Joint Response by Forfás/Enterprise Ireland/IDA Ireland to the CER’s Consultation on the Irish Water Customer Handbook (CER/14/086)

May 2014

Three quarters of Ireland’s exports of goods and services in 2012 were by enterprise agency client companies in the internationally trading sectors. Agency-assisted companies operating in Ireland provide approximately 300,000 direct jobs and a similar number of indirect jobs; 40 per cent of national Gross Value Added; and €40 billion in direct expenditure (payroll, materials and services purchases).
Summary of the Key Issues for Enterprise

- The provision of competitively priced world class water services (water and waste water), at appropriate quality levels, is vital to support long term economic growth and job creation. In particular, it is critically important from an enterprise perspective that the new water tariff framework ensures competitively priced access to quality water services to enable the internationally trading sectors to compete successfully in global markets, particularly in key growth sectors such as food and drink, life sciences, ICT and construction materials.

- Although Ireland has made substantial investments in water and waste water infrastructure over the years, further significant investment is required to ensure Ireland can continue to meet enterprise needs. In particular, the enterprise agencies recommend that Ireland takes a strategic medium to long term approach to investment planning that delivers quality water services while also ensuring that Ireland is cost competitive in a global context. Irish Water needs to drive for efficiencies in the delivery of water services – in particular, it needs to ensure that operating, maintenance and capital cost in Ireland are brought into line with international best practice.

- While there are significant challenges in the near term, in the longer term, Ireland has the potential to make water services a competitive advantage in the attraction of mobile investment. It is critical that our water policy and regulatory framework are designed and implemented to ensure that we are on the right trajectory to deliver competitively priced world class water services in the longer term.

- Many businesses will have an expectation of the service standards they receive from their other utility providers and it makes sense that Irish Water would to be expected to meet customer expectations. We do acknowledge that the service standards required have to be tailored to fit to the water sector according to its stage of network development. However, in the longer term, Ireland needs to provide competitively priced world class water services to support economic growth and job creation. The enterprise agencies recommend that the CER undertakes periodic reviews of the customer handbook to take account of changing circumstances as the network is upgraded and the investments work through the system and ensure that Ireland is on the right trajectory to achieve its long term water services goals.

- The enterprise agencies fully agree with the CER’s approach to set out separate guidance on non-domestic and domestic codes of practice. However, there seems little distinction between the domestic and non-domestic codes of practice as set out in the draft Irish Water customer handbook. The enterprise agencies believe that the needs of non-domestic customers differ in that water is a vital input in the provision of products and services across the economy, but particularly for internationally trading water intensive sectors like food and drink, life sciences, ICT and construction materials and locally traded sectors such as catering and hospitality. The enterprise agencies strongly believe that the CER needs to give further consideration to the non-domestic codes of practice and consult again on the more detailed proposals in due course. In particular, the penalties for non-compliance with the codes of practice for non-domestic customers do not go far enough. In addition, the handbook needs to include a section to deal with business development requirements.
The enterprise agencies (Forfás, Enterprise Ireland and IDA Ireland) welcome the opportunity to input to the consultation by the Commission for Energy Regulation (CER) on Irish Water’s customer handbook (CER/14/086).

Ireland’s economic growth depends on the ability of businesses to trade successfully in increasingly competitive global markets. The availability of a competitively priced world class infrastructure (energy, telecoms, transport, waste and water) and related services is essential to support enterprise development, competitiveness and job creation.

The provision of reliable, competitively priced water services (water and waste water), at appropriate quality levels, is critical to support economic growth and maintain and create jobs.

**Importance of water services for enterprise development**

Water services play a key role in supporting economic activity and job creation, particularly in key growth sectors such as food and drink, life sciences, ICT and construction materials. In particular, enterprise needs access to secure, competitively priced, quality water services:

- Water is an important input to many business processes. We need to ensure that water and waste water services are competitively priced in a global context;
- Although Ireland has made substantial investments in water and waste water infrastructure through successive water services investment programmes, further investment is required to ensure that Ireland can continue to meet enterprise needs. In particular, we need a strategic medium to long term approach to investment planning that delivers an adequate supply of quality water services while also ensuring that Ireland remains cost competitive. Irish Water needs to drive for efficiencies in the delivery of water services – in particular, it needs to ensure that operating, maintenance and capital cost in Ireland are brought into line with international best practice;
- While drinking water quality in Ireland is generally high, a continued focus on ensuring it remains so is required as contamination of water supplies can have a major impact on enterprise, particularly in the food and biopharma sectors; and
- We also need to ensure that other quality and reliability measures of particular relevance to enterprise are monitored and improved where necessary. These include minimising disruptions to service and ensuring minimum pressure levels.

