

Minutes of Code Change Committee Public Session Meeting 23

11 January 2024

MS Teams

Status of the Minutes: FINAL

Anthony Pygram	AP	Independent Chair	Steve Creighton	SC	Alternative Customer Representative
John Vinson	JV	Customer Representative	Kye Smith	KS	Wholesaler Member
Mike Rathbone	MR	Wholesaler Member	Jesse Wright	JW	Wholesaler Member Alternate (for Mike Rathbone) Item 5 only
Trevor Nelson	TN	Retailer Member Alternate (for Claire Yeates)	Matthew Glover	MG	Retailer Member
Ulrike Hotopp	UH	Independent Member	Mike O'Connor	MO	Independent Member

AFFILIATE MEMBERS PRESENT

Sarah McMath	SM	MOSL			
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SECRETARIAT

Adam Richardson	AR	Panel Secretary	Sam Mawby	SMY	Secretariat
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OTHER ATTENDEES

Holly Woodhead	HW	Ofwat	Sasha Pearce	SP	Ofwat
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Stuart Boyle	SB	MOSL Presenter (item 3)	Phoebe Nixon	PN	MOSL Presenter (item 4)
Evan Joanette	EJ	MOSL Presenter (item 4)	Ivy Mandinyenya	IM	MOSL Presenter (item 5)
Fallon Wilkinson	FW	Proposer - RWG (item 5)	Ray Porter	RP	Proposer – RWG (item 5)
Peter Strain	PS	Castle Water Observer	Huw Comerford	HC	MOSL Observer
Amanda Hinde	AH	MOSL Observer			

APOLOGIES

Claire Yeates	CY	Retailer Member	Dan Mason	DM	Ofwat
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1. Welcome and Introductions

- 1.1. The Chair welcomed members to the Code Change Committee (CCC) meeting.
- 1.2. It was confirmed that the meeting was quorate.
- 1.3. Apologies were received and accepted from CY and DM. TN attended as an alternate for CY and JW attended as an alternate for MR for agenda item 5 only.
- 1.4. CCC members were asked to declare any potential conflicts of interest in relation to the meeting agenda. A conflict of interest was noted for MR at agenda item 5.

2. Minutes and Outstanding Actions

- 2.1. The committee noted the minutes from CCC22 (11 December 2023) which had been circulated for review ahead of the meeting. The minutes were approved, including the open session minutes for publication.
- 2.2. The CCC agreed that the following actions should remain open:
CCC20_02 and CCC21_01

3. Change Report

- 3.1. SB presented a summary of the change report. This highlighted the current delivery programme, the context of the Strategic Panel priorities, upcoming changes, changes in the pipeline, consultations, trading party requests, post-implementation reviews and Ofwat decisions.

- 3.2. SB advised the CCC that the revised Change Process had been successfully implemented on 18 December 2023 and that the first change plan under the new process would be considered at the meeting.
- 3.3. SB highlighted a number of Metering related changes that were currently classified as pipeline on hold pending consideration and prioritisation at the January Metering Committee meeting.
- 3.4. A CCC member noted that the second implementation date for CPM055 '[Deductions and Withholdings under the Formal Dispute Process](#)' would not be met and asked for a status update. SP advised that Ofwat were working on the change and would contact MOSL to identify a new implementation date pending a decision on the change.
- 3.5. SB highlighted a change to the Bilateral programme which had been made following the circulation of the meeting papers. Originally the draft recommendation for CPW139f '[Bilateral Hub](#)' had been scheduled to come to the February CCC and the draft recommendation for CPW139g coming to March CCC. The Bilateral programme had taken a decision to combine the change for simplicity and proposed to submit these to the April CCC for consideration. Ofwat was comfortable with the revised timescale and there would be no impact on the scheduled implementation date.
- 3.6. The Code Change Committee:
 - **NOTED** the change report.
- 3.7. SB presented an overview of change in relation to market incentives to develop CCC knowledge and understanding of this aspect of the Non-Household Market and inform future decision making.
- 3.8. SB reminded members of the current Strategic Panel priorities, outlined the wide range of incentives that could be deployed in the Non-Household Market and the code changes that had been implemented in relation to incentives to date.

4. Change Plan – CPM058 and CPW149 Market Performance Framework Reform

- 4.1 The CCC considered the change plan for CPM058 and CPW149 '[Market Performance Framework Reform](#)'. The change proposal sought to reform the Market Performance Framework (MPF) to ensure it is simple, flexible, effective and powerful in application and to provide customers and Trading Parties with confidence in the market at a reasonable cost.
- 4.2 PN confirmed that the change had been submitted to the CCC under the revised change process implemented on 18 December 2023. The change had met the initial assessment

criteria and the high-level model to reform the MPF (as outlined in the change proposal) had been approved by the Strategic Panel in November 2023.

