

Retail exit project update: September 2014

Background

The Water Act 2014 enables the Secretary of State to introduce regulations that will allow undertakers to exit the competitive part of the retail market with the consent of the Secretary of State. The government is committed to ensuring that undertakers who wish to exit the market can do so when the retail market opens in April 2017.

Progress update

We have been engaging extensively with all relevant parties as we develop the finer details of retail exit reform. We have:

- Engaged with companies through the Water UK public affairs network.
- Engaged with business customers through the CCWater Business Customer forum.
- Published a discussion document and held a workshop involving a wide cross section of stakeholders in July 2014.
- Established a stakeholder contact group, consisting of undertakers, retailers, customer bodies and Water UK.
- We are continuing to meet with individual companies to discuss their views.
- We are working closely with Ofwat to ensure a joined-up approach to exit.

As a result, we have agreed the four scenarios that undertakers that will be available to undertakers considering whether they wish to exit the retail market. We have also agreed ten core assumptions that will inform the policy development process. We are currently working through the remaining questions that will inform the policy development process.

Timeline for the reform

We are working to a challenging timetable so that we can provide as much clarity as possible at an early date about how this reform will work in practice. This is because we want to enable undertakers to take decisions and manage risks regarding their future structure well in advance of the retail market opening in April 2017.

- December 2014: Consultation on the content of the draft regulations.
- May 2015: Publish summary of responses to December consultation.
- Summer 2015: Consultation on draft regulations.

Next steps

Look out for our consultation in December on the content of the draft regulations. In the meantime, we are very interested to hear your views on the potential scope of the reforms and any concerns you might have. Please get in touch with us at the following email address: RetailExitsConsultation@defra.gsi.gov.uk.

Annex A: retail exits policy assumptions

In order to provide as much certainty as possible, as early as possible the government has developed the following set of underlying assumptions about the way in which exits will take place.

I. Exit from the non-household retail market will entail the removal from the undertaker of statutory powers and duties relating to both existing and future non-household retail customers. The current legal framework provides undertakers with powers to bill all customers within their area of appointment and places them under a suite of duties to supply water and sewerage services (including retail services) to all of those customers. This will have to be unwound.

II. All customers of an exiting undertaker must be transferred to a licensed retailer. The legal entity that receives the transfer of non-household retail customers following the exit of an undertaker must hold a Water / Sewerage Supply Licence.

III. Exit is irreversible – from the point of transfer onwards the undertaker will no longer be able to provide retail services to non-household customers. Should an exited undertaker wish to re-enter the market at a later date they will be free to establish an associate licensee in order to compete in the national non-household retail market.

IV. Exit is complete – the statutory duty to supply cannot be removed in respect of any individual class of non-household retail customers. All non-household retail customers must be transferred from the exiting undertaker to one or more licensed retailers at the point at which the relevant duties are removed.

V. Customer segmentation may occur through subsequent transfers. Once an undertaker's non-household retail customers have been transferred to one or more retailers operating in the competitive market, experience from other sectors suggests that customer segmentation is likely to take place through a further process of mergers, acquisitions and transfers between retailers.

VI. The option to exit is available at (but not before) market opening in April 2017. Following market opening, transferred customers will have the right to switch suppliers and therefore have access to the protection of the market.

VII. Undertakers applying to exit will have a high degree of certainty about the criteria on which the Secretary of State will take a decision. In order to take the necessary business decisions and enter into negotiations prior to market opening, undertakers will need to have clear visibility of the criteria on which the Secretary of State will take a decision regarding an exit application.

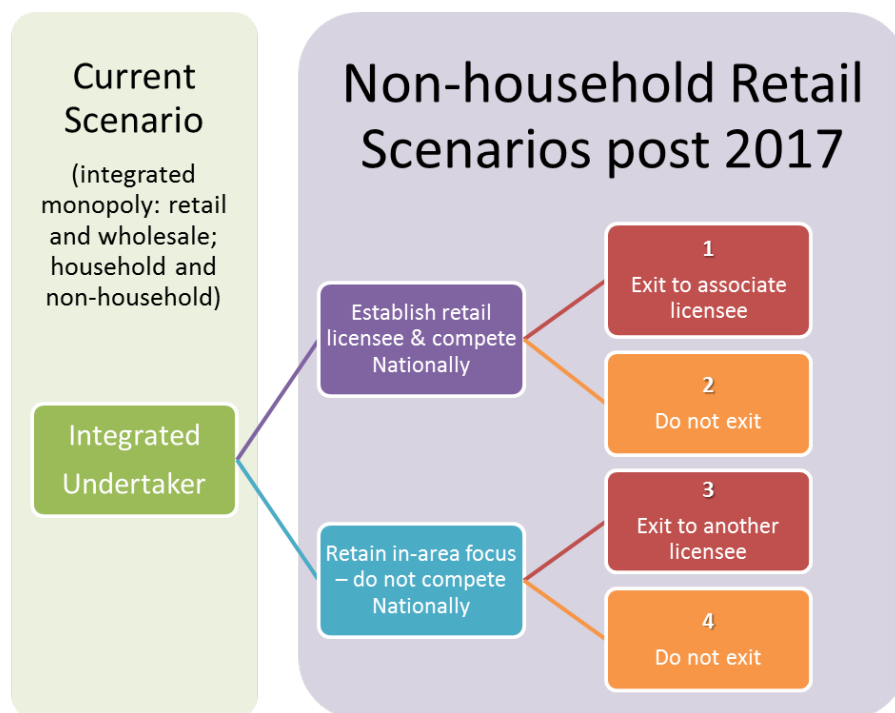
VIII. Exits and transfers will be managed in a proportionate, transparent and efficient way. The process for enabling exits and all decisions relating to subsequent transfers will be designed to minimise complexity and cost for all market participants including undertakers, licensees and customers.

IX. All non-household customers must be able to access a supplier. At present, the Water Industry Act 1991 secures that all water and sewerage customers receive both a retail and a wholesale service. In making changes to the existing framework to allow exits to take place, the government is committed to ensuring that all water and sewerage customers continue to receive both a wholesale and a retail service.

X. The process for enabling exit will seek to minimise any barriers to entry. The process for enabling exits will be designed in a way that enables a diverse range of new players to enter the market as licensees.

Retail exits scenarios

The Open Water Programme is working through the issues that all market participants will need to consider in preparing for market opening in April 2017. All undertakers will need to decide whether or not their group business will wish to compete in the national market for non-household retail services, either at market opening or at a later date. An undertaker cannot compete in this market under its own licence of appointment; it must establish a separate legal entity with a retail licence. Such bodies are described here as ‘associate licensees’.



The government’s decision to enable undertakers to exit the non-household retail market provides a further choice for undertakers – whether or not to exit the market. Scenarios 1 and 2 above are options available to an undertaker that has opted to compete in the national market for non-household retail services. Scenarios 3 and 4 above are options available to an undertaker that has opted not to compete in the national market for non-household retail services.