



Minutes of TDC Meeting 36

20 May 2020 | 10:30 – 12:00 | Teleconference

Status of the Minutes: Final

MEMBERS PRESENT

Name	Role
John Vinson	Chair
Wendy Monk	Committee member (Retailer)
Martin Mavin	Committee Member (Wholesaler)
Paul Stelfox	Committee Member (Wholesaler)
Dylan Freeman	Committee Member (Wholesaler)
Joseph Fortune	Committee Member (Retailer)
Peter Strain	Committee Member (Retailer)
Neil Pendle	Committee Member (Retailer)
Patrick McCart	Committee Member (Retailer)
Tom Daborn	MOSL (Presenter)
Miles Robinson	MOSL (Observer)
Elsa Wye	Observer

MEMBERS ABSENT

Name	Role
Julian Tranter	Committee Member (Wholesaler)



1. Welcome and Introductions

PURPOSE: FOR INFORMATION

- 1.1. The Chair welcomed Members to the Trading Disputes Committee (TDC) meeting.
- 1.2. With all Members welcomed the Chair proceeded with the meeting.

2. Outstanding actions and review of previous meeting minutes

PURPOSE: FOR DECISION

- 2.1. MOSL began with a review of the previous meeting minutes and asked Members for comments. With no comments from Members, the minutes were approved.
- 2.2. Action 34_02 – MOSL advised that it had received a third-party systems maturity report which covered the data security of the Kissflow platform. MOSL advised that it would be in the position to bring a summary of the report to TDC meeting 37. The action therefore remained open.
- 2.3. Action 35_01 – MOSL presented key dates for CPW092: Unified Disputes Process and Committee. It added that in order to meet the intended implementation date of 06 November 2020, the change would have to meet Gate 3 in August 2020. This action was closed.
- 2.4. Action 35_02 – MOSL presented the intended validation criteria for the Disputes process under CPW092 and asked members for their views.
- 2.5. One member questioned as to whether a Trading Party needed to have raised a query prior to raising the Dispute. MOSL confirmed that members had voted not to include this under the Disputes process.
- 2.6. Another Member questioned whether further validation criteria should be considered to ensure that frivolous or vexatious Disputes were not raised. MOSL responded that Members had previously voted for this to be incorporated into the Committee escalation stage and so was not necessary to include in validation criteria.
- 2.7. The Chair raised a question as to how MOSL would handle Disputes in which MOSL itself was a Disputing Party. MOSL responded that this would be discussed internally and would provide a response at the next TDC meeting. This was recorded as an action for MOSL.

A36_01

- 2.8. One Member requested an updated process map for the Disputes process. The Chair requested this be recorded as an action for MOSL to produce this for the next TDC meeting.

A36_02

- 2.9. With no additional comments from Members, the Chair moved onto the next agenda item.

3. Update on new and open trading disputes

PURPOSE: FOR INFORMATION

- 3.1. MOSL confirmed that there were currently no active trading disputes open.
- 3.2. With no additional comments from Members, the Chair moved onto the next agenda item.



4. CPW092: Unified Disputes Process and Committee

PURPOSE: FOR DECISION

- 4.1. MOSL opened the agenda item with the topic of non-compliance with Committee determinations under the new Disputes process. It presented three options and invited Members to vote on which was the preferred approach to dealing with non-compliance. These options were as to whether the instance should be referred back to the Disputes Committee, reported to Panel, or reported to Ofwat.
- 4.2. Several members expressed the view that the instance of non-compliance should be referred back to the Disputes Committee to determine the appropriate course of action. Other members countered this view and made the point that only Ofwat has enforcement powers.
- 4.3. The question was raised as to the extent that Ofwat would look to be involved in this process. The Chair recorded an action to discuss the escalation approach with Ofwat.

