

Minutes of the Disputes Committee Meeting One

18th July 2020 | 10:30 – 12:30 | Via MS Teams

Status of Minutes: FINAL

MEMBERS PRESENT

Member	Abbreviation	Role
Elsa Wye	EW	Chair
Neil Pendle	NP	Committee Member (Retailer)
Peter Strain	PS	Committee Member (Retailer)
Wendy Monk	WM	Committee Member (Retailer)
Patrick McCart	PM	Committee Member (Retailer)
Paul Stelfox	PS	Committee Member (Wholesaler)
Martin Mavin	MM	Committee Member (Wholesaler)
Matthew Rix	MR	Committee Member (Wholesaler)
Dylan Freeman	DF	Committee Member (Wholesaler)
Julian Trantor	JT	Committee Member (Wholesaler)
Markus Lloyd	ML	MOSL
Ivy Mandinyenya	IM	MOSL
Sam Webb	SW	MOSL
Miles Robinson	MR	MOSL
Joe Smith	JS	MOSL (Presenter)
Ethan Fleming	EF	MOSL (Secretariat)

1. Welcome and Introductions

- 1.1. The Chair welcomed Matthew Rix to the committee as the new wholesaler member.
- 1.2. The MOSL team introduced themselves and detailed the new responsibilities within the team.
- 1.3. The Chair reported that as the Disputes Committee had a wider remit it was likely to be more active. Members were reminded that they were expected to act with impartiality and to declare conflicts of interest promptly and in advance. The Terms of Reference (TOR's) allowed the Chair discretion on both allowing members to observe and/or be involved in the discussion and eligibility to vote in relation to items where a conflict had been declared.

2. Review of Outstanding Actions

- 2.1. The committee approved the closure of action 38_02 in relation to the security of Kissflow, which had been investigated, confirmed and the information forwarded to the GDPR committee.
- 2.2. It was confirmed that there were no other outstanding actions.

3. CPW092

- 3.1. JS reported that CPW092: Unified Disputes Procedure had been implemented effective from the 12th November. This change simplified the disputes process with a unified process for all disputes which should provide clarity to Trading Parties (TP's) and ensure disputes were resolved with

appropriate timescales. To facilitate this the TOR's of the committee had been updated and a Kissflow app released.

- 3.2. It was confirmed that the Panel had approved carrying over members and the Chair of the TDC to the Disputes Committee.
- 3.3. Criteria was now in place within the TOR's (6.2, 6.3) that allowed for an urgent meeting to be convened if a DC meeting was not imminent and the dispute met the urgency criteria.
- 3.4. The MO was responsible for monitoring rectification plans and reporting back to the DC if these were not complied with.
- 3.5. The TOR's would be circulated to members.

ACTION:01_01

4. Kissflow Demonstration

- 4.1. The committee viewed a video showing a demonstration of the Kissflow process. The video would be placed on SharePoint for viewing by members.

ACTION:01_02

- 4.2. JS reported the MOSL validation sought to ensure that the appropriate steps had been taken by the raiser of the dispute before it had been raised and that the validation criteria had been met with evidence.
- 4.3. The Kissflow process would include automated notifications via email to those involved in the dispute advising of timescales or updates.
- 4.4. The Kissflow video would be posted on the MOSL website on the DC page, it could also be posted on the disputes page. A member asked that consideration be given to updating the previous training module that had been available and to present as needed at industry forums. MOSL reported that informal guidance on the new procedure had been updated and was awaiting internal MOSL approval. The training module would be updated and MOSL would consider what industry groups to present at. The committee endorsed this and any other resources that could be in place to support TP's.
- 4.5. A member asked that after the new process had been applied to new disputes that a review of the process be undertaken. The Chair asked that this be included on the February agenda.

