



Modifications to the Wholesale Retail Code and the Customer Protection Code of Practice - 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. In August 2018, Ofwat approved the deferral of the final financial settlement run post April 2017 due to inconsistencies between the market and business terms around billing and invoicing in the Wholesale Retail Code (WRC), with a resulting impact on the Customer Protection Code of Practice (CPCoP). The deferral period is until 28 February 2019, after which time the final settlement will take place, crystallising the data held in the central markets operating system (CMOS).
3. The delayed final settlement, which enables wholesalers to invoice retailers, and in turn, retailers to bill their non-household customers, may mean that some customers could experience back-billing up to 24-months where a settlement dispute is raised. The current CPCoP protection sets a 16-month limit on back-billing.
4. CCWater welcomes the opportunity to submit our views on this consultation. We have already responded to the request for information on DCP010 – Wholesale retail code inconsistency – particularly to give our views and concerns on the impact of the proposed implementation on non-household customers.

General comments

5. CCWater is concerned about an extension to the current back-billing period set out in the CPCoP at 16-months. Extending the period is, in effect, a detrimental erosion of customer protection.
6. The retail market in England has been open for over 18 months, with a six-month shadow market in place before opening. In our view, trading parties have had time to put systems and processes in place to clean up the most important market data. In pre-market opening research, customers told us that they expected to be protected against unfair market practices, such as back-dated bills. Many businesses will see the extended back-billing period as an unfair erosion of existing customer protection, particularly as this is a result of a market issue which is outside of their control. Customers should be protected and should not be unfairly impacted by a market issue.
7. In order to reduce the impact on non-household bills, trading parties must increase their efforts to replace estimate reads with actual meter reads so that customers are billed on consumption. In this consultation, we note that Ofwat highlight that a Panel report estimated approximately 4% of all reads in the market may be of material concern and could result in a back-bill for non-household customers. However, until the final settlement run takes place next year the actual impact on customers is unknown. We want trading parties to work hard to replace incorrect data items before this happens. This should be delivered along with other proposals to improve transparency and bring clarity for non-household customers in the market.
8. We note that no changes are proposed to the timeframe around refunds or account credits for non-household customers. We agree it is important for this to be clarified in the CPCoP. We welcome the proposed requirement for payments from wholesalers

to retailers to be passed on to non-household customers, and for retailers to set out in their terms and conditions of supply how they will comply with this requirement.

Response to specific questions

Q1) What is your view of the change proposal to address the inconsistency in the WRC (explained in sections 8.1 and 8.2 of this document)? Please explain your answer and provide evidence to support your answer, where appropriate.

9. We acknowledge that there is an inconsistency between the market and business terms as a result of deferring the final settlement run. Whilst we accept any inconsistency needs to be corrected, the proposed solution extends the period in which non-household customer bills can be back-dated. We are concerned about the impact that unexpected bill increases will have on consumers. We believe that extending the back-billing period is, in effect, a detrimental erosion of consumer protection.
10. Looking at complaints and customer service so far, many non-household customers are yet to be convinced that the market is working as well as it should. A change that exposes customers to more back-billing could erode their confidence in the market and impact their desire to engage. This would not be in the interests of trading parties.

Q2) The effect of this change proposal would be that, in limited circumstances, the back-billing period for Non-Household Customers would be extended to 24 months. Do you consider that extending the back-billing period for Non-Household Customers in the limited circumstances described in this document to resolve the inconsistency in the WRC strikes a fair balance between maintaining adequate protections for Non-Household Customers whilst enabling the recalculation of Primary Charges, where necessary?

