
Wholesale Retail Code Change Proposal – Ref CPW081

Modification proposal	CPW081 – Improving Transparency of Alternative Payment Terms
Decision	The Authority has decided to approve this Change Proposal
Publication date	26 February 2020
Implementation date	1 April 2020

Background

Section 9.2.1 of the Business Terms of the Wholesale Retail Code sets out the payment terms options for retailers to pay their wholesale charges. These are: Pre-Payment, Post-Payment and Alternative Payment Terms.

Alternative Payment Terms were introduced following the implementation of [CPW048](#) in December 2018, which aimed to reduce barriers to entry. This change enabled Trading Parties to negotiate and agree bespoke payment terms where it would be commercially preferable to deviate from the Pre-Payment and Post-Payment terms options. CPW048 also sought to build a level of transparency around Alternative Payment Terms arrangements. Following its implementation, where Alternative Payment Terms are agreed, the relevant Wholesaler is required to publish the details of the arrangement in a prominent place on its website.

The issue

Aside from the other credit options set out in the Business Terms, Trading Parties are able to agree Alternative Eligible Credit Support. The [KPMG review of credit arrangements for the non-household retail market](#) (“the KPMG Report”) made a number of recommendations relating to credit arrangements. One of the recommendations was that where alternative credit arrangements are agreed between parties, that these could be published in a standard format by the Market Operator in a central location to ensure full transparency, including the costs of the arrangements. [CPW052](#) introduced a requirement for Wholesalers to notify the Authority (Ofwat) and the Market Operator (MOSL) of all Alternative Eligible Credit Support agreements and that these are published by the Market Operator on its website.

The requirement for Alternative Payment Terms arrangements to be published following implementation of CPW048 sought to provide a level of transparency around these. However, the Panel's Final Report indicates that Alternative Payment Terms arrangements which have been published on Wholesaler websites are often not easy to locate, for example, because of differing website structures. This impacts how efficiently Trading Parties are able to locate and compare such arrangements.

This Change Proposal therefore seeks to build on the current arrangements relating to the transparency of Alternative Payment Terms arrangements.

The modification proposal¹

This Change Proposal is seeking to implement the same level of transparency for Alternative Payment Terms as is applicable for Alternative Eligible Credit Support following implementation of [CPW052](#).

The current Change Proposal recommends that the Key Terms in schedule 3A of the Business Terms are amended to include an obligation for Wholesalers to notify the Authority and the Market Operator of all Alternative Payment Terms agreements along with the accompanying Schedule 3 agreement, including the identity of the Retailer, within five (5) Business Days of entering into the agreement.

It is proposed that the Market Operator shall publish these agreements on its website within five (5) Business Days of receiving notification. This obligation shall also apply to any agreements that are in effect prior to the date of implementation.

Industry consultation and assessment

No consultation was completed for this Change Proposal, the reasons for this being:

- “The rationale for CPW081 comes from two Authority approved change proposals: CPW048 and CPW052. The obligations on Wholesalers and the Market Operator mirror the obligations in CPW052.
- Due to the straightforward nature of the proposal and the work already undertaken on CPW048 and CPW052 to understand the impacts on Trading Parties, it is likely to have a low impact on Wholesalers.”

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

Panel recommendation

The Panel considered this Change Proposal at its meeting on 10 December 2019. It recommended, by unanimous decision, that the Authority approve this proposal. This recommendation has been made on the basis of improving the principles of efficiency, transparency and non-discrimination. The recommended date of implementation is 1 April 2020.

Our decision

We have considered the issues raised by the modification proposal and the supporting documentation provided in the Panel's Final Report and have decided to approve this Change Proposal. We have concluded that the implementation of CPW081 will better facilitate the principles and objectives of the Wholesale Retail Code detailed in Schedule 1 Part 1 Objectives, Principles and Definitions, Principles and Definitions, and is consistent with our statutory duties.

The email address that should be used to notify the Authority of Alternative Eligible Credit Support and Alternative Payment Terms arrangements is creditagreements@Ofwat.gov.uk. We would like to take this opportunity to remind Trading Parties that the notification obligations relate to both current and legacy agreements.

Reasons for our decision

We consider that implementing the same transparency arrangements for Alternative Payment Terms as are applicable for Alternative Eligible Credit Support will make it easier and more efficient for Trading Parties to locate such agreements. Further, the increased transparency around Alternative Payment Terms has the potential to improve Wholesaler-Retailer interactions relating to this type of arrangement and therefore contribute to further promoting competition.

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

Efficiency

Having Alternative Payment Terms arrangements in one central location will enable Retailers to locate these more efficiently. It will mitigate the difficulties that Retailers might encounter when searching for Alternative Payment Terms arrangements that are published on individual Wholesaler websites.

Transparency

Ensuring that these arrangements are available for viewing in one central location increases the transparency of them and enables Retailers to more easily compare the Alternative Payment Terms arrangements. As with CPW052, the notification obligations imposed by this Change Proposal are also applicable to Alternative Payment Terms arrangements that are in effect on the date of implementation, this furthers the transparency of agreements that are already in place.

Non-discrimination

This modification furthers the principle of non-discrimination by increasing transparency around Alternative Payment Terms. It enables all Retailers to view the various types of arrangement that have been agreed in one central location. It does not favour one class of Trading Party.

Decision notice

In accordance with paragraph 6.3.7 of the Market Arrangements Code, the Authority approves this Change Proposal.

Georgina Mills
Director, Business Retail Market