The enterprise agencies strongly support the reform of water services provision in Ireland. The timely implementation of the water reform plans, including the development of an effective economic regulatory framework, is critical to deliver the adequate supply of competitively priced, quality and reliable water services required to support enterprise development and job creation.

**Regulation of water services**

Effective economic regulation is central to economic competitiveness. Forfás completed a study to identify changes to the operation of sectoral regulators to enhance cost competitiveness as part of

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the Action Plan for Jobs 2012. While the focus of the Forfás study was on measures to enhance cost competitiveness, it also examined a range of cross-cutting issues that are at the core of effective economic regulation. These included the focus of regulatory mandates, how effective the regulator is in delivering on its mandate, the enforcement powers and sanctions available to the regulator, and the efficiency of the appeals process.

The Government policy statement on sectoral economic regulation, which was published in July 2013, sets out the strategic framework for sectoral economic regulation. As highlighted in our submission to the CER’s consultation on the water economic regulatory framework in November 2013, it is vital that the new economic regulatory regime for water services is informed by the Government policy statement to ensure that it reflects agreed best practice and that economic regulation is as consistent as practical across sectors.

Best regulatory practice demands that the mandates of sectoral regulators are clear, consistent and provide certainty. Regulatory certainty is critical for efficient investment and well-functioning markets. A fundamental element of regulatory certainty is the independence of the regulator. The Water Services (No. 2) Act 2013 provides for the Minister to issue policy directions to the CER. While ministerial policy directions can be useful when carried out in a transparent manner, the implications for regulatory independence and certainty need to be carefully considered. Regulatory uncertainty leads to higher investor risk, more expensive capital and ultimately higher costs for end users.

Government views the promotion of consumer interest (business and residential) and national competitiveness as key national objectives that should be prioritised by sectoral departments when setting out their sectoral objectives in primary legislation. In particular, the Government policy statement on economic regulation requires that a hierarchy of policy/regulatory objectives are explicitly set out in sectoral legislation to provide greater clarity on how to weight different policy priorities. While the Water Services Act requires the CER to “perform its functions in a manner that best serves the interest of customers of Irish Water”, it does not provide any guidance on how it should weight the nine objectives set out under Section 39.

As a lack of clarity on how to weight different functions can lead to suboptimal regulatory decisions, the enterprise agencies strongly recommend that a hierarchy of functions is developed for water regulation and that the core function should be ensuring that end users (business and residential) have access to quality services at the least cost, both now and in the future. This could be done as part of a ministerial policy direction to the CER.

Another broad issue that needs to be carefully considered in the development of the economic regulatory framework is the relationship between the economic regulator (CER) and the environmental regulator (EPA), particularly in the context of the soon to be developed water charges plan. Conflicts may arise for example where environmental regulations imply significant additional investment needs that will result in substantial price increases for users. In England and Wales, a

2 Forfás, Sectoral Regulation: study to identify changes to sectoral regulation to enhance cost competitiveness, April 2013
3 CER, Economic Regulatory Framework for the Public Irish Water Services Sector (CER/13/246), October 2013
4 Consumer interest is defined as providing end users (business and residential) with competitively priced access to quality services while also providing a sustainable level of long term investment.
memorandum of understanding has been developed between Ofwat and the Environmental Agency to provide clarity regarding roles and responsibilities and to avoid conflict between the two regulators. It sets out how the regulators will work with one another. The enterprise agencies recommend the development of a similar agreement between the CER and the EPA.

Putting clear and consistent mandates and frameworks in place is not by itself sufficient to deliver effective economic regulation. As highlighted in the Government policy statement, effective mechanisms should be put in place to rigorously assess whether policy objectives are being achieved and to determine if these mechanisms are sufficient to protect consumer interests and promote investment.

More generally, in the absence of an effectively competitive market, it is important that Irish Water submit annual business plans to the CER for review. This is in order to avoid gold-plating its capital expenditure by Irish Water at the expense of non-household customers and which could raise costs and therefore be detrimental to individual Irish-based firms’ international competitiveness. We also consider that all IW customers, not just domestic households, should be entitled to guaranteed minimum standards of service to be laid down by CER. Where Irish Water fails to meet any of these mandated standards of service then it should be required to make a specified payment to the affected non-household customer. The CER should monitor the minimum standards scheme and recommend charges.

Consultation paper questions

The remainder of the paper will address the specific questions of relevance to enterprise in the CER’s consultation paper.

