

UNISON's RESPONSE

Introduction.

UNISON is the predominant trade union representing employees of the water industry in England, Wales and Scotland. UNISON was pleased to engage with the CAVE Review Team and participated fully in the gestation of the final report.

Despite the serious concerns put forward by UNISON it is a matter of regret that the Review Team went ahead with a recommendation to increase competition in the commercial sector and to separate off the retail functions of the water companies in England. UNISON was particularly disappointed that the Government pre-empted this consultation by announcing its acceptance of the CAVE recommendations for England as part of the 2009 Budget. (1.1.2)

UNISON welcomes the decision of the Welsh Assembly Government **not** to proceed with any further introduction of retail competition for business customers. (1.1.3)

Existing competition in the water and sewerage sectors (1.3)

In 1.3.2 DEFRA explains the two existing frameworks for new areas of competition and in 1.3.3 it points out that these have met with only limited take up. Moreover even in Scotland where Scottish Water had already introduced mechanisms designed to attract more competition into the business sector these have also only met with very limited success. Despite this track record of failure DEFRA still appears intent on proceeding to introduce more competition in England within the retail functions of the water companies.

UNISON highlighted the considerable differences in scale between the retail functions (10%) and the upstream core of the companies that amount to some 90% of economic activity. For obvious reasons the greatest scope for more innovation and greater levels of efficiency lie within the 90% area than the 10% area. Yet the main thrust of DEFRA's consultation paper is aimed squarely at the 10% retail area where the scope for greater savings is extremely limited.

Despite the marginal theoretical benefits identified DEFRA still believes that they merit proceeding with the introduction of more retail competition for the business sector. UNISON, in its submissions to CAVE, drew attention to the scope for achieving considerable savings

by managing the capital investment programmes better. In comparison the cost of companies' retail operations pale into insignificance. UNISON is concerned that considerable disruption to the staff and resources of companies will be caused by proceeding with retail separation when the potential benefits are marginal.

Retail (1.4)

UNISON is strongly opposed to the proposed introduction of a framework for non household retail competition. It follows that we also oppose the supplementary measures envisaged in 1.4.1 and 1.4.2. In 1.4.4 DEFRA concedes that legal separation of companies' retail functions raises a number of questions about the preferred way forward. Leaving aside the arguments for and against legal separation it is unclear that this will lead to any greater level of efficiency for the companies. What is clear is that separation will have a detrimental impact on the staff involved who face disruption of their existing working practices and possibly transfer to a new employer. In the latter case this will also raise concerns about pension provision.

In 1.4.6 the question of small water companies is addressed. UNISON supports the proposal to exempt companies with less than 50,000 customers.

Unbundling of Combined Licences and Upstream (1.7)

UNISON urges DEFRA to fully take into account the real benefits that have flowed from the adoption of an integrated approach to managing the water cycle. Any proposals to allow a separate company to input treated water into a regulated company's water supply system or to allow a separate company to discharge untreated water to a regulated company's raw water supply system should be subjected to the most rigorous scrutiny. Such a system would compromise the regulated company's ability to ensure that water quality standards are maintained and would pose unacceptable risks to public health. For these reasons UNISON does not support this proposed unbundling. We welcome the decision of the Welsh Assembly Government not to proceed with these changes.

In 1.7.4 it is recognised that advice from the Drinking Water Inspectorate should be obtained on the suitability and competence of any new applicant. DEFRA suggests that the Environment Agency should have a similar role for sewerage licences. UNISON supports this view. 1.7.7 recognises the risks to the environment posed by these proposals, especially related to sewerage. UNISON is extremely concerned that such a system is being envisaged by DEFRA.

Industry Structure (1.8)

In 1.8.1 it posits that there is merit in allowing the retail arms of companies to merge together to form joint retailing companies. As we have already said, UNISON is firmly against this kind of separation. If carried out it will create an unnecessary additional tier of bureaucracy

between the customer and the actual supplier of water and sewerage services.

Regarding mergers of existing UK water companies, it is clear that some disbenefits have occurred as a result of the existing regime. While foreign takeovers have been allowed the consolidation of existing UK companies have been thwarted. UNISON agrees that the existing threshold of £10 million is not the appropriate determinant to govern when a merger should be referred to the Competition Commission. While CAVE has recommended that water company mergers should be brought into line with the mainstream regime where the threshold is set at £70 million, UNISON takes a slightly different view. UNISON would want all proposed mergers of water companies to be subjected to the most rigorous scrutiny by the Competition Commission but we would not want to rule them out in principle where they are on balance assessed to be in the public interest. In 1.8.3 UNISON supports the view that OFWAT needs to develop new statistical techniques and alternative data sources to better enable it to regulate fewer companies as a consequence of mergers. UNISON also supports the recommendation in 1.8.8 concerning OFWAT undertaking assessments of the merger implications for the information of the OFT.

Innovation (1.9)

UNISON remains concerned that the extent of R&D by the water industry as a whole will not increase unless there are some radical steps taken to stimulate it. The challenges facing companies are largely commonplace and there is much to be gained by pooling R&D resources into one national centre of excellence. Such a centre could be funded by the industry via a system of levies. Consequently UNISON supported the CAVE recommendation to establish a national R&D body.

UK Government's Approach to Implementation (1.10)

If despite UNISON's strong opposition to the introduction of more competition a decision is made to go ahead then we would support the Government's intention to proceed gradually. (1.10.2)

Financeability (1.11)

UNISON welcomes DEFRA's recognition of the significant change in the ownership of water companies that has occurred in recent years. Private equity consortia are now major stakeholders in the industry. This has serious implications not just for the financeability of companies but also for corporate social responsibility and accountability of companies who are after all providing an essential public service under license from Government. Potential failure through financial strain must not be an option. It is apparent that so finely balanced are the funding arrangements secured by private equity owners that any changes in the corporate structures of companies, especially any plans to separate off the retail functions, for example, will impact upon the financial viability of the companies' finances. In

1.11.3 DEFRA acknowledges that the increasing cost of capital is likely to be greater than any efficiencies generated.

UNISON welcomes the decision to recognise the unique nature of Glas Cymru and to allow its structure to continue developing in the best interests of the people of Wales. (1.11.4)

Protecting Vulnerable Customers (1.12)

UNISON is extremely concerned that eventually the approach adopted for commercial customers will be extended to domestic customers.

There is no evidence to suggest that the interests of vulnerable customers would be better served by more retail competition. The operation of the energy market provides little comfort to those who suggest otherwise. UNISON disagrees with the view put forward that competition and innovation could be more effective than regulation in meeting the needs of vulnerable customers. There is no evidence to support the view that markets can effectively determine the needs of vulnerable customers nor can they identify who they are. In UNISON's view customers' priorities are for a fair consistent and reliable provision of service. Moreover the poorer customers remain deeply suspicious of private companies selling them water services.

While UNISON welcomes the Government's decision not to introduce retail competition for domestic users we are concerned over the use of the term, 'at this time'. This seems to suggest that it has not been ruled out and it is just a question of timing. UNISON reminds DEFRA of the lack of evidence in support of more competition for domestic customers and also of the lack of any substantial demand from customers for it.

Protecting the Environment (1.13)

In UNISON's view the key to achieving and maintaining good environmental standards lies not in market mechanisms but in good quality targeted regulation. However we do accept that more needs to be done to stimulate innovation and investment and that this should be directed towards a system that recognises the true value of water resources.

30 November 2009.