



## **Allocation process for gap sites and providers of last resort — proposed Commission change to the Market Code**

### **The Commission's response**

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This is the Commission's response to the consultation it issued in July 2008 on its proposal to change the Market Code so that when a gap site is identified, or when supply points become available under the provider of last resort process, all such supply points should be allocated to Business Stream in the period to 1 April 2009. After this period, supply points will be allocated among all licensed providers.

#### **Contact**

Katherine Russell

Director of Corporate Affairs and Customer Service

T: 01786 430200

E: [licensingconsultation@watercommission.co.uk](mailto:licensingconsultation@watercommission.co.uk)

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#### 1. Background

The Water Industry Commission for Scotland (“the Commission”) published its consultation document, *‘Allocation process for gap sites and providers of last resort — proposed Commission change to the Market Code’* in July 2008. The aim of the consultation was to set out the Commission’s proposal for amending the Market Code so as to suspend the allocation mechanism for gap sites identified by Scottish Water, and for POLR supply points, until the market has been open for one year.

The consultation followed the Commission’s refinement of the process for allocating gap sites identified by Scottish Water.<sup>1</sup> Under this process, Scottish Water will invite the customer to choose a licensed provider and, if the customer fails to make a choice, the CMA will allocate the gap site to a licensed provider on a rotational basis. However, because of the Scottish Government’s full business metering programme Scottish Water has identified many more gap sites than had originally been anticipated. The Commission proposed the amendments to the Market Code following receipt of representations in relation to the challenge that this unexpectedly high flow of gap sites presents to new entrants that are commencing operations at a small scale.

We received four responses to the consultation from Scottish Water, Business Stream, Satec Ltd and the CMA. We would like to thank all the respondents to the consultation for their comments and suggestions, which we have found very useful.

#### 2. Responses

The respondents to the consultation raised some issues to which the Commission wishes to respond:

- The Commission is under a statutory duty to secure the participation of licensed providers in the provision of water and sewerage services in an orderly manner. Having received the representations referred to above, the Commission determined it was appropriate to amend the gap site allocation process in order to comply with this duty.
- At the technical panel meeting of 21 February 2008 a proposal was made that all gap sites be allocated to Business Stream. Neither Scottish Water nor Business Stream

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<sup>1</sup> See the eighteenth licensing consultation from June 2008, which is available on the Commission’s website, [www.watercommission.co.uk](http://www.watercommission.co.uk).

raised any objections to this proposal. Given the gap site allocation process set out in this consultation was effectively rehearsed at the technical panel, the consultation period provided gave market participants sufficient time in which to make any further representations to the Commission.

- The Commission's underlying responsibility is to promote the interests of customers. All non-household customers therefore have the right to change licensed providers at 20 business days' notice, including those customers who have been allocated to a licensed provider through the gap site process.

Following receipt of the responses to the consultation, we have made some minor amendments to the proposed changes to the Market Code. These changes concern the information to be provided by Scottish Water which will allow Business Stream to identify the customers concerned. A extract from the Market Code with the revised changes is attached at Annex A.