
Wholesale Retail Code and Market Arrangements Code Change Proposal – Ref CPW098 and CPM027

Modification proposal	Wholesale Retail Code and Market Arrangements Code Change Proposal – CPW098 and CPM027: Extension of Suspension of Market and Operational Performance Standard Charges
Decision	The Authority has decided to approve this Change Proposal
Publication date	28 May 2020
Implementation date	1 June 2020

Background

Ofwat has continued to work closely with MOSL during the Covid-19 pandemic and together we have identified a number of measures to minimise the disruption on the market, some of which were urgently progressed through Authority Timetabled Change Proposals to the codes. One of these urgent changes was [CPM023 / CPW090](#) which was implemented on 23 March 2020. CPM023 / CPW090 was implemented as it was not considered reasonable for Trading Parties to incur penalties for failing to meet performance standards due to factors beyond their control during the Covid-19 pandemic. Implementation of CPM023 / CPW090 resulted in the suspension of the levy and collection of charges for Market Performance Standards (“**MPS**”) and Operational Performance Standards (“**OPS**”) for a period of three months, from March 2020.

The initial MPS and OPS suspension timeframe is due to expire on 31 May 2020. As the Covid-19 pandemic is still ongoing, with many businesses continuing to be impacted, this Change Proposal has been developed to extend the timeframe that MPS and OPS charges are suspended so that Trading Parties are not unfairly penalised by incurring MPS and OPS charges because of factors beyond their control due to Covid-19.

The Change Proposal¹

This change will extend the suspension of MPS and OPS charges that was introduced by CPM023/CPW090 to include the months of June and July 2020.

Whilst lockdown measures are in the process of being eased, the duration of the coronavirus lockdown remains uncertain. It is also not yet known the speed at which business operations will return to normality. Therefore it is also proposed that the Authority will be able to amend the period of the suspension by notification to MOSL without the need for a further code change.

It is proposed that the suspension of charges will be subject to continuous monitoring and review of market data by Ofwat and MOSL, to ensure that these are reintroduced at the appropriate time.

Given the urgent nature of this Change Proposal no consultation was undertaken. However, it is not expected that suspension of MPS and OPS charges will lead to any additional Trading Party costs and it is anticipated that this change will enable Trading Parties to continue to concentrate on their core supply service duties.

Panel recommendation

The Panel considered this Change Proposal at its meeting on 26 May 2020. 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, Proportionality, Barriers to Entry, Non-discrimination, Customer Participation and Seamless Markets. The recommended date of implementation is 1 June 2020.

Our decision and reasons for our decision

We have considered the issues raised by the change proposal and the supporting documentation provided in the Panel's Final Report and have decided to approve this code modification. We have concluded that the implementation of CPW098 and CPM027 will better facilitate the principles and objectives of the WRC and the MAC² and is consistent with our statutory duties.

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>

² Detailed in Schedule 1 Part 1 Objectives, Principles and Definitions of the WRC and Schedule 1 MAC respectively.

This decision has been made on the basis that there is still widespread social distancing and many businesses remain closed or are operating in a limited capacity to combat the spread of the Covid-19 pandemic. As such, Wholesalers and Retailers continue to be much less able, for reasons outside of their control, to meet the requirements of the Market Performance Framework than they might otherwise. For example, many 'Business as Usual' activities, such as meter reading, are likely to continue to be significantly affected and the timeframe for these activities to return to normal is not yet known.

We are approving this Change Proposal to ensure that Trading Parties are not unfairly penalised for failing to meet MPS and OPS due to factors outside of their direct control within the current extreme context. We note the comments made by Panel that Ofwat should clarify how much notice it would give the industry of its intention to vary the Covid-19 charge suspension period and the method of communication it would choose to notify the industry. The Panel proposed that such notification should be published online and notified to the Panel as well as to MOSL. We agree with the Panel here and if we were to decide to extend the Covid-19 charge suspension period beyond the end of July we would intend to signal our intent to do so in our forthcoming consultation on liquidity in the business retail market in early July.

We also acknowledge the point made by some Panel Members around why a blanket suspension of charges for all standards was applied. At this stage, we think that a simple and more streamlined approach that encompasses charges for all standards is easier for the industry to manage and implement during these times but will consider the appropriateness of this when we consider whether or not to extend the suspension period.

We note that Panel questioned whether there is a risk of a potential detrimental impact on customers if Trading Parties continue to be relieved of the need to pay performance charges. While we think it is appropriate to extend the suspension of the payment of these charges for a further two months, MOSL will continue to monitor performance against the Market Performance Framework standards which remain the same and we note that MOSL is currently considering how to report against these performance standards during the suspension period.

We agree with the Panel that the Change Proposal is consistent with the Code principles of Efficiency, Proportionality, Barriers to Entry, Non-discrimination, Customer Participation and Seamless Markets. In line with the Proportionality principle, this is a temporary change to the code, with the possibility of extension should the Authority consider this to be necessary. Our views on the relevant principles that we believe this change will have a positive impact on are set out in the Panel's Final Recommendation Report, available on the MOSL website.

Decision notice

In accordance with paragraph 7.2.8 and 6.3.7 of the Market Arrangements Code, the Authority approves this Change Proposal.

Emma Kelso,
Senior Director, Markets and Enforcement