Key documents (section 2.2)

**Q1: Respondents are invited to comment on the required Codes of Practice. Do you believe the topics covered are sufficient? If you consider there are additional Codes required or alterations to the proposed list please suggest outline what other Codes should be included and explain why.**

The enterprise agencies broadly agree with the high level topics listed in Section 2.2 of the consultation paper but we strongly recommend the inclusion of section on business development planning and that service quality requirements are listed as a separate code of practice for non-domestic users given how important these issues are for businesses.

The section on business development planning should set out the process and codes of practice for Irish Water’s engagement with non-domestic customers requiring new connections or expansion capacity.

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Non-domestic codes of practice

Q24: Do you agree with our approach to setting out guidance on Domestic and Non-Domestic Codes of Practice separately? Do you agree that the Codes of Practice on Customer Communication, Network Operations and Complaint Handling should apply equally to Domestic and Non-Domestic Customers? Please outline any alternative proposals you feel are necessary.

The enterprise agencies fully agree with the CER’s approach to set out separate guidance on non-domestic and domestic codes of practice. However, there seems little distinction between the domestic and non-domestic codes of practice as set out in the draft Irish Water customer handbook. Yet the needs of non-domestic customers differ in that water is a vital input to economic growth and job creation, particularly in water intensive internationally trading sectors like sectors like food and drink, life sciences, ICT and construction materials and locally traded sectors such as catering and hospitality. We believe that the CER needs to give further consideration to the non-domestic codes of practice and consult again on the more detailed proposals in due course. In particular, the penalties for disruptions to service, service quality standards for non-domestic customers do not go far enough.

The enterprise agencies acknowledge that the codes of practice in other jurisdictions like England and Wales and Australia do not make sufficient distinction between domestic and non-domestic customers. However, in Scotland better service for non-domestic customers has been incentivised through splitting wholesale and retail operations and allowing entry of alternative retailers. Although one could argue that Business Stream (the retail arm of Scottish Water) has been incentivised to improve its customer guarantees precisely because of the potential as well as the actual competition from other water retailers, it may nevertheless be helpful to examine the range and the actual compensation Business Stream applies to its non-domestic customers in Scotland which are set out below:

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<tr>
<th>Service standards</th>
<th>Compensation</th>
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<tbody>
<tr>
<td>1. We will respond to written or telephone complaints within eight working days.</td>
<td>£20</td>
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<tr>
<td>2. We will respond to invoice queries within ten working days (five for change of payment method).</td>
<td>£20</td>
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<tr>
<td>3. We will give 24 hours' notice if we cancel or move an appointment.</td>
<td>£20</td>
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<td>4. We will warn you of any planned interruptions 48 hours in advance and restore supply on time.</td>
<td>£50 (£25 for every 12 hours delay)</td>
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<td>5. We will restore supply within 12 hours if there is an unplanned interruption (48 hours for a strategic main supplying a large area).</td>
<td>£50 (£25 for every 12 hours delay)</td>
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<td>6. If you call our emergency number because water is coming from your gas appliances, we'll contact Scottish Water and call you straight back.</td>
<td>£20</td>
</tr>
<tr>
<td>7. If your property is damaged from flooding, we'll refund your</td>
<td>Up to £1,000</td>
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<tr>
<td>Service standards</td>
<td>Compensation</td>
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<td>annual wastewater charge.</td>
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<tr>
<td>8. If you ask for a water meter to be fitted, we'll arrange for a survey on your property and let you know the results within ten working days.</td>
<td>£20</td>
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<tr>
<td>9. If you contact us about problems with your water pressure, we'll investigate and let you know the problem within five working days.</td>
<td>£20</td>
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<tr>
<td>10. If there's an emergency that affects your water supply, you'll get updates every 48 hours.</td>
<td>5 -15% of water and waste water charge</td>
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<td>11. We'll let you know about any changes to maximum tariffs within 10 working days.</td>
<td>£20</td>
</tr>
<tr>
<td>12. If you claim because we've failed to meet any of the above, we'll credit your account within ten business days.</td>
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The measures in place in Scotland demonstrate a level of granularity of service standards that Irish Water should be required to emulate. Many businesses will have an expectation of the service standards they receive from their other utility providers and it makes sense that Irish Water would to be expected to meet customer expectations. We do acknowledge that the service standards required have to be tailored to fit to the water sector according to its stage of network development. However, in the longer term, Ireland needs to provide competitively priced world class water services to support economic growth and job creation. The CER needs to undertake periodic reviews of the customer handbook to take account of changing circumstances as the network is upgraded and the investments work through the system and ensure that Ireland is on the right trajectory to achieve its long term water services goals.

