
Wholesale Retail Code Change Proposal – Ref CPW091

Modification proposal	Authority Timetabled Change Proposal: Wholesale Retail Code Change Proposal – CPW091 Temporary change to vacancy
Decision	The Authority has decided to approve this Change Proposal
Publication date	27 March 2020
Implementation date	30 March 2020 at 08:00

Background to this Change Proposal

The business retail market faces a number of pressing issues, as a result of the 2020 Covid-19 pandemic. In March 2020, the UK government issued guidance and imposed legislative measures to help reduce the spread of Covid-19, by requiring that, unless exceptions apply, businesses and premises should be closed and large gatherings, non-essential travel and any other such activities should be avoided. Many businesses and workers are in self-isolation and have implemented social distancing. This is likely to lead to significant reductions in the levels of water and wastewater services used at a number of business premises.

To address this issue, the Authority proposed a Change Proposal that will allow Retailers to temporarily apply the vacant flag in the Central Market Operating System (CMOS) so that charges are not accrued for those premises that have closed down due to Covid-19. There is inevitably going to be a drop in the number of Meter Reads entered into CMOS. Allowing the use of the vacant flag within CMOS temporarily aims to ensure that future primary charges more accurately reflect actual levels of (reduced) consumption during the Covid-19 pandemic.

The background and associated documents relating to this Change Proposal can be found on the [MOSL website](#).

Panel recommendation

The Panel considered this Change Proposal at an urgently convened meeting on Friday 27 March 2020. It recommended, by majority decision, that the Authority approve this proposal. This recommendation has been made on the basis of improving the principles of Efficiency and Simplicity, cost-effectiveness and security, as well as furthering the objectives of the Market Terms. The recommended date of implementation is Monday 30 March 2020.

Our decision

We have concluded that the implementation of CPW091 will better facilitate the principles of the Wholesale Retail Code as detailed in Schedule 1 Part 1 Objectives, Principles and Definitions and is consistent with our statutory duties.

Reasons for our decision

This decision has been made on the basis that as a result of the introduction of widespread social distancing to combat the spread of the Covid-19 pandemic, a temporary mechanism is required to ensure that future primary charges more accurately reflect actual levels of (reduced) consumption. On the basis of the available evidence (including responses to a recent call for inputs) and whilst not representing a perfect solution, use of the vacancy flag appears to be the most appropriate solution to ensure charges better reflect reduced levels of consumption during the Covid-19 pandemic. For this reason we agree that the modification is consistent with the Wholesale Retail Code (WRC) principle of Efficiency. We also consider that because this solution utilises a field that is already within CMOS, the modification furthers the principle of Simplicity, cost-effectiveness and security. Further, we also consider it to be in line with the Proportionality principle, as it is a temporary change to the WRC to reflect the potentially significant impact of the Covid-19 pandemic on demand. MOSL will continue to monitor and track the usage of the vacancy flag across the sector.

As some businesses' use of water will be significantly reduced during the pandemic, using historic consumption estimates is not currently appropriate. The Change Proposal is limited in nature, allowing for the setting of closed or significantly decreased consumption premises to 'vacant' up until 30 June 2020, unless this timeframe is extended by the Authority. Premises will automatically revert back within 2-months of this timeframe passing, unless Retailers can demonstrate that section 3.1.4 of the CSD 0104 applies, and the premises remain vacant in accordance with this section.

We recognise some Panel Members' view that it is important to ensure that this flag is used appropriately by retailers. We agree. As set out in the guidance document, we do not expect Retailers to inappropriately use this vacancy flag. We have included a burden of proof requirement on retailers when applying the flag (where appropriate), and the guidance document sets out the types of evidence we expect Retailers to obtain in order to provide assurance that it is using this flag appropriately, and this will be particularly important for when the vacant flags are automatically switched off. We have inserted some additional text into the guidance document to further clarify the kind of evidence that will be required to use this vacancy flag (see below).

Where it becomes apparent that a premise was not vacant during this period, and the Retailer has not obtained sufficient proof or evidence to support its use of the vacant flag, then we would not rule out the potential of imposing penalties on Retailers through the market codes.

Decision notice

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

The following addition to section 3.1.7 of CSD 0104:

Any premises which a Retailer has identified as Vacant Premises in the period between 16 March 2020 to 27 March 2020 and which meet the criteria set out at Section 3.1.6 of this CSD (Maintain SPID Data) **and the guidance document issued in accordance with Section 3.1.8 of this CSD (Maintain SPID Data)** shall be treated as having been validly identified as Vacant Premises.

The following additions to section 2 (2)(a) of the guidance document:

- a) Where a Retailer identifies a premises to be a Vacant Premises under CSD 0104 section 3.1.6, the Retailer should obtain proof of vacancy. This may be requested when a reversion of occupancy is undertaken. Proof of vacancy may include, for example, **clear and convincing evidence** that the customer's business was the type of business that was ordered to close from 23 March 2020 **and that the business is not still operating in a material capacity for example by providing a takeaway service**, a screen shot of the relevant customer's website confirming closure, photographic evidence that confirms premises are closed, meter readings, a note of conversations or emails / letters from customers confirming that closure.

Georgina Mills

Director, Business Retail Market