



The voice for water consumers
Llais defnyddwyr dŵr

CCW's response to the Market Performance Framework Reform Programme Consultation Two

CCW consultation response

Date: 21 April 2023

Introduction

We welcome being able to shape the performance metrics and intervention tools. As set out in our Five Year Review of business customers' experience of the water retail market, it is vital that the reform of the Market Performance Framework (MPF) provides strong incentives for both retailers and wholesalers to improve their service for business customers.

Our key asks for the MPF reform are as follows, which are set out in further detail within our responses to the consultation questions below:

- The MPF should be flexible and be able react to challenges.
- There should be stretching targets to incentivise improved performance.
- Activities within the MPF should be clearly linked to customer impact.
- Clear roles and responsibilities are defined for collecting complaints data and engaging with the retailers to avoid confusion.
- A set of effective intervention tools that fill the 'natural incentives' gap that currently exists.
- Out-performance incentive tools should not be a feature of the current reform.
- Greater regulatory involvement is needed to support a market-led governance model, in particular the boundary between market-led governance and regulatory intervention.

Within the attached spreadsheet we also set out our individual responses to the metrics and intervention tools for the monitoring and delivery of trading party performance.

Question 1: Are there any metrics for a given activity that have not been shortlisted that should apply? Please explain your answer.

- 1.1 The list of activities provided as part of the consultation is comprehensive and we broadly support many of these. Following the discussion at the drop-in session on 29 March, we have marked the metrics and activity we are supportive of in green. For those we believe need removing from the shortlist or greater clarification is needed, we have marked them in red in the final row and provided our feedback in the comments box.
- 1.2 We are concerned that a number of the proposed metrics fail to appropriately measure activities, and others potentially duplicate activities. It is important that all metrics add value and sufficiently measure the stated activities to ensure the revised MPF is as robust as possible to improve trading party performance.
- 1.3 We note that tougher metrics are proposed for a number of activities. These are welcomed as although they may be, in some cases, stretching they will help bring about much needed improvements and changes to the current water retail market.

Question 2. Do you have any comments on any of the metrics? Please explain your answer (this could be in terms of cost, accountability etc).

- 2.1 It is important that the revised MPF is based on delivering quality customer outcomes. Key to this is measuring the impact on customers as this is the most important way of assessing whether or not a particular activity is being delivered in their best interests. We, therefore, support the targeted use of CCW complaints data as a metric in several of the proposed activities. However, care must be taken not to duplicate roles, and the revised framework needs to be clear about CCW and MOSL's roles in applying these metrics. In particular, responsibility for collecting complaints data and engaging with the retailers on them needs to be clear to avoid confusion. Once the metrics are confirmed, we welcome working with MOSL to ensure that the chosen complaint categories have a definitive line of sight to the activity.
- 2.2 MOSL have identified unintended consequences that could arise if certain metrics are applied, such as trading parties entering incorrect data into CMOS to ensure that they are meeting requirements. If there is a sufficient risk that this practice is likely to happen, the MPF reform programme needs to outline how to address this, and quality check data that has been inputted. This is especially needed if it is identified that a specific wholesaler or retailer is responsible for the inputting of incorrect data.
- 2.3 While some metrics will sufficiently measure the given activity, the MPF reform programme needs to acknowledge that some activities may be covered under different incentive frameworks, such as PR24. For example, Ofwat has committed to developing the BR-MEX incentive which is likely to focus on delivering the same outcomes as the activity, CV.9 – Wholesaler to resolve request. Competing incentive schemes and performance frameworks need to be avoided, so it is important that some proposed MPF activities are removed if they are more appropriately delivered elsewhere.

Question 3: Are there any intervention tools for a given activity that have not been shortlisted that should apply? Please explain your answer.

- 3.1 We are concerned that the 'under performance payments' tool has been removed as an option for activity UWE.4. Providing timely and accurate consumption data is a key part of ensuring the customer billing journey works as it should. Retailers should not only be incentivised to ensure accurate data is maintained in CMOS, but that it is also being provided to customers too. The current low level of customer engagement in the market means there is insufficient competitive pressures on retailers to get this right, so other incentives are needed to fill the gap. Under performance payments should be considered as a way of achieving this, and there are a sufficient number of metrics against this activity that should provide a good indication of whether or not the activity is being delivered for the benefit of customers.

