

Minutes of the Disputes Committee Meeting Five

24th March 2021 | 10:30 – 13:30 | Via MS Teams

Status of Minutes: FINAL

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)
James Wilson	JW	Alternate Committee Member (Wholesaler)
Martin Mavin	MM	Committee Member (Wholesaler)
Dylan Freeman	DF	Committee Member (Wholesaler)
Markus Lloyd	ML	MOSL
Joe Smith	JS	MOSL (Presenter)
Ethan Fleming	EF	MOSL (Secretariat)

1. Welcome and Introductions

- 1.1. Apologies had been received from Julian Tranter and Matthew Rix (MR) with James Wilson nominated as MR's alternate.

2. Minutes of the Previous Meeting

- 2.1. There had been no comments received on the following minutes:
 - DC04
 - DC04 Confidential Addendum
 - DC04a Confidential minutes
- 2.2. The minutes of the above meetings were approved as an accurate record.

3. Review of Actions

- 3.1. All actions remained ongoing with the Disputes Committee Procedures Document in the process of being updated and quality controlled within MOSL.
- 3.2. The inconsistencies on the website were being addressed as part of MOSL's Channel Management strategy.
- 3.3. Kissflow had recently undergone an update which had changed its appearance which required the re-filming of tutorial videos. The Committee supported the use of video tutorial as being helpful and accessible.

4. Lessons Learnt so Far

- 4.1. ML presented a breakdown of the process used for the recent dispute and asked for committee comment and guidance. This could be incorporated in the Disputes Committee Procedures Document document which was designed to be consistent with the market codes but more usable and informal.
- 4.2. MOSL had amended Kissflow to ensure that validation included that the raiser of the dispute had formally notified the other party that a state of Dispute existed.
- 4.3. The committee agreed that non-standard extensions should not be used. Trading Parties should agree a twenty-day extension or suspend the dispute if they wished to continue bilateral discussions.
- 4.4. The committee discussed if the urgent process was required as in the most recent urgency submission this had only appeared to deliver a small time saving to the Trading Parties involved. Members agreed that the process should remain in case as it was required in the future and may be required if a standard DC meeting did not go ahead. Typically, urgency would be submitted earlier in the process if not on submission.
- 4.5. Kissflow had been amended to allow a dispute to be marked as urgent on submission into Kissflow.
- 4.6. A member expressed that they felt that post decisions communications should be distributed wider than contract managers as they were unlikely to understand the importance and it should go to a more senior level.
- 4.7. Several members expressed support for only sending communications to contract managers as they were the formal link between MOSL and Trading Parties and it was down to Trading Parties to ensure that the Contract Manager triaged incoming communications appropriately. It was more important to ensure the communication was of adequate detail to allow the Contract Manager to make a decision. Communications should ensure transparency balanced against the need to ensure commercial confidentiality. It should also be noted that DC decision could be taken to arbitration.
- 4.8. A standard template could be developed in the future and consist of a dispute decision and a statement from the DC.
- 4.9. Consideration should be given to what should be sent via email and what should be placed on the website.
- 4.10. The committee agreed it was appropriate for a communication to be issued to the Panel following the decision.
- 4.11. The committee agreed a lessons learnt exercise should always be undertaken post dispute.
- 4.12. MOSL asked what the DC would wish to see in the collation and presentation of the evidence submitted by the Trading Parties. Members expressed support for the context to be provided along with the facts and what each party had submitted and to focus less on the sequencing of events.
- 4.13. The committee confirmed it supported questions from members to the Trading Parties and not cross questioning between the disputing parties.
- 4.14. A member asked how this may change post COVID. The committee agreed to consider this once it had occurred but generally expressed a preference for continuing in a virtual approach.

5. New Disputes and Existing Worklist Summary

- 5.1. JS presented the current open disputes and reported he had prompted Thames for an update on their open disputes.

- 5.2. It was noted that several disputes had been resolved or were expected to be resolved imminently.
- 5.3. A new dispute had been raised by Castle against Thames. This required the reference to be updated on the website.

ACTION:05_01

6. AOB

- 6.1. It was noted that the Terms of Reference had been amended and submitted to the Panel for approval.