

9th April 2020

Dear Sir or Madam,

COVID-19 Measures in support of non-household customers

I am writing with regard to the ongoing implementation of measures to support both businesses and the retail market framework during the current pandemic, and to seek further information that will allow us to consider possible further measures.

It is now over two weeks since the Scottish Government took steps to provide additional liquidity to licensed providers. The Cabinet Secretary for Environment, Climate Change and Land Reform wrote to you explaining that she was providing this additional liquidity to licensed providers in order that they, in turn, could support their customers.

I would now like to be in a position to provide a full briefing to the Scottish Government on the effectiveness of this measure and to understand whether any further action, whether at a Governmental or at a regulatory level is required.

I wrote to you on 27 March 2020 requesting information about the number of customers that you serve who pay in advance for any part of the services that they receive. I look forward to your answer. Given the requirement on a licensed provider to pre-pay the wholesaler has been relaxed, it is difficult for me to see an economic rationale for appropriately capitalised licensed providers continuing to charge customers in advance for any part of their charges. I should therefore like to understand how you are passing the benefits of the additional liquidity to such customers. Therefore, I would ask you to provide me with a written response with specific and detailed information by no later than close of business on 17 April. For the avoidance of doubt, this request is in addition to, and not in place of, other information requested by the Commission.

1. How has the number of pre-paying customers changed since the injection of the additional liquidity? How will it change in the next several weeks?
2. How has the average pre-payment balance changed? How will such balances change in the next several weeks?
3. Trust in the market arrangements requires that benefits are being passed in full (without penalty or administration charges) to impacted customers. It seems to me clear that the

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continued support of the Scottish Government for these measures will depend on this. With regard to those non-household customers who do not make any material pre-payments (ie no more than any standing or other fixed charges, monthly in advance), explain:

4. What steps you have taken to pass the benefits of this additional liquidity to your customers?
5. What steps have you taken to ensure that your customers understand that help and support is available? In this regard, please provide examples of publicity material or informational letters.
6. How many customers have you provided pro-active support to? And to what extent?
7. How many customers have asked you for support? And how many of those have you been able to help? And, again, to what extent?
8. How have you prioritised support to customers?

You will appreciate that it is important to the overall efficacy and standing of the market and, more broadly, customer trust and confidence that licensed providers adopt an appropriately proactive approach to support their customers. The gross retail margin in Scotland allows for the full cost of working capital and the maintenance of a prudent capital structure allowing an efficient operator an appropriate return. It also covers the full cost of the long run average levels of doubtful debts.

As you know, the Commission is currently engaged in a root and branch review of the current market arrangements. The Commission's intention to implement Ethical Business Regulation (EBR) has been well signalled. It considers that an approach of EBR is appropriate when a regulated organisation adopts Ethical Business Practice (EBP)¹. In this context, the Commission would regard one current indicator of EBP as the extent to which licensed providers, in the light of the additional liquidity provided, have supported their customers. The Commission will have to decide, depending on its level of confidence in the market's response, whether it can continue to seek to regulate the non-household market on the basis of EBR.

The Commission would also welcome suggestions from licensed providers that have pro-actively provided support to their customers on any further steps that it could take (or, given the considerable impact of the current crisis, that it could discuss with the Scottish Government) to support customers during the current crisis. It is important that during this crisis all stakeholders work constructively and collaboratively together to retain customer trust.

I would like to thank you in advance for your detailed response to this letter. The Commission will publish the responses of licensed providers. The Commission would not seek to publish any aspect of a response where it is satisfied that it is commercially sensitive. As such, I would

¹ Hodges/ Steinholtz Ethical Business Practice and Regulation: a Behavioural and Values based approach
Hart Publishing 2017

appreciate an understanding of what aspects of the information requested you regard as commercially sensitive and why.

I understand the difficulty of providing services during this current crisis, but I hope that you agree that our first responsibility is to the businesses of Scotland and providing as much support as we can. I truly hope you and your employees will stay safe and in good health during the outbreak of this pandemic.

Please provide your response to competitionteam@watercommission.co.uk.

Yours sincerely,



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