

Kip Meek
Competition and Markets Authority
One Lochrin Square
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Edinburgh EH3 9QA

23 October 2020

CEF Response to consultation on CMA Provisional Findings

Dear Kip,

The Anglian Water Customer Engagement Forum (CEF) acts as the independent Customer Challenge Group (CCG) in respect of Anglian Water. For further details on the composition of the CEF, please see <https://www.anglianwater.co.uk/about-us/our-strategies-and-plans/customer-engagement-forum/>

The CEF welcomed the opportunity to meet with the CMA during its preparation of its provisional findings and our input was summarised in a letter supplied to the CMA following that hearing (reattached for reference).

The CEF welcomes the CMA's Provisional Findings (PF) in providing greater certainty that the service and other enhancements articulated by customers during the engagement carried out with them by Anglian Water can be delivered.

The PF, however, raise a number of issues around the application and quality of the customer engagement carried out by Anglian Water, and role of its CCG. We welcome the chance to comment on these. For ease of reference, comments follow the chapter and point headings in the CMA's PF report.

69c. The PF state that, *'The extensive engagement and research undertaken by companies in PR19 has gone a long way to encourage company business plans and regulatory decisions to reflect the specific priorities and values of customers, and the outcomes framework is an area where customers and key stakeholders properly play a role in determining the standards of performance that companies should be held account for. That said, we consider there are limits to the weight that can or should be placed on customer research evidence in this area.'*

1. The CEF welcomes the CMA's recognition that extensive customer engagement and research has gone a long way to encourage company business plans. We would consider that the ongoing and detailed challenge provided by the CEF to Anglian Water and its customer engagement programmes has made a useful contribution to this.
2. In order to clarify the CMA's opinion that there *are limits to the weight that can or should be placed on consumer research evidence*, it would be helpful for the CMA to articulate the evaluation framework that they have applied when determining what those limits are.
3. We consider that it is unreasonable to apply the same "limits" in equal measure to all water companies, and their consumer engagement, especially since Ofwat has determined in its

report on the companies' consumer engagement, that they were of differing quality. (In Ofwat's report, Anglian Water was the only company awarded an A rating, <https://www.ofwat.gov.uk/wp-content/uploads/2019/01/PR19-initial-assessment-of-plans-Anglian-Water-company-categorisation.pdf>). The CEF observed that Anglian's innovative and wide-ranging programme was able to achieve good engagement, even on apparently "technical" issues such as RCV run-off.

4. When questioning the *'limits'* of customer engagement, the PF seem to be talking about the ability of customers to compare companies or look at 'technical' and 'complex' issues. There is a broader point, which is that the customer engagement clearly showed support for upfront investment (e.g. on resilience and environment) which may only 'pay back' in the longer term and outside the business plan period. There was clear evidence that customers support this up-front investment, and that this is a well understood concept.

2.72c The PF state that, *'The intention behind the design of ODIs was that these should be based on customer research and agreed with the CCGs'*. This sentence misunderstands and misrepresents the role of CCGs, which was not to *agree* ODIs or company plans, but rather to report on whether the plans were firmly based in customer engagement.

The implication of an *'agreement'* between company and CCG was not a part of the PR19 methodology, although something along these lines has been proposed by Professor Stephen Littlechild in his separate submission to the CMA.

2.84 The CEF agrees that, *'There was a marked improvement in (Anglian Water's) engagement with their customers in this price review, helping the development of their business plans'*. We would suggest that the role of the CEF in providing ongoing and robust constructive challenge to the company's consumer engagement was an important factor in achieving this outcome.

2.124 The CEF can independently attest, from our detailed scrutiny of Anglian Water's consumer engagement, that customers do indeed assign *'great importance to resilience and environmental objectives and that bill reductions were somewhat less of a priority'*. We would add, however, that this customer view is the case only as long as the needs of those customers in vulnerable circumstances, and therefore perhaps less able to pay for the resilience and environmental enhancements, are properly taken care of. (Customers **were** broadly in agreement that the business plans submitted by Anglian Water were satisfactory, in respect of provisions for those in vulnerable circumstances.)

