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STRAND TWO RECOMMENDATIONS AND WATER FRAMEWORK DIRECTIVE COMPLIANCE

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This research paper considers the proposal to base water charges on discrete capital values of households and considers whether this complies with the conditions set out in the Water Framework Directive which requires that water pricing policies provide adequate incentives for users to use water resources efficiently.

Research Papers are compiled for the benefit of Members of The Assembly and their personal staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public.

SUMMARY OF KEY POINTS

The Independent Water Review Panel recommended that domestic water users should be required to pay a water charge based on the capital value of their property. It has been suggested that tensions exist between this recommendation and policies outlined in the Water Framework Directive (WFD).

The WFD requires that a “fair price” for water is created as pricing acts as an incentive for the long-term sustainable use of water resources. Furthermore, a key principle of the Directive is that the polluter should pay.

Article 9 of the Directive provides the detail regarding the recovery of costs. It states that:

“Given the polluter pays principle...Member States shall ensure by 2010,

- *That water-pricing policies provide adequate incentives for users to use water resources efficiently, and therefore contribute to the environmental objectives of this Directive; and*
- *An adequate contribution of the different water uses, disaggregated into at least industry, households and agriculture, for the recovery of costs of water services.”¹*

There is little doubt that water pricing acts as an incentive for the long term sustainable use of water and there are numerous research documents demonstrating the benefits of policies such as metering. Analysis of the Directive would therefore suggest that it is questionable whether the current pricing policy recommendation is compliant with the WFD. This however, is certainly not clear cut and the Directive is open to much interpretation.

Advice published by the EU states that in order to achieve environmental aims, water pricing policies must reflect financial, environmental and resource costs. It also states that each user must bear the cost of water and prices must be linked to the amount of water consumed and/or pollution produced. The Directive does not however, state the level at which these policies must be adopted. That is, the environmental cost may be shared amongst the household category as a whole and not simply by the individual.

¹ Water Framework Directive.

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WATER CHARGING AND COMPLIANCE WITH THE WATER FRAMEWORK DIRECTIVE

BACKGROUND

The Independent Water Review Panel (IWRP), in their Strand One Report², recommended that,

*“domestic users should be required to pay an amount based on the capital value of their property.”*³

It was cited that not only would this have the practical advantage of being easily aligned with the rating system but also that it would provide a reasonably fair reflection of a households’ ability to pay.⁴

It has been further argued however, that tensions exist between this recommendation and policy outlined within the Water Framework Directive (WFD)⁵ with regards to providing customers with an incentive to use water efficiently.

This paper outlines the legislation as set out in the WFD and identifies whether the recommendation to charge on a households’ capital value is in compliance.

THE WATER FRAMEWORK DIRECTIVE - KEY ISSUES

The WFD expands the scope of water protection to all waters and sets clear objectives that a “good status” must be achieved for all European Waters by 2015 and that water use be sustainable throughout Europe.⁶

Key items within the legislation include the need to create a “fair price for water”. The reason being that water is not a commercial product like any other and should be seen as a precious heritage. The European Union therefore states that water should be given a price since,

*“pricing acts as an incentive for the long-term sustainable use of water resources.”*⁷

Furthermore, the WFD requires that Member States develop water-pricing policies where all users contribute in an appropriate way. The principle of the Directive is that,

*“the polluter should pay because at the end of the day somebody always has to pay the price for pollution.”*⁸

² For full document follow link: <http://www.iwrp-ni.org.uk/>

³ IWRP, Strand One Report, 2007, pg 5, <http://www.iwrp-ni.org.uk/>

⁴ IWRP, Strand Two Report, 2008, See 7.3 pg 93. http://www.iwrp-ni.org.uk/iwrp_strand_2.pdf

⁵ For full document follow link: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:327:0001:0072:EN:PDF>

⁶ EC, The Water Framework Directive, Tap into it!, pg 2.

http://ec.europa.eu/environment/water/water-framework/pdf/tapintoit_en.pdf

⁷ Ibid, pg 9.

⁸ Ibid, pg 9.

Guidance published by the European Commission requires that River Basin Authorities develop water pricing systems that are sensitive to the physical, social, institutional and political setting in each location. In other words,

“studies will be done on the breakdown of costs according to different sectors like households, industry and agriculture and to integrate into these costs the long-term forecast of investments in infrastructure by the public and private sectors.”⁹

Furthermore, because water is crucial to public health, the Directive provides affordability provision for less favoured areas.