ACTION:01_03

5. Update on New and Open Disputes

Open disputes

- 5.1. Three members declared conflicts in relation to open historic disputes. The Chair advised that as the ToRs allowed Chair discretion on the issue, she was minded that members should remain in the meeting but not vote. The Chair asked members to feedback on views they might have on that approach.
- 5.2. Seven disputes had been in process before the implementation of CPW092 with the committee required to decide on if the disputes should be migrated to the new process with their existing timescales or to restart the timescales from the date of migration.
- 5.3. A member asked if this was the latest updated position of the disputes, if they were progressing to the satisfaction of both parties then there was little benefit to altering them. It was clarified that due to annual leave at the raiser of several of the disputes an update had not been given, the responder had confirmed that they viewed they had taken all reasonable steps. As MOSL had

previously not been active in non-trading disputes they had not been consistently managed and updated.

- 5.4. A member confirmed that the dispute between a self-supplier and wholesaler was progressing to the satisfaction of both parties with the expectation for it to be closed in due course.
- 5.5. The committee agreed that all disputes should be placed into the new process to ensure consistency, after MOSL had checked with the initiator that the disputes were still relevant
- 5.6. The committee agreed that due to the lack of recent updates and the length the disputes had been open for MOSL should give the raisers of the disputes five days to provide an update and if it was progressing adequately. If the disputes were progressing appropriately the dispute should be moved to the new procedure and the timescale restarted. If the TP's wished to escalate they could then do so or withdraw the dispute completely.

ACTION:01_04

- 5.7. The publication of any disputes should follow the new procedure.
- 5.8. Beginning the timescales again would allow time for a review of the SPID's involved as some were known to now reside with different retailers. The disputes would appear as new disputes with new identifiers.
- 5.9. A member noted that they were aware of a historic non trading dispute that was not included in the presentation, it was currently showing as closed on the website. MOSL would investigate this and confirm if it was a reporting issue or if it was still a live dispute.

ACTION:01_05

New Disputes

- 5.10. JS reported that nine disputes had been raised under the new procedure and were currently undergoing validation by MOSL.
- 5.11. A member noted that the disputes appeared to be coming largely from two TP's and asked if a more fundamental issue between them required addressing, or if a trend was apparent, to reduce the number of formal disputes.
- 5.12. The Chair asked for clarification on the disputes and whether they were on Kissflow and/or been published yet. It was confirmed that the disputes were on Kissflow but were still within the 5 bd window in which MOSL validated the disputes prior to publication.
- 5.13. Members agreed that although it was important to understand what disputes were being raised only volume numbers and an idea of trends should be presented to the DC until they were validated.
- 5.14. A member felt that the DC had a role in identifying vexatious disputes that were not appropriate which may be assisted by knowing the volume of disputes that failed validation and associated reasons.
- 5.15. Closed disputes and the reasons for closing should be presented to the DC when available to assist in understanding trends and market frictions.
- 5.16. A member raised that they did not feel the current process met the obligations in 17.2.1 under the business terms that required the pre-disputes to be raised with MOSL. Another member responded that this had previously been discussed prior to CPW092 and agreed to add little value due to the large number or minor disputes and clarifications between TP's constantly happening. There was also a difference between bilateral discussions and disputes. MOSL would investigate this discrepancy and report at the next meeting, as this may require a code change.

ACTION:01_06

- 5.17. A member commented that they felt consideration should be given to placing charges on TP's if vexatious disputes were raised or if it had to be progressed to arbitration in a similar manner to settlement charges. If a TP did not reach an agreement and lost at arbitration, they could face a financial penalty or share the costs. Currently it did not cost TP's anything in direct costs to raise multiple claims but involved a lot of MOSL and committee resources.
- 5.18. The Chair reported that the committee could currently impose charges however an outline of charges had not been established and it may be of benefit to do so. This should be added to an issues list and raised at a future meeting.

ACTION:01_07

- 5.19. A new dispute had been raised the day of the meeting and was not included in the report and was awaiting validation.

6. AOB

- 6.1. The DC agreed that meetings should move to three hours in length for planning purposes however if the volume of disputes did not warrant it meetings could finish early.
- 6.2. The Chair on behalf of the committee thanked MR for his time and valuable contribution to the Chair and in supporting the committee and wished him well in his future endeavours.
- 6.3. An action/issue log would be presented at the next meeting.

ACTION:01_08

- 6.4. Date of the next meeting is 9 December.