

# Knowing your chances

Taking a price determination to the Competition Commission



# Our approach

Final Determinations for PR09 are expected from Ofwat in November 2009. Water companies then have a limited period of time to decide whether to accept the Final Determination or to object, triggering a reference to the Competition Commission (CC) for review. The Draft Determination, expected in July 2009, is the first point that a realistic assessment of the need for a reference can be made, and the strength of the company's potential case assessed. Considering the case for a reference early would allow companies to develop and 'test' their strategy before the Final Determination and a potential reference.

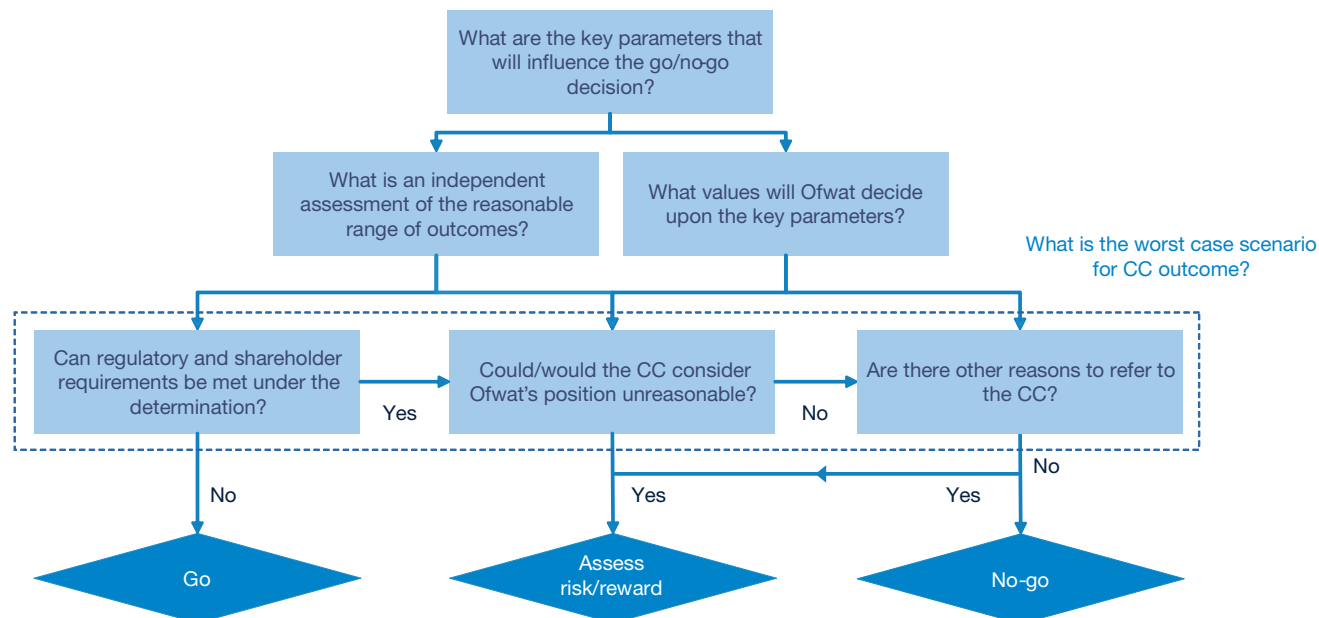
The decision as to whether to trigger a reference needs to be based on a robust assessment of the likelihood and magnitude of success in the CC process against the downside risks of such a move. In particular, the decision needs to be based on an understanding of how the CC will approach the review and the likely outcomes. Go / no-go analysis takes an independent view of the risks and rewards of triggering a reference to enable a well-informed decision.

## A structured methodology

PwC is experienced in conducting 'go / no-go' analyses both within the water sector and elsewhere and have developed a structured methodology which considers, among other things:

- The strength of the evidence
- The preparedness of the company to put a strong case forward
- The likely approach of the CC to the particular points of disagreement
- Wider strategic concerns (e.g. establishing points of principle, the effects on the future relationship with Ofwat, and the views of different stakeholders).

A summary of our conceptual decision-making framework is presented below. However, decisions need to be based on quantitative data and sound economic analysis within this framework.



# Our experience

## Knowing the Competition Commission (CC)

- We have an In depth understanding of the CC:
  - We are the only advisory firm to have carried out all of the economic and financial analysis for entire inquiries on behalf of the CC
  - Our approach (like that of the CC) is rigorous economic analysis
  - We have assisted numerous clients in CC investigations
- We can draw upon extensive experience in conducting go / no-go analysis both in the water industry and other sectors.

## Go / no-go analysis for a large water company

PwC were commissioned to conduct a go / no-go analysis for referral of a water company's price determination to the CC.

The work involved developing criteria (including NPV and ability to fulfil remit) to assess the strength of the company's case through quantitative and qualitative analysis of its arguments and evidence using workshops and interviews.

## Result

- Our work was presented to the board
- Based on our analysis, the water company decided not to refer the determination to the CC.

## Go / no-go analysis and case support for a leading mobile telephony operator

PwC advised on whether to take the decision (by the Director General of Telecommunications) on prices of calls to mobile to the CC. We also provided support in the resulting inquiry.

PwC's advice included a detailed go / no-go analysis, including both financial and non-financial variables, commenting on the construction and application of cost models to regulated charges, and examining the profitability of mobile telephony companies.

## Result

- The company elected to take the case to the CC, on the basis of potential non-financial benefits
- The CC's decision was similar to the outcome predicted by us, using our structured methodology.

## Go / no-go analysis and case support for a major electricity distribution and retail company

PwC advised the company on a go / no-go decision in relation to triggering a reference of the electricity distribution price control review to the CC.

We undertook an assessment of the strengths and weaknesses of the case to support the Executive team in the go / no-go decision and helped the client understand the potential gains from maintaining a strong negotiating position.

## Result

- The company did not refer the settlement to the CC
- Maintaining a strong negotiating position (keeping referral as an option) may have contributed to significant improvement in the final (compared to provisional) settlement.

# How PwC can help

- We can draw upon extensive experience of the Competition Commission and go / no-go analyses
- An independent, robust view, supported by challenging internal quality review
- Combination of traditional industrial economics analysis with strong quantitative skills, fluency in finance, and in-depth industry expertise
- Experience of advising market-leading companies on cases before the Competition Commission, DG Competition, the Office of Fair Trading (OFT), the European Court of First Instance (CFI), the Competition Appeals Tribunal (CAT), and other national authorities, regulators and courts.

“PwC enabled both the Commission and management to gain new insights into our business and this is testimony to the depth, quality and credibility of their work. Over the past five years we have come to rely upon these qualities as the PwC team assists [us] in proceedings around the world.”

Public Policy Director, leading mobile telephony operator

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