- 4.3 The CCC was asked to either approve or recommend the rejection of the change and prioritise the change relative to other code changes using the acceptance and prioritisation criteria.
- 4.4 PN outlined the proposed timetable that would culminate in a planned implementation date of April 2025. The change would be progressed in five parts (as outlined in the change plan) with the final recommendation report being submitted by January 2025 (updated from December 2024 as referenced in the change plan). The change plan ensured that the most complicated components of the MPF model could be thoroughly assessed with longer periods for design and build incorporated and followed a similar approach to that of the successful Bilateral Hub programme.
- 4.5 PN commented that engagement in relation to developing the solution would be undertaken primarily through workshops with stakeholders and input from the Performance Advisory Group (PAG). To ensure that the CCC had assurance that code documentation adequately reflected the detailed design of the reformed MPF it was proposed that an existing working group was used. The Code Advisory Group (CAG) had a good track record of considering code documentation for the Bilateral programme and would be well suited to the role. Additionally, Consumer Council for Water (CCW) would be consulted regularly throughout the process to ensure a strong customer voice was reflected in the development of the framework.
- 4.6 PN outlined the scope of the assessment as referenced in the change plan.
- 4.7 A CCC member asked whether there was a risk that the estimated benefits in the business case could overlap with benefits arising from other activities e.g. data cleanse programme. EJ responded that the MPF Reform programme would rely on other existing programmes and that the MPF programme would ensure that estimated benefits were not double counted.
- 4.8 A CCC member asked whether the programme needed to inflate the estimated running costs in light of higher levels of inflation and review the estimated programme benefits. EJ responded that in terms of costings the programme team's understanding was that the plan included up to date assumptions in relation to inflation, however, this would be kept under review if any element of the programme plan needed to move into the 2025/26 financial year. (Post-meeting note – the MOSL business plan did not factor in a year on year inflationary increase, however, this was an assumed spend issue that was considered at each budget setting point).
- 4.9 A CCC member commented that the level of incentivisation would be a significant element of the solution in terms of what tools were applied at what point to improve market

performance and would expect it to have been reflected in the summary of issues. PN agreed that this was an important point and confirmed that the summary of issues when presented to CCC at recommendation stage would clearly reflect the incentives.

- 4.10 SP made CCC members aware that there was a provision in the Water Industry Act that where the Wholesale Retail Code (WRC) would be significantly amended Ofwat had to consider a statutory consultation. A change of this magnitude would warrant a statutory consultation and Ofwat would need to consider the most effective mechanism to do this given the multi element nature of the change. This would need to be factored into the timeline ahead of implementation. AR commented that should a statutory consultation be required MOSL would work with Ofwat to understand the implications to the change timeline and update the CCC at the next meeting.

ACTION: CCC23_01

- 4.11 The Code Change Committee:

- **AGREED** (unanimous) that the Change Proposal passed the Acceptance and Prioritisation Criteria;
- **AGREED** (unanimous) the scope to be considered during assessment; and
- **AGREED** (unanimous) the Assessment plan.

- 4.12 Although the CCC agreed that a Post Implementation Review (PIR) would not be required for review by the CCC, as the evaluation of the change would be undertaken via the MPF Reform programme, the design of the PIR and final PIR report would be shared with the CCC for information.

ACTION: CCC23_02

5. Recommendation – CPM056 Support for Industry Groups

- 5.1 The CCC considered the draft recommendation report for CPM056 '[Support to Industry Groups](#)'. The change proposal sought to allow the Market Operator to provide resources to industry groups, such as the Retailer Wholesaler Group (RWG). These resources would support an industry group to progress initiatives to develop the market and improve customer outcomes.
- 5.2 IM outlined the background to the change as detailed in the draft recommendation report and introduced Fallon Wilkson (Deputy Chair – RWG) who was attending in her capacity as proposer of the change and Ray Porter (Co-Chair – RWG). MR attended this section of the meeting in his capacity as RWG Co-Chair and JW attended as alternate wholesaler trading

party member. IM reminded the CCC that the change fell under the scope of the former change process.

