



MAC Consultation
Retail Market Opening Programme

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Dear Sirs

Consultation on the Market Arrangements Code

Thank you for the opportunity to respond to this consultation.

We support the Stapling condition, the document hierarchy and your proposed amendments to the Market Arrangements Code ("MAC"). In addition to the proposed amendments, there are further changes to the MAC which we feel are required prior to Market Opening, to specify:

- a formal process to appoint the Market Operator that requires (a majority of) Trading Parties to agree on the company to be appointed;
- that Trading Parties will review the appointment regularly and decide on the re-appointment of the existing Market Operator or the appointment of a new Market Operator based on a tendering process; and
- that Trading Parties will approve the associated budget on an annual basis.

To facilitate this, Section 3.2 of the MAC (Appointment and removal of Market Operator) could explain that the Trading Parties will agree a form of governance for their decisions and management of the relationship with the Market Operator, including:

- regular meetings at which the operational and financial performance of the Market Operator is reviewed;
- deciding on whether to appoint or re-appointment the Market Operator (subject to relevant procurement rules); and
- setting an annual budget for the Market Operator.

Similarly, Section 10.2 of the MAC (Annual Market Operator Budget and Market Operator charges) could explain:

- that the Trading Parties will be responsible for reviewing and approving the budget (including borrowing arrangements); and
- that authority to decide any change to the Market Operator budget would lie with the Trading Parties.

Furthermore, we feel that the voting majority at the Panel should be reviewed, in order to avoid a situation where a significant decision on a Code change proposal, largely approved by Panel members, is not passed due to the vote of one single member. One possible solution would be to specify that the qualifying majority described in paragraph 5.10.2 should be set at the number of attendees, minus two (2). We would not expect this change to affect the number of attendees currently required for the meeting to be quorate (8 voting members).

We would be happy to participate in a working group to help draft the required changes, if that would be helpful.

We note that there may also be consequential changes to the MAC resulting from the outcome of the Defra Water Code Appeals consultation.

Yours faithfully



Nick Fincham
Director of Strategy & Regulation