11. We do not believe it is fair that non-household customers will be penalised by extending the back-billing period to 24 months. Before the retail market opened in England, customers told us that they expected to be protected against unfair market practices, such as back-dated bills. Many businesses will see the extended back-billing period as an unfair erosion of existing customer protection, particularly as this is a result of a market issue which is outside of their control.
12. Whilst we note extending the back-billing period to 24 months is proposed to be in limited and time-bound circumstances, it is difficult to understand how these exceptions would not negatively affect non-household customers. There is not enough clarity about the circumstances that could lead to the extended back-billing period.
13. We feel that the recalculation of primary charges would be much less likely with robust requirements on trading parties to replace estimate reads with accurate reads going forward. We expect to see trading parties working hard to address this issue so that all non-household customers are billed on actual consumption.

Q3) What is your view of how far the proposed legal drafting delivers the intent of the proposed changes as outlined by the Authority? Please explain your answer.

14. We have no specific comments.

Q4) Please evidence how your business systems, processes and accounting may be impacted if the change proposal was implemented.

15. Implementation of the change proposal will likely lead to some customers feeling they are being unfairly penalised. We expect to see more complaints from non-household customers to retailers and to CCWater about back-billing. As CCWater publishes its complaints data and the data from retailers, any spike in complaints caused by this issue will be reported in due course.

Q5) Do you consider that the change proposal better facilitates the Objectives and Principles of the WRC? Please explain your answer.

16. We have no specific comments about the WRC. However, we believe that customers will expect to see a focus on improving data quality, especially meter reading data, rather than any weakening of the existing customer protections.

Q6) Do you consider that the Customer Protection Code Change Proposals (section 8.2 and 8.3) better facilitate the CPCoP General Principles? Please explain your answer.

17. The CPCoP proposals, set out in this consultation, are mixed in their delivery to better facilitate the CPCoP principles. We agree that the additional changes proposed (covered in more detail under question 7 below) should help achieve fairness and transparency from retailers in a timely manner. However, we do not support extending the back-billing period to 24-months, albeit in limited and time-bound circumstance, from the normal 16-months. We consider that extending the back-billing period is, in effect, a detrimental erosion of consumer protection.

Q7) What is your view of the proposed additional changes to the CPCoP (section 8.3)? Please explain your answer.

18. We welcome the proposed additional changes to the CPCoP. We agree that refunds and credit adjustments from the recalculation of charges, resulting in payments made by a wholesaler to a retailer, should be passed on to non-household customers. We welcome this proposed payment requirement and believe it to be fair and transparent. We agree it is important for retailers to set out in their terms and conditions of supply how they will comply with the requirement to pass payments on to non-household customers.
19. Should the back-billing extension proceed, it is important that micro-businesses can arrange a reasonable payment plan for the entire period of the back-bill. We welcome this additional change, but we feel this should be a standard service requirement where back-billing occurs. We question why this requirement is not being extended to include SMEs, as a minimum.
20. We agree a final bill should be provided to all non-household customers within six weeks of switching or expiry of contract terms. This is currently required for micro-businesses, but all customers should receive this certainty by retailers working to a set timeline for final bills.

Q8) What is your view of the proposed implementation dates for the additional changes to the CPCoP proposed in section 8.3 of this document? Please explain your answer.

21. We note the additional changes to the CPCoP propose to be implemented three months after the date of the Ofwat decision document. As the changes should help improve services to non-household customers, we would like these to be introduced as soon as possible.

Q9) What are your views on amending the CPCoP to include an obligation on retailers to keep non-household customers informed throughout a dispute or a post RF process that may result in them receiving a back-bill?

22. Whilst we do not believe an extension in back-billing, even in limited circumstances, is in the interest of non-household customers, we agree that customers should be kept informed about instances impacting a bill. In our response to the request for information on DCP010, we called for retailers to effectively communicate with non-household customers before they receive an unexpected back-bill. We, therefore, support the introduction of this obligation on retailers. Keeping customers informed of the reasons behind a dispute or post RF process, the expected timeline, and the impact this might have on them, will help to improve transparency and help to reduce bill shocks. It may also help limit any instances of dispute which are not permitted or considered appropriate.

Enquiries

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