The challenge for the CER in approving the Irish Water customer handbook will be to find the right balance between protecting customers (domestic and non-domestic) and enabling Irish Water to operate in a commercially viable manner (both among its functions under the Water Services (No. 2 Act 2013). However, it is important to remember that Scottish Water was also seen to be behind the curve in terms of service provision and investment compared to English and Welsh water companies prior to the instigation of a road map for market reform from 2006 onwards7. The enterprise agencies therefore recommend that Irish Water’s code of practice for non-domestic users should include a similar range of service standards and compensation levels as are in place in Scotland.

We would also encourage the CER to consider introducing an explicit link between the approved tariff level and the quality of service provided when the enduring tariff framework is fully in place as was introduced by the Commission for Aviation regulation when airport charges at Dublin airport were reviewed in 20098. The targets are set according to the average score achieved by Dublin airport between Q1 2006 and Q2 2009. Quality indicators should cover issues of most relevance to enterprise such as water quality, service disruption levels, water pressure levels etc.

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7 [http://www.business-stream.co.uk/sites/default/files/100506_Our_service_standards_FINAL.pdf](http://www.business-stream.co.uk/sites/default/files/100506_Our_service_standards_FINAL.pdf)
8 Each quarter, the regulator publishes the quality of service monitoring at Dublin airport report. It includes thirteen service measures. The reports are available at: [http://www.aviationreg.ie/regulation-of-airport-charges-dublin-airport/compliance-papers.123.html](http://www.aviationreg.ie/regulation-of-airport-charges-dublin-airport/compliance-papers.123.html)
The same code of practice for communication applies to both domestic and non-domestic customers included in the handbook. Some agency client companies have complained about a lack of information about what is happening to how water services are provided and what that means for them. We are aware that the Irish Water provides this information for business customers. However, we believe that Irish Water needs to engage directly with non-domestic customers as quickly as possible to apprise them of what the recent reforms mean for them at a practical level and ensure that business needs are effectively addressed (e.g. requests for additional capacity to grow their business).

The local authorities had in place an email alert system that allowed them to notify non domestic customers directly of any issues/developments of relevance to them (e.g. planned outages). We strongly recommend that Irish Water uses this database to improve communications and awareness and keep businesses informed of developments and update them on the new arrangements for engagement on various issues such as billing, business development planning, service provision issues etc. There should also be a facility on the business section of the Irish Water website for new water users to sign up for the email alerts.

**Codes of practice on metering of non-domestic customers**

**Q25: Do you agree with our guidance on Metering for Non-Domestic Customers? Do you believe there are other requirements that Irish Water should include in a Code of Practice on Metering for Non-domestic customers? Please outline what you would recommend if so.**

The enterprise agencies agree with the guidance set out in Section 13 on metering of non-domestic customers.

**Codes of practice on billing for non-domestic customers**

**Q26: Do you agree with our guidance as laid out in Sections 14.1-14.5 of the Customer Handbook? Please indicate where you believe additional or alternative items are required.**

The enterprise agencies broadly agree with the guidance set out in Section 14 on billing of non-domestic customers.

One billing related issue for non-domestic customers that does not appear to be addressed is the practice of sending multiple bills for multiple premises, rather than one consolidated bill as they would get from their energy supplier.

The enterprise agencies also recommend that as part of its billing information, Irish Water allows customers to track and monitor water use and costs.

**Security deposits**

**Q27: Do you agree with our guidance on customer security deposits? Do you believe there are alternative or additional proposals that we should consider?**

The enterprise agencies broadly agree with the guidance on customer security deposits.
Disconnection of a Non-Domestic Customer’s Supply

Q28: Do you agree with our guidance on Disconnection of Non-Domestic Supply? Do you feel there are additional or alternative requirements to be included? Please outline in detail what you feel these should be.

The enterprise agencies strongly support the CER recommendation that disconnection of a non-domestic customer should only take place as a last resort and after other arrears handling processes have been exhausted. We also support the CER’s requirement that Irish Water implements adequate customer protection measures for customers who are in arrears and facing a possible disconnection.

Settlement of arrears and restoration of supply

Q29: Do you agree with our guidance on settlement of arrears and restoration of supply? Do you feel there are additional or alternative requirements that should be included? Please outline in detail what you feel these should be.

We broadly agree with the guidance on the settlement of arrears and restoration of supply for non-domestic customers.

Terms and conditions of supply for non-domestic customers

In the consultation paper, the CER says that it expects to develop this section in the future in line with harmonisation. It is essential that the CER consults on the detailed terms and conditions for non-domestic customers at that stage.