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10 December 2015

Dear Alan

Thank you for the opportunity to respond to the Water Industry Commission for Scotland's consultation on its Open Letter to Stakeholders, *Ensuring the water and sewerage non-household retail market works well for customers* ("the Open Letter").

Please find below, our general and detailed comments in response.

**About us**

Citizens Advice Scotland (CAS), our 61 member Citizen Advice Bureaux (CAB), the Citizen Advice consumer helpline, and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone. Our self-help website provides information on rights and helps people solve their problems.

In 2014-15 the Citizens Advice Service network helped over 323,000 clients in Scotland alone and dealt with over one million advice issues. With support from the network clients had financial gains of over £124 million and the Scottish zone of our self-help website received approximately 5.4 million unique page views.

Our aim within the water industry is to challenge and shape policy to ensure it reflects the needs of consumers.

**General**

We support the Commission's view that the time is right to undertake a review of the regulatory framework of the non-domestic water and sewerage market in Scotland, given the forthcoming introduction of competition in the non-domestic water and sewerage market in England in 2017. We hope that the Commission's consultation over the proposals in the Open Letter will help to further raise awareness of competition within the non-domestic water and sewerage market to non-domestic



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customers, in particular to small to medium sized business and sole traders in Scotland, and to deliver significant benefits to non-domestic consumers and their customers.

We also welcome the Commission's development of the *Scotland on Tap* website. We share the Commission's commitment to further develop competition within the non-domestic water and sewerage market in Scotland. A key part of that process will be raising awareness across the wider business community of competition within this market. As the consumer representative body for the water industry, we would welcome working with the Commission to explore multi-channel initiatives to raise awareness of competition, including the delivery of joint events and the development of appropriate information materials, to complement the *Scotland on Tap* website, and the Commission's other existing initiatives in this area.

### **Context – Key developments in the retail market**

We share the Commission's view that the way in which the non-domestic water and sewerage market develops in England could have a significant impact on the market in Scotland. Against this background, we take the view that there should, in principle, be close harmony between the regulatory frameworks for the markets, and in what is considered to be best practice, in Scotland and in England in order to protect customers and maximise the benefits for consumers. We, therefore, generally welcome the statement in the Open Letter that the Commission "*will be working to ensure that there are no unnecessary differences in the processes that retailers working across both countries must follow*". CAS would, however, require reassurances that any harmonisation would not result in a reduction in standards of service, but that retailers on both sides of the border work to the same high standards that consumers rightly expect.

### **Customers' Experiences: How can the Commission ensure that the market framework supports the retailers in providing excellent service to their customers?**

We support, in principle, the Commission's proposal to establish a Sales and Switching Code of Practice. However, we believe that any Code of Practice must be wider than just sales and switching, important as these areas are, and should also cover areas such as the levels and quality of customer service, customer engagement, and debt recovery practices.

Significantly, the need for such a Code of Practice was one of the key recommendations of the recent CAS event for water industry stakeholders focusing on competition in the water industry. We believe this Code could make an important contribution to strengthening competition in the non-domestic water and sewerage market in Scotland, and offer greater protection, improving outcomes for non-domestic consumers by driving price competition, innovation and service improvement within this market.

Therefore we would be interested in joining the proposed Code of Practice working group, and in working with the Commission, with retailers and with other key

stakeholders to ensure that any Code of Practice captures, and reflects, the needs and interests of non-domestic consumers.

We also welcome the Commission's proposal to consult on changes to the Market Code. We have submitted a number of responses to consultations run by the Commission in relation to changes to the Market Code requested by licensed providers. We believe that in addition to the change to the Market Code highlighted in the Open Letter, other changes to the Code are necessary to help promote competition in the non-domestic water and sewerage market in Scotland, and to make the market more accessible to customers.

