
Market Arrangements Code Change Proposal – Ref CPM014

Modification proposal	Market Arrangements Code Change Proposal – Market Performance Standards Charges Redistribution Payment Clarification
Decision	The Authority has decided to approve this Change Proposal
Publication date	10 July 2019
Implementation date	26 July 2019

Background

Ofwat recently implemented modifications CPW029 & CPM008 - Market Performance Standards (“MPS”) and CPW049 & CPM012 - Operational Performance Standards (“OPS”). These standards monitor the performance of Retailers and Wholesalers, and are intended to provide a level of confidence to Trading Parties and the Market Operator (“MOSL”) that those who are operating within the market, are complying with their obligations. The two sets of standards monitor and report on data, with MPS covering Retailer and Wholesaler performance, whilst OPS solely measures Wholesaler performance.

When a Retailer or Wholesaler underperforms, they’re liable to pay a charge which varies depending on where they have underperformed. Section 9 of the Market Arrangements Code (MAC), details the obligation of MOSL in calculating and invoicing underperformance charges relating to MPS to both Retailers and Wholesalers. Section 9 also provides details of the process of redistribution of MPS charges back to Retailers and Wholesalers.

The issue

Section 9 of the MAC outlines the obligation of MOSL to issue invoices for underperformance. However, should there be a surplus of MPS charges at the end of any financial year, it does not specify a timeframe within which these surplus charges should be redistributed.

Proposed Solutions

It is proposed Sections 9.1.3 and 9.1.5 of the MAC are amended to include a definitive timescale (of a 'six Month time period') for when surplus MPS charges identified at the end of any financial year should be redistributed back.

The justification for the timing stipulated within this proposal is:

- Last invoices for the relevant Year (i.e. March) are issued in the following Month (i.e. April) on Business Day 9 as per Section 10.4.2 (c);
- Aforementioned invoices are due 20 Business Days after date of invoice (i.e. 20 business days after April Business Day 9) as per Section 10.5.1 (b);
- Trading Parties have an additional 10 (+2) Business Days after the due date to pay the invoice before this is raised to Ofwat/Trading Parties/Panel as per Section 10.8.1;
- Trading Parties are entitled to raise disputes within 3 Months from the date of invoice issuance as per Section 10.11.1;
- MOSL requires sufficient time to calculate the redistribution amounts for each party and credit these amounts to the relevant parties, which for MOSL redistribution specified in the code as 25 + 5 days from the point at which the total amount is confirmed.

As stated above, it is proposed that payments for redistribution are made to Trading Parties no later than six Months following the end of the relevant financial year. Therefore, MOSL will have up until September to complete the redistribution of any surplus MPS charges. MOSL has stated it wished for this change to be implemented as part of the July 2019 release (release 6.5), to ensure the proposed obligation and expectancy is communicated to Trading Parties in time for this year's redistribution, and that detail is added to the MAC. The main driver for the six-Month time period defined is to allow for any disputes to be notified, as defined within the MAC.

The modification proposal¹

The following changes (red text) are proposed to be made to the MAC:

Section 9.1.3

If the Market Operator holds a surplus of Market Performance Standard Charges at the end of any Year, such surplus shall be redistributed to Undertaker Wholesale Businesses and Retailer Businesses within six (6) Months (unless a dispute is raised) following the end of the relevant Year, in accordance with section 9.1.4 and noting always that for the purposes of such redistribution:

Section 9.1.5

Notwithstanding section 9.1.4, if the Market Operator holds a surplus of Market Performance Standard Charges at the end of 2018/19, such surplus as described in 9.1.3 above shall be redistributed to Undertaker Wholesale Businesses and Retailer Businesses within six (6) Months (unless a dispute is raised) following the end of the relevant Year, in accordance with 9.1.6 and 9.1.7.

Industry consultation and assessment

The Panel did not consult on this Change Proposal.

Panel recommendation

The Panel considered this Change Proposal at its meeting on 30 April 2019. It agreed to recommend CPM014 to the Authority for it to approve this proposal on the

¹The proposal and accompanying documentation is available on the MOSL website at <https://www.mosl.co.uk/market-codes/change#scroll-track-a-change>

basis of improving the principles of efficiency, proportionality and transparency. The recommended date of implementation is 26 July 2019.

Our decision

We have considered the issues raised by the modification proposal and the supporting documentation provided in the Panel's Final Report. We have concluded that the implementation of CPM014 will provide clarity on the timing of the redistribution of MPS charges, and therefore better facilitate the principles and objectives of the Wholesale Retail Code detailed in Schedule 1 Part 1 Objectives, Principles and Definitions and is consistent with our statutory duties.

Reasons for our decision

We set out below our views on which of the applicable Code principles are better facilitated by the modification proposal.

Efficiency

This Change Proposal will standardise when Trading Parties expect to receive (if applicable) the surplus of MPS charges.

Proportionality

This Change Proposal is very simple, yet will provide clarity to Trading Parties on the timing for the redistribution of MPS charges.

Transparency

The redistribution process becomes more transparent for all Trading Parties.

Decision notice

In accordance with paragraph 7.2.8 of the Market Arrangements Code, Ofwat approves this Change Proposal.

Emma Kelso
Senior Director, Markets and Enforcement