Question 4: Do you have any comments on any of the tools? Please consider the potential impact on trading party behaviour, customer outcomes or any unintended consequences.

- 4.1 Turning to the candidate tools and the 11 groups of interventions. The list of intervention tools provided needs to be agile to enable change as the market develops. It should be an active list of tools that can react to changes in priorities for the market and customers. For example, if there was evidence that customers were engaging more in the market, then reputational tools may be more appropriate to incentivise retailer performance, which could replace more regulatory ones. The majority of these tools have been thoroughly considered. However, we believe some could lead to unintentional consequences and not incentivise the behaviour change the MPF reform is looking for.
- 4.2 As we referenced in our answer to Question 3, low customer engagement in the market means that competitive pressure on retailers to improve their performance is currently lacking. While intervention tools, such as publishing peer comparison, would result in more information being available to customers, it is unlikely to prove effective if there is a lack of motivation, particularly on small businesses, to act on it (which our 2022 Testing the Waters research highlights). We do not believe there will be significant improvements for customers without a set of intervention tools that fill the 'natural incentives' gap that currently exists. At this point, the tougher candidate intervention tools need to be in place for both retailer and wholesaler activities, with the necessary agility built in that would allow for these to change as the market matures.
- 4.3 Candidate tool number 3 - Penalty / Under-performance payments - needs careful consideration. Under the current MPF, many trading parties pay relatively small penalties which can create a perverse incentive where it is more cost effective to pay, rather than address the root cause of the issue. Under-performance penalties need to be carefully calculated so they properly incentivise trading parties of all sizes to deliver the relevant activity to a high standard for customers.
- 4.4 The penalties must be meaningful to drive the right behaviours to improve customer service delivery and they must not be weakened to protect less financially secure retailers. The MPF reform should ensure that the market stays competitive, but realistic and effective penalties are needed to achieve tangible results.
- 4.5 We have strong concerns regarding the use of an out-performance payment tool. Currently, the market does not meet the basic needs of business customers of all sizes. We do not agree that rewards should be given to trading parties for performing their core functions. Ultimately, the reward for a well performing retailer in a vibrant market would be customers switching to them. Retailers and wholesalers should not

be rewarded when the market is currently not delivering in many areas for customers.

Question 5: Do you have any comments on the governance proposed? Please consider the governance layers involved in your answer.

- 5.1 Turning to the governance of the MPF, caution should be taken to ensure that there is agility and it can respond swiftly to the changing priorities of customers. For example, if an area of the market has significantly improved, and is achieving its ambitions, then the focus can be shifted to another activity without the need to undertake repeated extensive reviews. This means that the size of the MPF will change over time, with reduction expected as the overall market improves and more businesses engage.
- 5.2 It is also right that the MPF performance and review periods are as flexible as possible. It would not be appropriate to tie these to another existing industry period, such as an AMP, as the frequency of reviews may need to be greater depending on how quickly priorities are changing.
- 5.3 We agree that the proposed MPF governance layers should generally be based on the market led governance model, and we should also recognise the limits to this approach and that Ofwat has a key role to play. It is vital that in the MPF design the boundary between where the MPF is sufficient and where regulatory action is needed is carefully considered. For example, if a retailer was consistently failing their customers, are the application of MPF tools appropriate or should regulatory interventions (via licence conditions and enforcement action) be required?
- 5.4 The governance framework clearly sets out the differing roles in the governance layers in Table 5 of the consultation. We agree there is a clear role for Ofwat at layer 1. However, we also believe Ofwat has a role at layer 3 to ensure that there is some level of oversight over the deploying of interventions. If a trading party is failing to improve, Ofwat need to be prepared to hold them to account, if the intervention tools that the Performance Assurance Committee have deployed have failed to incentivise improved performance. Therefore, while we broadly support a market led governance model, there needs to greater regulatory involvement.

Enquiries

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