In this respect, one of the key changes would be to ensure that, where the Commission consults on a licensed provider's request seeking change to the Market Code, the market change form submitted by the Commission for wider consultation should clearly identify what impact, if any, the proposed change would have on consumers. We believe that including this information in each consultation document would help to protect consumers by ensuring that the proposed changes will not have an adverse impact upon consumers, and upon competition within the market. Indeed, it would also highlight where changes would benefit consumers thereby ensuring that management of the market code framework considers, first and foremost, the needs of its non-domestic customers.

In addition, in order to ensure that retailers provide excellent services to their customers, it is imperative that the market code remains accessible to those customers in terms of location and language. We are of the view that the Market Code would benefit customers by being made accessible in a Plain English format that is easily understood. We are aware of a number of instances where the Code has been sent to customers in response to a request for further explanation and information but where customers have not been able to understand its content due to the technical nature of the narrative.

### **Market Design: How can the Commission ensure that there is a level playing field?**

We note the Commission's views on the development of competition in the non-domestic water and sewerage market. Recent research<sup>1</sup> on the engagement of SMEs within key markets, undertaken by CAS and Citizens Advice, supports the Commission's view that competition is increasing within the market. We believe, however, that in order to facilitate greater market penetration and awareness of competition, more needs to be done by the Commission, by the Scottish Government, by the business representative bodies and by other key stakeholders to raise awareness of competition within the market amongst non-domestic consumers. We believe that the Commission can make an important contribution in this area by working with business and charity representative bodies such as the CBI Scotland, the Chambers of Commerce, the Scottish Retail Consortium, the Federation of Small Businesses (FSB) in Scotland, the Scottish Council for Voluntary Organisations (SCVO) and the Scottish Council for Development and Industry to ensure that their

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<sup>1</sup> Citizens Advice and Citizens Advice Scotland 'How small businesses engage with essential markets' 2015

members, and the wider business community, are fully aware of the market framework, and of non-domestic consumers' capacity to switch licensed provider.

We further note that the Commission is considering a review of all the general market licence conditions, and in particular of the restrictions placed on Business Stream. Against this background, we take the view that any such review must reflect, and take into account, the perspectives of consumers and the evaluation and testing of such perspectives, and help to ensure that any changes to the licence conditions are designed to demonstrate how they can deliver significant benefits for consumers. One of the key areas in this respect will be ensuring that changes to the licence conditions, in conjunction with the development of a Code of Practice for licensed providers, produce significant improvements in the ways that Business Stream and other licensed providers approach billing and collection of water and sewerage charges, and in particular, debt management. We consider that this is one of the areas where more must be done to better protect customers and promote a level playing field.

We have been made aware by Citizens Advice In-Court Advisory Services of a large number of previously billed small businesses that have been taken to court for non payment of water and sewerage charges, following poor initial customer engagement by their allocated licensed provider. Had there been measures and incentives in place to encourage more effective customer engagement between the licensed provider and its 'gap site' customers, detriment to consumers arising from legal action may have been avoided. We believe there is an opportunity to incentivise improvements to debt recovery practices through a Code of Practice.

Against this background, we have been working closely with Business Stream to identify where and how it needs to improve its customer engagement practices and debt recovery practice. We have also provided Business Stream, and other licensed providers, with generic advice on how to develop and apply consumer principles in their approach to their customers, including in their debt recovery practice.

We are developing a debt recovery best practice framework for the non-domestic sector that will be based on key consumer principles, and on our experience of working with Business Stream and other licensed providers to improve their debt recovery practice. We would, therefore, welcome the opportunity to respond to the Commission's proposed consultation on the changes to Business Stream's licence conditions.

### **Supporting Good Customer Experiences across England and Scotland**

We support the Commission's view that removing any unnecessary differences between the market rules in Scotland, and those developed in England, could benefit consumers so as to simplify the landscape and facilitate consumer accessibility. We also consider that any measures introduced to encourage a close interface between the market rules in Scotland and in England must reflect consumers' needs and interests, and deliver tangible benefits to consumers in terms of price competition and improved quality of service.