2.130 We note the CMA report Ofwat's finding that, *'Companies' customer research varies in quality'*. In this context, we suggest that Ofwat and the CMA should therefore place greater weight on the customer engagement carried out by companies (such as Anglian Water) where such engagement has been judged to be of higher quality.

2.138 CMA report that, *'Anglian submitted that its customer engagement forum believed that the plan faithfully reflected the preferences expressed by customers'*. While the word *'faithfully'* may be somewhat over representing the CEF's position, we would concur that, in the round, Anglian Water's business plan reflects the broad preferences expressed by its different customers.

3.13 The Anglian Water CEF cannot comment on the quality of customer engagement carried out by other water companies. As noted above, Ofwat scrutinised companies' engagement in detail and, in assigning different ratings to the quality of those engagement programmes, recognised that the quality varied between companies. In the case of Anglian Water, Ofwat assigned an 'A' rating, and the CEF would endorse that judgement. It is disappointing to note that the CMA overlooks such differentiation in the quality of customer engagement in its report and appears to assign a 'one size fits all' judgement. Anglian Water's customer engagement has been subject to detailed scrutiny and challenge by a panel of independent experts over a period of months and years. We would invite the CMA to give examples of the '*questions over the validity of research methods*' that they have in relation to customer engagement carried out by Anglian Water, noting that these research methods have been subject to detailed expert independent scrutiny by the CEF.

1.38 We note that the CMA employed engineering consultants to assist on technical engineering matters, but did not engage, or need to engage, expert advice on the quality of the companies' customer engagement. (Such advice was supplied, effectively, by the CCGs).

3.39-3.40 In this section dealing with Covid-19, it is concerning that there is no mention of probable changes in consumer attitudes driven by experience of the pandemic and lockdown; for example, in affecting the balance in consumers' minds between longer term environmental and sustainability investment on the one hand, and on the other short-term bill reductions. As a number of stakeholders have pointed out, this is a central issue in the companies' appeals.

It is unclear how and to what degree this balance may shift, but it is clear from ongoing customer engagement by companies in other regulated sectors (e.g. RIIO-2), that some fundamental shifts are occurring. The CEF would like to see this section of the PF expanded to encourage both water companies and Ofwat to pay particular attention to this, especially in the context of Ofwat's statutory duties in respect of the consumer interest.

5.394 ff During discussions with the CMA, the CEF made the point, in both our meeting with the panel and in our follow up letter, that we did not want to see the determination resulting in significant reduction in the company's smart metering programme. This is in the context of the evidenced benefits to customers and the environment through enhanced water saving, reduced energy and water bills, and reduced leakage, all of which received strong levels of customer support. We were pleased to see that the PF in section 5.396 recognise the benefits of smart meters. The additional funding allowed will provide greater certainty that this important customer-supported programme for converting "dumb" meters to smart meters, can be delivered.

7.56 Given that, as noted above, an independent panel of experts (the CEF) has provided detailed scrutiny of and challenge to Anglian Water's customer engagement, we would ask if the CMA could please provide details of '*questions they have over the validity of research methods*' employed by Anglian Water.

7.58 The CEF agrees that '*customer evidence should not in and of itself be determinative*', but suggests that, where customer evidence has been found to be of higher quality (as in the case of Anglian Water), it should carry greater weight than where it has not. The PF appear to assign equal weight to the customer engagement of all companies.

8.0 The CEF welcomes the detailed attention given by the CMA to the question of leakage, as this is a very high priority issue for Anglian Water's customers. The CEF encourages all parties to ensure that a funding conclusion is reached, which gives certainty that this huge and important issue is funded to the degree that respects the clearly expressed wishes of Anglian's customers.

12.0 The CEF appreciates that this chapter is a summary of its findings in relation to Anglian Water's provisional determination, but is disappointed to note that it contains no reference to the superior quality of Anglian Water's customer engagement.

We hope that these comments are useful, and taken in the constructive spirit intended, towards achieving the best possible outcome for Anglian Water's customers. We would be happy to engage in any further dialogue that the CMA panel might find useful.

Yours faithfully,

Jeff Halliwell
Chair, Anglian Water Customer Engagement Forum