the market opened, customers were led to expect that they would be no worse off if they were exited to another service provider. The retail exit regulations¹ required retailers to create schemes for terms and conditions.
9. Nonetheless, these schemes have not necessarily safeguarded all the price and non-price terms that customers might have expected to be equivalent after they are exited. For example, some customers in retail exit circumstances have experienced changes to how they are billed. They have reported to us that they are now billed by their retailer in advance, instead of in arrears, as was the practice of their former water company.
10. Therefore, we propose that REC wording is made more specific to ensure that price terms and non-price terms are safeguarded after a transfer.
11. Ofwat states that that the duty to supply would be relieved in a “limited number of circumstances”, suggesting more than one. We note that the only circumstance explicitly stated in the consultation is where a licensee has secured a commitment from another licensee to supply customers on equivalent terms. We would welcome clarity on this point.

Notification timescale

12. Ofwat is proposing a change to the REC requiring the licensee to give at least two months' notice that it intends to transfer its customers to another licensee.
13. CCWater's research² has previously shown that some customers may expect to be notified of their transfer to another company six months head of time. Therefore, two months may not be enough time for some customers to decide if they should switch their retailer or negotiate with their current one. Either action may necessitate obtaining multiple retailer quotes and making comparisons, which may not be quick or easy in all cases.

Proposed modification two

14. We take on board Ofwat's observation that the current wording in the REC about price adjustments could be interpreted to mean that retailers cannot incorporate wholesale price changes into their own charges. Therefore, we accept the need for a wording change.
15. However, the sheer volume of wholesale tariffs could present some retailers with a challenge in accurately applying the right wholesale charges to the right customers. Therefore, we suggest that any new wording in the REC requires retailers to ensure that adjustments in wholesale charges are passed through correctly to individual customers or groups of customers.

¹ <http://www.legislation.gov.uk/uksi/2016/744/regulation/29/made>

² <https://www.ccwater.org.uk/wp-content/uploads/2014/12/Exit-Strategies-CCWater-NHH-Retail-Exit-Research-FINAL.pdf>

3 Enquiries

16. If you have any questions about CCWater's response to this consultation, please contact:

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