



Alert

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Corporate Strategy & Finance



OFWAT consultation on Competition in the Water/Sewerage Sector

On 13 July, Ofwat launched an in-depth consultation into how to improve competition in the water and sewerage industries in England and Wales, for the benefit of water customers. Ofwat held a discussion forum on the consultation on 20 July in Birmingham. Ofwat is now inviting written comments by 28 September 2007.

In the consultation document, Ofwat seeks third party views on a number of definite proposals for reform of the existing rules governing the regulation of water and sewerage suppliers, as well as views on possible avenues of fundamental reform of the basic approach to regulation of the industry (in many ways bringing the regulation of water in line with how other utilities are or have been regulated). Therefore, this consultation is extremely broad-ranging and effectively sets the framework for a fundamental review of the way in which the water and sewerage industry is regulated in England and Wales.

Ofwat's consultation follows in-depth discussions with the main stakeholders in the industry and a number of the proposals have been trailed in earlier Ofwat publications. Nevertheless, this consultation does represent a significant step in what is a process with potentially extremely far-reaching consequences, which puts the onus on industry stakeholders (including parties considering entering the market(s)) to ensure their voice is effectively heard.

Amongst the most significant proposals for reform within the current regulatory framework are proposals to:

- Remove the "costs principle" from the primary legislation (Water Industry Act 1991) and to replace it with broad legislative costing principles to be implemented by Ofwat pursuant to detailed guidelines. This reform is aimed at making entry more attractive by securing better returns for new entrants. The mechanism being advocated would result in a strategically enhanced role for the regulator and raises issues of legal certainty.
- Significantly reduce the current eligibility threshold of 50 million litres of water a year for licensees - the size and timing of any such reduction is uncertain (and Ofwat seems to accept that a staggered reduction may also be viable).

Ofwat's consultation also seeks views on a number of more fundamental reform proposals, the adoption of which would represent a step-change in the way this sector is regulated. Views are sought on:

- Requiring incumbent water undertakers to implement accounting separation of network functions from retail functions.
- Requiring structural separation of distribution and transport activities from downstream activities.
- Extending competition to household customers.
- Extending competition to production and abstraction of water, including instituting water release programmes.

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While there are likely to be further opportunities to input into Ofwat's review, particularly as regards some of the more far-reaching proposals under consultation (e.g. unbundling), this current consultation does represent an important opportunity to influence the future regulation of the water and sewerage industries at a crucial stage in the evolution of the regulatory framework.

The full consultation document can be accessed at:

[http://www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/AttachmentsByTitle/marketcomp_waterind.pdf/\\$FILE/marketcomp_waterind.pdf](http://www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/AttachmentsByTitle/marketcomp_waterind.pdf/$FILE/marketcomp_waterind.pdf)

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