- 5.3 IM made the CCC aware that the RWG had made a request to MOSL for Secretariat and PMO support should the change be approved by Ofwat.
- 5.4 A committee member queried if all three criteria for qualifying as an 'industry group' needed to be met. MOSL confirmed that all three conditions had to be met and that that this was clear in the legal drafting.
- 5.5 A committee member commented that defining an Industry Group as an 'organisation' would limit support to legal entities and suggested that the RWG did not meet this definition. MOSL's position was that 'organisation' was not a defined term and instead a plain English dictionary meaning was being used which defined 'organisation' as 'an organised group of people, such as a club, society, union, or business.' Therefore, the RWG would be considered an organisation.
- 5.6 A number of CCC members felt that the requirement for the industry group to be an organisation which operates within the competitive market was also a limitation. MOSL and the Proposer clarified that the benefit of the Market Operator providing support to groups within the industry was that it would be funded from Market Operator Charges which all trading parties paid. The intent of the change was not to widen support to groups outside the industry which should have their own funding.
- 5.7 One member noted that the first criteria in the legal drafting required that the group must be working for the benefit of the entirety of the market. However, some projects or groups might be looking at initiatives that benefited only portions of the market. The member cited work on surface water charges which were only charged by some wholesalers. MOSL responded that in that example a policy would affect any wholesaler who adopted surface water charging and so could impact the whole market. However, MOSL would review each industry group request case by case and seek the agreement of its members to including support for the group in its business plan.
- 5.8 A CCC member queried whether an unintended consequence of needing to submit a request for support 5 months ahead of the start of the financial year could be that accessing support could be delayed. MOSL responded that, as with any element of service provision under its current remit, it would be for the Market Operator to manage its service provision as appropriate in a prudent way to remain within budget. However, at an extreme, there were existing provisions in the Code that enabled MOSL to spend additional funds during the financial year if it was deemed to be appropriate.

- 5.9 A CCC member noted that where the paper indicated that there would not be an impact on cost to customers that Market Operator (MO) charges were ultimately born by customers.
- 5.10 A CCC member queried how support could be continued into a future financial year or curtailed if needed. Another CCC member asked what the appeal mechanism would be if an industry group changed during the year, no longer met the criteria and funding was withdrawn. MOSL confirmed that unless support became incorporated into the Market Operator's normal business, groups would need to re-apply for support in later years. However, it would be for the Market Operator to manage its budget and cost base in light of services requested and this could include stopping support where work was completed or other priorities necessitated a change in focus to ensure prudent business management as would be expected by MOSL's members.
- 5.11 A CCC member commented that where MOSL committed to support and headcount if the support needed to be withdrawn later in the year there could be a potential cost issue associated with that decision which MOSL would need to consider.
- 5.12 A CCC member suggested that a PIR would be necessary to review how the change had worked in practice. Another member added that the problem statement had included that changes were not put through as fast as they could be and therefore understanding whether the change had helped to improve the speed of change would be useful to understand.
- 5.13 The Code Change Committee:
- **AGREED** (unanimous) the rationale that CPM056 better facilitated the principles of the Market Arrangements Code (MAC);
 - **AGREED** (unanimous) to recommend CPM056 to Ofwat for implementation;
 - **AGREED** (unanimous) to recommend that, if approved, CPM056 be implemented at 00:00 hours on:
 - 4 April 2024, if Ofwat approval is received by 11 March 2024, or
 - 11 June 2024, if Ofwat approval is received by 13 May 2024; and
 - **AGREED** (unanimous) that a Post Implementation Review would be undertaken in 2026.
- 5.14 The CCC outlined that the PIR would need to include:
- the analysis on which industry groups submitted a request and obtained support for that request, the intended purpose of the request and what was achieved through that request.

- During the timeframe over which the Market Operator provided support to an industry group what value or benefits were derived from the provided support compared to previous pieces of work the industry group delivered (this could be qualitative views from stakeholders or any relevant quantitative analysis).
- If any support requests were declined, at what stage were they declined and for what reasons.
- If any support was granted which was subsequently removed and for what reason.

6. Prioritisation of Changes:

6.1 The Code Change Committee considered the changes with Ofwat for decision. The committee noted that Ofwat would decide the order in which it considered recommended changes and that it was currently working on four from earlier CCC meetings. The committee advised Ofwat of its priorities (highest first) as follows:

- CPM056 Support to Industry Groups
- CPM057 Late Payment of Market Operator Charges

7. AOB

7.1 SM advised the CCC that due to very limited business it may mean that the February CCC was cancelled. A final decision would be taken by 30 January at the latest.

CLOSED SESSION:

8. Committee Reflections

8.1 The committee members shared their learning from other market governance committees and groups they were involved in, and reflected on the meeting.