



**Customer Protection Code of Practice:
proposed decision to accept a customer
protection code change (CP0002) -
CCWater response to an Ofwat consultation**

Introduction

1. The Consumer Council for Water (CCWater) is the statutory body representing the interests of household and business customers of water and sewerage companies and licensed retailers in England and Wales. We operate through four Committees in England and a Committee for Wales.
2. A trading party, operating in the water and sewerage retail market, has proposed to Ofwat a change to the Customer Protection Code of Practice (CPCoP). The trading party considers it anti-competitive that retailers acquiring business customers at market opening and through retail exit are not required by the CPCoP to gain written acknowledgement of a transfer arrangement or a signed copy of the Terms and Conditions of Supply. These business customers are transferred in bulk to the acquiring retailer. Whereas the CPCoP does not permit retailers to orally conclude contracts when gaining new business customers through switching.
3. The trading party is suggesting that the CPCoP be amended to allow retailers who acquire customers through switching to agree a contract with micro-businesses orally. They propose there should be some requirements around this change, such as orally providing details of the contract to micro-businesses; ensuring clear oral acknowledgement is gained by recording the call; requiring that micro-businesses receive a copy of the Terms and Conditions of Supply; and applying a 7-day cooling-off period after the information is received by the micro-businesses.
4. Furthermore, the trading party has stated that it can conclude oral contracts in other competitive markets, and it believes that this will reduce the switching time and the 'hassle factor' for micro-businesses.
5. We welcome the opportunity to respond to this consultation, which proposes to change the CPCoP to enable micro-businesses to orally agree contracts with retailers when switching.

Response to consultation questions

Q1) What is your view of our proposed decision to accept the Change Proposal?

6. CCWater has not seen evidence, from a business customer perspective, that there is a problem with the current requirement in the CPCoP for retailers to gain written acknowledgement of a transfer arrangement or a signed copy of the Terms and Conditions of Supply from micro-businesses.
7. The latest 'Testing the Waters' research shows that 9 in 10 business customers, who have been active in the water and sewerage retail market, are satisfied with their experience in switching retailer. CCWater also has not received complaints from micro-businesses about signing contracts when switching retailer.
8. We have seen evidence from other competitive markets on the practice of mis-selling. We believe this could become a greater risk in the water and sewerage retail market if retailers can agree contracts orally with micro-businesses. In 2017, ahead of the retail market opening, CCWater commissioned PwC to identify issues experienced in comparator industries. This report highlighted the potential customer detriment of

mis-selling, which generated high levels of complaints in the UK energy and telecoms markets.

9. Mis-selling could also become a greater problem in the water and sewerage retail market due to low awareness levels amongst micro-businesses. Our research into SME awareness¹ about the retail market, conducted over four periods since the market opened, shows that awareness amongst SMEs has remained static over the last two years at around 40%. Focusing just on micro-businesses, this falls even further to 37%.
10. Therefore, based on evidence from CCWater's research, a PwC report commissioned by CCWater, and from talking to business customers directly, we believe the change proposal will introduce greater risks for micro-businesses.
11. In addition, the example put forward by the trading party, whereby it states the current CPCoP is anti-competitive by allowing retailers acquiring business customers at market opening and through retail exit to conclude contracts without written acknowledgement, does not recognise the additional protection those business customers receive through the Retail Exit Code. Whilst these business customers are not required to sign contracts, when they are transferred to the acquiring retailer, they are protected under the Retail Exit Code. This means they will receive Terms and Conditions of Supply that match their current terms, making them 'no worse off'. A micro-business that is switched, possibly in error through the proposal to allow a verbal agreement, will not be protected and is open to a change in contract. It will be up to that micro-business to read the details of the Terms and Conditions of Supply and cancel the agreement in the 7-day cooling off period if the switch was actioned inadvertently.

Q2) What is your view of whether the proposal promotes and facilitates the General Principles of the Customer Protection Code of Practice (section 4 of the CPCoP)?

12. We do not believe the proposal promotes customer protection. We feel this could introduce greater risks for micro-businesses and there is no clear evidence to show that micro-businesses, in general, are calling for it.

Q3) What is your view of the legal drafting for the Change Proposal (see appendix 1)?

13. We do not believe the legal drafting for the change proposal achieves appropriate customer protection. Even with the additional requirements proposed for retailers, with low awareness of the open market amongst micro-businesses, we believe that allowing oral conclusion of contracts will introduce greater risks without necessarily delivering any benefits that business customers are expecting.

Q4) What is your view of the proposed implementation date of the Change Proposal being one week after the date of publication of the Authority's decision document?

14. As CCWater is not supportive of implementing this proposal at this stage of the market, we have no specific comments on this question.

¹ [SME Awareness of the Retail Water Market, Populus on behalf of CCWater, February 2019](#)

Enquiries

Enquiries about this submission and requests for further information should be addressed to:

Christina Blackwell
Policy Manager
Consumer Council for Water

Tel: 0121 345 1082

E-mail: christina.blackwell@ccwater.org.uk