



Parliamentary Briefing

The Water Bill: competition and affordability

November 2013

1. Summary

The current upstream competition elements of the Water Bill will result in greater environmental damage to the freshwater environment. This will be brought about because the abstraction licensing system, which underpins all water supply sources, is fundamentally broken. A third of river catchments in England and Wales are either 'over-licensed' or 'over-abstracted' according to Environment Agency figures, with more water taken out than the environment can sustain. New legislation proposed by the Bill to remove the right to compensation for water companies upon changing an abstraction licence is very welcome though.

- Amendments, including powers to enable abstraction reform (subject to full public consultation) and a primary duty to sustainable development for the water industry regulator Ofwat, are needed before, or alongside, the opening of the upstream market.

To tackle the problems of customer water bill affordability, reform of the household charging system is needed.

- The Water Bill should include an amendment to allow water companies, when supported by customers, to introduce water meters where there are clear social benefits in doing so (as part of a package including water efficiency measures and social tariffs that protect the most vulnerable).

2. Increasing competition in the water sector

The Water Bill's primary function is to increase competition in the water industry. As well as increasing competition in the retail side of the business (by allowing commercial customers to switch supplier), the Bill takes forward recommendations from the Cave Review¹ to introduce competition in the 'upstream' market (i.e. the part of the business associated with water abstraction, treatment and disposal of sewage).

The clauses proposed on upstream competition will:

1. Open up the upstream market to new entrants through new powers which would allow all abstractors (including farmers, industrial users and private land owners) to gain Water Supply Licences and sell the water they abstract to the incumbent water company (Part 1 of the Bill); and
2. Encourage increased trading of bulk water supplies between water companies through a standardised set of Operational Agreements overseen by Ofwat (also Part 1 of the Bill).

¹ Cave Review: Competition and Innovation in the Water Sector, 2008.

In theory, this could have environmental benefits:

1. Competition can lead to greater innovation and efficiencies which could mean less water abstracted overall; and
2. New Water Supply licences could mean more sources of water to choose from, which could lead to selecting water-abundant sources over sources where water is scarce.

However, in practice, the Bill as it stands will result in greater environmental damage because the abstraction licensing system which underpins all water supply sources is fundamentally broken.

The Bill will incentivise existing abstracting licence holders to sell their water to water companies, even when the catchment is already “over-abstracted” or “over-licensed” according to the Environment Agency. And with no safeguards in place, this will mean greater environmental damage to our already stressed river systems.

The Bill does propose legislation ending the right for water companies to be compensated if an abstraction licence is withdrawn or amended. This is welcome and should go a considerable way to address damaging water company abstraction in hundreds of places by ending the deadlock that has arisen from large demand for compensation from a very small and insufficient funding pot. However, it is essential that this legislation is accompanied by a primary sustainability duty for Ofwat to ensure that water company plans to tackle abstraction do not stumble into a new funding hurdle.

To bring about the benefits of upstream competition, whilst ensuring that the Bill does not inadvertently cause significant environmental problems, the following amendments are needed:

1. Enabling legislation that allows the Government to introduce long-promised abstraction reform via secondary legislation, once the public consultation due to launch this December is complete.
2. A primary sustainability duty for Ofwat, which will ensure that it considers that sustainability of water sources in its role granting new Water Supply Licences and overseeing bulk supply agreements.
3. Safeguards to upstream competition:
 - a. Requiring parties entering into bulk supply agreements to consult with the Environment Agency.
 - b. Giving the Environment Agency powers to intervene to vary or terminate bulk supply agreements if they are contributing to over-abstraction and environmental damage.
 - c. Requiring applicants for new Water Supply Licences to consult with the Environment Agency.
 - d. Requiring full public consultation prior to new regulations relating to water supply arrangements between water companies and other abstractors.

3. Customers' water bills and affordability

Water charging in England and Wales was designed two decades ago and urgently needs to be brought up to date. Thousands of customers struggle to pay their water bills, current water consumption is unsustainable, wastage is high and our natural environment is under significant stress - all problems likely to be exacerbated by climate change and a rising population.

By 2015 half of the country will be paying by water meter with the rest paying by the rateable value system. The charging system based on 1974 rateable values does not reflect water use;

nor does it protect millions of low-income families from unaffordable bills. We simply cannot afford to turn a blind eye and carry on with business as usual.

In 2009 Defra commissioned an independent review by Anna Walker of the household water charging system². The Walker Review concluded that the current mixed system of charging was unfair, not progressive and not fit to address affordability issues in the water sector.

The Walker Review found that the rateable value of a property bears no relation to customers' ability to pay their water bills: 40% of low-income households live in the top rateable value bands and therefore pay the highest water bills. As a result many lower income households are subsidising higher income households who live in properties with lower rateable values. Of the £600m in cross-subsidies under the rateable value system, only £180m were going in the right direction (i.e. from the well-off to the less well-off).

After considering the evidence, the Walker Review recommended a widespread switchover to metered charging, considering it the fairest way to pay, and the only way to address the affordability problems inherent in the current system. In response to this, in 2012, the Efra Committee recommended that the *“Government set a clear and ambitious objective to increase levels of metering, taking account of Anna Walker’s recommendation that metering penetration reach 80% by 2020”*.³

3.1 Metering

As currently legislated for, water meters cannot be introduced on a compulsory basis in large parts of the country, even when it is clear that they could go a long way to address affordability concerns. Except for domestic premises with certain high water use demands, water companies are only able to introduce domestic water meters on a compulsory basis where the Secretary of State has determined that either the whole or part of their area is an “area of serious water-stress”⁴. To introduce metering, the water undertaker is also required to have planned for metering in its Water Resources Management Plan⁵.

To increase the uptake of universal metering, water companies should be able to introduce compulsory metering if, after consultation with customers through the existing Water Resources Management Plan and Business Plan processes, it is found to be the most affordable option for customers overall (as well as being the best option for water resources management).

1. To help address affordability in the water sector, the following amendment is needed:
 - a. A new clause to remove the current restriction on compulsory metering to only water scarce areas, to enable affordability benefits to be realised everywhere.

This amendment would not force water companies to bring in water metering. It would simply allow them, in consultation with customers, to consider the wider social benefits water metering can bring in all parts of the country.

² Independent Review of Charging for Household Water and Sewerage Services, led by Anna Walker, 2009.

³ Environment, Food and Rural Affairs Committee, Second Report – Water White Paper, 2012.

⁴ Section 144B Water Industry Act 1999 restricts water undertakers from charging by volume (e.g. metering) except in certain circumstances, which are prescribed in the Water Industry (Prescribed Conditions) Regulations 1999 and Water Industry (Prescribed Conditions) (Amendment) Regulations 2007

⁵ such plans required by Section 37B(8)(a) of the Water Industry Act 1991

Contact	Dominic Gogol; Public Affairs Adviser; WWF-UK Rob Cunningham; Head of Water Policy; RSPB Martin Salter; National Campaigns Coordinator; Angling Trust
Email/Tel	Dgogol@wwf.org.uk ; 07771 818704 Rob.cunningham@rspb.org.uk ; 07884 087962 martinreadingwest@googlemail.com ; 07976 946033
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