A36_03

- 4.4. After further discussion, an agreement was reached that once a non-compliance had been identified by the Disputes Committee, this should be referred to Ofwat. Option 3 was recorded as the chosen option by the Committee.
- 4.5. The next topic of discussion under this agenda item was on Disputes of an urgent nature and whether a separate process was required to deal with these cases. MOSL asked members to consider whether this was required and should be included in the solution design for CPW092. The Chair first requested views from members as to whether a separate urgent process was required for Disputes regarding GDPR matters.
- 4.6. Several members expressed the view that an urgent process for GDPR matters was not specifically required. Members added that it was not clear that it was appropriate for the Committee to make determinations on Disputes regarding GDPR matters altogether.
- 4.7. The Chair agreed with views from Members that once the ICO had made a decision on a GDPR matter, it would not be suitable for the Disputes Committee to discuss the issue.
- 4.8. One Member suggested that the Disputes Committee needed to have a mechanism for determining urgent meetings in the same manner as the Panel. The Chair requested MOSL to investigate the criteria used for Panel to determine whether this would be applicable for the Disputes Committee. This was recorded as an action.

A36_04

- 4.9. MOSL confirmed that the current TDC Terms of Reference allowed for urgent ad-hoc meetings to be organised when required. After further discussion, Members agreed that no change to this was required. It was therefore recorded that no separate urgent process would be drafted, but this position would be reviewed in future if required.
- 4.10. The next topic of discussion was on the membership and make up of the Disputes Committee. MOSL asked members to consider the membership, voting arrangements, and whether a voting Independent member should be introduced.



- 4.11. After discussion there was general consensus amongst Members that no changes to membership or voting arrangements were required in light of the widening of the Committee's remit. Members agreed that if Panel were to recommend the Committee moved to a make up of five Wholesalers and five Retailers, it would accept this recommendation.
- 4.12. The final topic of discussion under the agenda item was on the consultation questions. MOSL asked Members to agree on the questions to be used and suggest any amendments.
- 4.13. Several Members commented that the questions needed to be more specific to the change and to allow responding Trading Parties to provide more detailed responses.
- 4.14. Another Member suggested that a discussion be held after the TDC meeting with MOSL to review the consultation questions. This was recorded as an action for MOSL, the Chair and Martin Mavin.

A36_05

- 4.15. With no additional comments from the Members, the Chair moved onto the next agenda item.

5. Review of CPW092 Legal Drafting

PURPOSE: FOR INFORMATION

- 5.1. The Chair opened the agenda item and asked Members whether they had any views or comments on the initial legal drafting for CPW092. The Chair acknowledged that this had only been circulated to Members the day prior to the meeting and so it was unlikely that Members had had the opportunity to review. There were no comments from Members.
- 5.2. MOSL then asked Members for their view on comments provided by the external lawyers on the legal drafting. With the first discussion point regarding the Committee Procedures and whether this needed to be outlined in code.
- 5.3. Members agreed that no change to the drafting was necessary on this point, but MOSL should look to add a process map to the website which would be deemed as the Committee procedures. The Chair requested that this be recorded as an action for MOSL.

A36_06

- 5.4. MOSL then raised the question as to whether the old terms of MAC, Non-Trading, Trading and MO Dispute types should be removed and replaced by the term Dispute, or whether Dispute should be defined as any of the previous types. Members agreed that the old terms should remain in the code, but that the Disputes procedure would encompass each of these types.
- 5.5. MOSL moved on to the next comment on the drafting which regarded a 28-month deadline for Trading Disputes to be raised from the publication of the RF settlement. Members agreed that the legal drafting should keep the deadline in place for Disputes relating to settlement.
- 5.6. The Chair requested Members review the legal drafting after the meeting and provide comments on the document on the TDC SharePoint site.



5.7. With no additional comments from Members, the Chair moved on to the next agenda item.

6. Any other Business (AOB)

PURPOSE: FOR INFORMATION

- 6.1. The Chair asked Members for any other business items.
- 6.2. MOSL advised Members that the nominations process had now begun to find a new Retailer member for the Committee.
- 6.3. With no additional items, the Chair closed the meeting.

Actions:

Action 36_01: MOSL to outline how it will handle Disputes in which MOSL are a Disputing party

Action 36_02: MOSL to produce a process map for Disputes procedure under CPW092 and add to the TDC SharePoint site

Action 36_03: MOSL to outline the urgency criteria used for Panel and suggest amendments for use in Disputes procedure

Action 36_04: Chair to discuss escalation approach with Ofwat in relation to determination non-compliance under CPW092

Action 36_05: MOSL to produce consultation questions with Chair and MM

Action 36_06: MOSL to upload process map to TDC page on MOSL website

The next TDC meeting is scheduled for: **24 June 2020, 10:30 – 12:30**