
Wholesale Retail Code and Market Arrangements Code Change Proposal – Ref CPW068 & CPM017

Modification proposal	Wholesale Retail Code and Market Arrangements Code Change Proposals – Ref CPW068 & CPM017 – Market Incident Management Plan Committee Revisions
Decision	The Authority has decided to approve this Change Proposal
Publication date	9 June 2020
Implementation date	28 August 2020

Background

The Market Incident Management Plan is set out in Code Subsidiary Document (CSD) 0007 (Business Continuity Management) and is a documented plan of action for use at the time of an incident which affects, or has the potential to affect, the overall market functioning. It covers the key personnel, resources, services and actions needed to implement the incident management process.

In order to strengthen business continuity, the Market Incident Management Plan Committee (the ‘MIMP Committee’) was established in 2017 to support the Panel in overseeing the Market Incident Management Plan (the ‘MIMP’). The MIMP Committee also provides governance processes surrounding major incident planning and the Business Continuity Management Framework.

MOSL (the Market Operator) obtained certification to ISO 22301 ‘Security and resilience – Business continuity management systems’ in April 2019, which has meant the level of oversight of the MIMP Committee has reduced to signing off the MIMP and facilitating planned rehearsals. In the event that the MIMP is invoked, then the MIMP Committee has an additional requirement to form a sub-group of the MIMP Committee to actively manage and provide a strategic response to an incident, and to review the lessons learned report.

Change Proposals CPW68 and CPM017 were originally presented to the Panel on 25 June 2019, with a recommendation for approval. Ofwat sent back these changes to the Panel on 2 October 2019 on the grounds that the Panel’s Final Recommendation Report lacked supporting rationale on the proposed solution, and required clarification and amendment.

The issue

Since its establishment, the MIMP Committee has been unable to retain members, with members refraining to continue their membership. This has meant the number of members has had to be reduced to maintain quorum to continue proceedings.

Quorum for the committee (aside from MOSL membership) requires one representative from Ofwat and two representatives each from Retailers and Wholesalers. Despite three calls for nomination in 2019, the Panel has failed to appoint the adequate membership for the MIMP Committee.

It is the view of the Proposer that the lack of engagement from Trading Parties is due to the minimal oversight of the MIMP required by the committee and therefore a perception that the committee is not required. As a consequence, the MIMP has been overseen by the Panel to ensure that the MIMP fulfils its intended objectives.

The change proposal¹

In the Market Arrangements Code (MAC), Section 5.2.1, there is a requirement on the Panel to establishing a MIMP Committee to oversee the MIMP. The Proposer contends this requirement has shown to be ineffective and inefficient, given the reduced level of oversight required since MOSL obtained ISO 22301 certification.

In summary, the solution proposed is:

- Remove specific obligations in the MAC and Wholesale Retail Code (WRC) regarding the establishment of the MIMP Committee.
- Rephrase obligations so that the Market Operator will report the current status of the MIMP to the Panel on a biannual basis.
- Obligations of the MIMP Committee which are currently defined in both the MAC and CSD 0007 of the WRC are allocated to the Market Operator with oversight being provided by the Panel. All incidents (whether specific to Market Operator or the wider-market) are strategically managed via a 'Market Operator Gold Command' team. The Market Operator Gold Command is currently chaired by MOSL's Director of Market Performance and Operations.

As a consequence, amendments are proposed to CSD 0007, WRC Schedule 1 Part 1 and the MAC.

¹ The proposal and accompanying documentation is available on the MOSL website at <https://www.mosl.co.uk/market-codes/change#scroll-track-a-change>

Industry consultation and assessment

No industry consultation was carried out on CPW068 and CPM017. Rationale was not provided in the Panel's Final Recommendation Report on why a consultation was not undertaken.

The Proposer provided the following view on the benefits that will be delivered by the implementation of CPW068 and CPM017:

- Direct oversight will be provided by the Panel rather than a sub-committee;
- Greater flexibility and dynamism in handling market incidents and business continuity events by enabling MOSL to manage incidents directly rather than convening a separate sub-group; and
- Reduce burden on Trading Parties in populating the Committee.

Panel recommendation

The Panel considered this Change Proposal at its meeting on 28 January 2020. It recommended, by unanimous decision, that the Authority approve this proposal. This recommendation has been made on the basis of improving the objectives and principles of the Market Terms, efficiency and proportionality. The recommended date of implementation is 15 May 2020.

The Panel stated that MOSL intended to retain its ISO 22301 certificate. The Panel also noted that MOSL was comfortable with the obligation in CSD 0007 and sufficient resource existed to manage the obligation.

Our decision

We have considered the issues raised by the Change Proposal and the supporting documentation provided in the Panel's Final Recommendation Report and have decided to approve this Change Proposal. We have concluded that the implementation of CPW068 and CPM017 will better facilitate the principles of the WRC and MAC detailed in Schedule 1 Part 1 Objectives, Principles and Definitions and Schedule 1 MAC, Principles and Definitions, and is consistent with our statutory duties.

Reasons for our decision

Following the revised Panel's Final Recommendation Report, we are supportive of changes to the MAC and WRC to resolve the ongoing problems with the membership of the MIMP Committee, and agree that it is important that arrangements are put in place to manage an incident of this nature effectively. As such, we support the existing

obligations being transferred from the MIMP Committee to MOSL, with oversight from the Panel.

We believe the lack of nominations for the MIMP Committee to-date reflects the reduced scope of the MIMP Committee, following MOSL's certification to ISO 22301 accreditation. Therefore, it is more efficient and effective if the resource and time commitments of MOSL and Trading Parties to facilitate and attend the MIMP Committee, are invested elsewhere. We expect where material changes to the MIMP or Business Continuity Management Framework are proposed in the future, the Panel consults with Trading Parties, in accordance with existing governance arrangements.

We have set out below our views on which of the code principles are better facilitated by the change proposal.

Efficiency

We support the Panel's view that the proposed changes will reduce the complexity of operating the MIMP during incidents, as a result of the quorum not being met at the MIMP Committee. Therefore, it is more efficient if the proceedings are managed by MOSL and the Panel.

Proportionality

We agree that the level of MIMP oversight required has reduced following MOSL obtaining ISO 22301 certification, therefore it is more proportional for ongoing management of the MIMP to be managed by MOSL and the Panel.

Decision notice

In accordance with paragraphs 6.3.7 and 7.2.8 of the Market Arrangements Code, the Authority approves this Change Proposal.

Georgina Mills
Director, Business Retail Market