

Minutes of the Disputes Committee Meeting Ten

25 August 2021 | 10:30 – 13:30 | Via MS Teams

Status of Minutes: Final

PRESENT

Elsa Wye	EW	Chair
Julian Tranter	JT	Committee Member (Wholesaler)
Neil Pendle (Open Session)	NP	Committee Member (Retailer)
Peter Strain	PS	Committee Member (Retailer)
Wendy Monk	WM	Committee Member (Retailer)
Matthew Rix	MR	Committee Member (Wholesaler)
Dylan Freeman	DF	Committee Member (Wholesaler)
Paul Stelfox	PS	Committee Member (Wholesaler)

OTHER ATTENDEES

Markus Lloyd	ML	MOSL (Observer)
Sarah McMath	SM	MOSL (Observer)
Alexander Cowie	AC	MOSL (Secretariat)
Andrew Johnson	AJ	MOSL (Legal Team)
Jacqueline Doherty	JD	MOSL (Legal Team)
Charles Unvala	CU	MOSL (Presenter)
Chris Cox	CC	Southwest Water (Disputing Party)
Ella Curnow	EC	Southwest Water (Disputing Party)
Syndiso Bango-Dube	SBD	Waterscan (Disputing Party - Representing ELIS)

APOLOGIES

Patrick McCart	PM	Committee Member (Retailer)
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Closed session

1. Welcome and Introductions

- 1.1. The Chair welcomed all attendees to the Disputes Committee (the “Committee” or the “DC”) Meeting Ten. Apologies for absence were received from PM and NP had recused himself noting a potential conflict of interest with DIS0031.

SBD, CC and EC joined the meeting

- 1.2. The Chair welcomed the Disputing Parties to the meeting and reminded Committee members, the Disputing Parties, and other attendees of the role of the Committee and detailed the process that would be followed in consideration of DIS0031.

2. DIS0031

- 2.1. The Committee considered DIS0031.

SBD, CC and EC left the meeting

- 2.2. The Committee undertook a final review of the Code provisions and the Chair moved to a vote on DIS0031, reminding the Committee that the scope of its decision was only to consider whether there had been a Code breach.

- 2.3. The Committee:

- **AGREED** (unanimous) that no further information was required to allow the Committee to make a decision.
- **AGREED** (unanimous) that that SWW had not breached Schedule 3 of the Business Terms.

- 2.4. The Committee agreed the next steps in terms of communicating its decision to the Disputing Parties and the market.

3. Post-Hearing Review of DIS0031

- 3.1. The Committee reflected on the process used to consider DIS0031.

Open Session

4. Minutes of the Previous Meeting

NP joined the meeting

- 4.1. There had been no comments received on the minutes Disputes Committee Meeting 09, held on 14 July 2021.

- 4.2. The Committee agreed to approve the minutes.

5. Review of Outstanding Actions

- 5.1. The following actions were presented for closure and were closed: A09_01, A09_03, A09_04.

6. Bringing Section 9.7.2 (Wholesale Contract Sch 1 Part 2 - Business Terms) within the formal Disputes process - Update

- 6.1. CU introduced the update on Section 9.7.2, noting that this was one aspect of the [CPW080 'Simplification of the Default and Termination Process' \("CPW080"\)](#) proposal approved for recommendation by the Panel in June and awaiting decision from Ofwat. CU outlined that the paper that had been provided was intended to assist the Committee with the consideration of a potential Change Proposal to remove any ambiguity about how Section 9.7.2 disputes were raised and progressed by bringing them within the formal Disputes process requiring them to be raised and notified to MOSL under the appropriate Disputes Procedure.

- 6.2. CU noted that the provisions within [CPW080](#) were put forward by the Credit Committee and endorsed by the Trading Disputes Committee. CU clarified that the areas the provisions sought to rectify were: to clarify that credit items were included under Section 9.7.2 in order to prevent wholesalers unilaterally being able to declare retailers as defaulting trading parties; and to resolve the uncertainty over how disputes would be properly raised and resolved under Section 9.7.2.
- 6.3. The Chair thanked CU and asked the Committee for further comments.
- 6.4. The Committee expressed general satisfaction with the proposed changes. One Committee member noted that the original intention of 9.7.2 was to ensure that a large number of disputes involving credit that were in the market were given more visibility and formally brought into the Disputes Committee process. The Committee member noted that the proposals in CPW080 expanded the scope to withhold money under Section 9.7.2 and that the Committee may want to reflect on this due to potential unintended consequences on the market.
- 6.5. One Committee member asked why Ofwat were holding back their decision on [CPW080](#). CU noted that MOSL had been asked for clarification on some parts of the proposal and stated that the delay was most likely a result of Ofwat prioritisation of resource, with governance changes taking up a lot of bandwidth.
- 6.6. The Chair reminded the Committee that the question for it was to consider whether to wait for Ofwat's approval of [CPW080](#) or introduce a separate change proposal to bring Section 9.7.2 within the formal Disputes process.
- 6.7. The Committee agreed that they should wait for Ofwat's judgement on [CPW080](#) and not introduce a new, separate change proposal at this time.

7. [Dispute Log Update](#)

- 7.1. ML provided an update to the Committee, noting that there were currently three disputes ongoing. ML stated that DIS0032 was still open and that both parties were negotiating, and that the Committee should see the requests for extension in relation to DIS0032 as positive as it reflects the parties engaging in good dialogue and making progress.

8. [AOB](#)

- 8.1. The Committee reflected on the meeting.
- 8.2. There being no further business, the Chair closed the meeting.