THE WATER FRAMEWORK DIRECTIVE – THE LEGISLATION

Paragraph 11 of the Directive states that,

As set out in Article 174 of the Treaty, the Community policy on the environment is to contribute to pursuit of the objectives of preserving, protecting and improving the quality of the environment, in prudent and rational utilisation of natural resources, and to be based on the precautionary principle and on the principles that preventive action should be taken, environmental damage should, as a priority, be rectified at source and that the polluter should pay.¹⁰

Paragraph 38 goes on to state that,

...the principle of recovery of the costs of the water services, including environmental and resource costs associated with damage or negative impact on the aquatic environment should be taken into account in accordance with, in particular, the polluter pays principle. An economic analysis of water services based on a long term forecasts of supply and demand for water in the river basin district will be necessary for this purpose.¹¹

Article 9, paragraph 1 of the Directive provides further detail concerning the recovery of costs for water services. It states that,

Given that the polluter pays principle and having regard to the economic analysis conducted to Annex III, Member states shall ensure by 2010,

- that water-pricing policies provide adequate incentives for users to use water resources efficiently, and thereby contribute to the environmental objectives of this Directive,
- an adequate contribution of the different water uses, disaggregated into at least industry, households and agriculture, to the recovery of costs of water services, based on the economic analysis conducted according to Annex III of the Directive.

⁹ Ibid, pg 9.

¹⁰ Directive 2000/60/EC of the European Parliament and Council of 23rd October 2000, Establishing a Framework for Community Action in the field of Water Quality. (The Water Framework)

¹¹ Ibid

Member States shall, in doing so, have regard to the social, environmental and economic effects of the recovery as well as the geographic and climatic conditions of the region or regions affected.¹²

However, Article 9 paragraph 4 states that,

Member states shall not be in breach of this Directive if they decide in accordance with established practices not to apply the provisions of paragraph 1, second sentence, and for that purpose the relevant provisions of paragraph 2, for a given water use activity, where this does not compromise the water purposes and the achievement of the objectives of this Directive. Member States shall report the reasons for not fully applying paragraph 1, second sentence, in the river basin management plan.¹³

Were the Purposes, as outlined in Article 1, include:

- (a) prevention of further deterioration and protection and enhancement of the status of aquatic ecosystems;
- (b) promotion of sustainable water use based on a long-term projection of available water resources;
- (c) enhanced protection and improvement of the aquatic environment;
- (d) the progressive reduction of pollution of groundwater and prevention of further pollution; and
- (e) contribution to mitigating the effects of floods and droughts.

CONCLUSION

There is little doubt that water pricing acts as an incentive for the long term sustainable use of water. Numerous pieces of research have been conducted demonstrating the benefits of metering and one such example includes research conducted by the European Environmental Agency which found that introducing metering can bring immediate savings in water use with an estimated 10-25% of consumption.¹⁴

This view has been further supported by The Northern Ireland Environmental Link (NIEL). During evidence provided to the Committee for Regional Development it was stated that,

*“Measures must be put in place, including pricing, which lead to a reduction in the demand for water and encourage water conservation methods. This is required under EU Legislation (WFD) as well as being a requirement for efficient and sustainable management of a limited resource. Current pricing systems do not accomplish this as they are based on capital value of housing rather than consumption”.*¹⁵

¹² Ibid

¹³ Ibid

¹⁴ EC, The Water Framework Directive, Tap into it!,

¹⁵ NIEL, 23rd May 2007, Regional Development Committee.

Analysis of the Directive would suggest that it is questionable whether current proposed pricing policies are compliant with the WFD, it is certainly not a clear cut issue. Whilst Article 9, paragraph 1 states that that water-pricing policies must provide adequate incentives for users to use water resources efficiently, and thereby contribute to the environmental objectives of this Directive, there is no specific reference to the use of meters for households and the legislation is certainly open to interpretation.

Advice published by the EU¹⁶ states that in order to achieve the environmental aims and to include the major economic principles, water pricing policies must reflect,

“Financial costs: direct cost embracing the costs of supply and administration, operation and maintenance, and also capital costs;

Environmental costs, for example: cost of waste caused by water use on the ecosystem, for example: salination or degradation of productive soils; and

Resource costs: costs of resource depletion leading to the disappearance of certain options for other users.

Each user must bear the cost of consuming water. If pricing is to promote better water-resource use prices must be directly linked to the amount of water consumed and/or pollution produced.”

What may be open to interpretation is the level at which these policies are to be implemented. For example, given the fact that the environmental impacts may be best assessed at a water catchment or River Basin area, the cost may be shared amongst all interested parties. That is, the environmental cost may be shared amongst the household category as a whole. The legislation refers simply to water users and makes no reference to categorisation or individuals.

Furthermore, there is no specific reference to meters for households within the legislation and given that there are currently measures in place within the commercial sector, it could be argued that a pricing policy is in place which encourages the sustainable use of water by users.

It is also important to note that metering may not be the only pricing option available to ensure the efficient use of water resources.

¹⁶ Europa, Pricing and long term management of water, 2006.
<http://europa.eu/scadplus/leg/en/lvb/l28112.htm>