### **Reviewing other steps taken to ensure a level playing field in Scotland**

We welcome the Commission's view that, in order to promote a level playing field in Scotland, there should not be any cross subsidies between market participants and associated businesses, and we note the steps taken in Section 2 ('Market Design') by the Commission in relation to Business Stream. We support, in principle, the Commission's proposals to address these issues through ensuring the standard conditions of a water and sewerage license are more closely aligned with those in other industries. However, we would welcome further information about how the standard conditions are to be aligned, and the industries against which they will be benchmarked. It would also be useful to understand how these changes will protect customers from practices that may be detrimental.

We further welcome the Commission's proposal that all licensees, and their parent companies, should make an annual declaration that they have complied with all of their statutory and regulatory duties and requirements.

Against this background, we believe that promoting a consistent approach by licensed providers to customer care, to complaints handling and to billing and collecting, including debt recovery, must be a key part of the Commission's attempts to promote a level playing field in Scotland to drive a consistently high standard of consumer outcomes. We therefore recommend that the focus of the proposed annual declaration should be widened to include, for example, details of the licensee's customer care and complaints handling procedures, how many complaints were received in the year, the nature of the complaints received and how these were resolved, including confirmation of the number resulting in legal action. This type of information would provide some parity with other industries such as the energy market where consumers are able to compare the record of different companies.

### **Market Compliance: How should we balance our use of carrots and sticks?**

We note that the CMA's market audits focus on "*code compliance, particularly around the interfaces between itself and market participants*". On the principle that ultimately, the market should be delivering benefit to its customers, we believe that these audits should also focus on how the market participants engage with their customers, the customer care provided by the market participants, and their policies and procedures in key operational areas. Significant areas in this regard would be the provision of information by licensed providers to non-domestic consumers about the services they are providing, and about non-domestic consumers' rights to switch providers.

We believe that for the purposes of the market audits, licensed providers should also be required to provide information about the number of complaints they have received and how these were resolved, and about their billing and collection practice including their debt recovery processes and procedures. We consider that including this information in the market audits can help to further drive service improvement and price competition within the non-domestic water and sewerage market. This, in turn, can make an important contribution to strengthening competition within the market and delivering better outcomes for consumers.

We also note that the Commission believes: "...*the market audit process should review whether the systems and process that a retailer has in place are consistent with the market rules and any industry codes of practice and whether each retailer is complying appropriately with their own systems and processes*". As indicated above,

we believe it is vital to the development of competition in the water industry that licensed providers also put in place appropriate customer care procedures and practice, especially in areas such as billing and collection and debt recovery.

We consider that the market rules should also drive better outcomes in terms of services delivery for customers. This should include ensuring that licensed providers' systems and processes provide customers with the support they need when they need it. In addition, the market rules should motivate a full and adequate investigation in response to any complaint raised by a consumer over any aspect of billing or other services to avoid licensed providers becoming entrenched and unsupportive in helping a consumer to resolve an issue e.g. being billed when there is no connection. We consider that the proposed Code of Practice could make a significant contribution to competition in the market, particularly if it is widened to include these areas.

We further note that the Commission proposes that, if appropriate, licensed providers "*would be expected to agree an action plan to correct any weaknesses identified*". We believe that this requirement to agree a work plan should be extended to cases where a licensed provider has received significant levels of complaints from business consumers, and/or has been contacted by the Scottish Public Services Ombudsman (SPSO) in response to complaints to them which have been upheld, but which have not been addressed or resolved by the licensed provider. Engagement between CAS and SPSO regarding debt recovery practices and their effect on non-domestic customers confirm that a stronger incentive is required to drive improvements in the standards of customer care and debt recovery services being delivered by licensed providers to customers.

If you require any further information, please do not hesitate to contact in the first instance Susan McPhee, Head of Policy and Public Affairs, on 0131 550 1025.

Yours sincerely

Sarah Beattie-Smith  
Consumer Futures Scotland Manager