
Wholesale Retail Code Change Proposal – Ref CPW097 and Market Arrangements Code Change Proposal – Ref CPM025

Modification proposal	Wholesale Retail Code Change Proposal – Ref CPW097 and Market Arrangements Code Change Proposal – Ref CPM025: Suspension of Market Performance Standard Charges following an interim supply event
Decision	The Authority has decided to approve this Change Proposal
Publication date	24 June 2020
Implementation date	1 July 2020

Background

CSD 0002 (Market Performance Framework) defines the processes, methods and incentives designed to support the delivery of satisfactory performance levels by Trading Parties against a set of key performance indicators and obligations. Their purpose is to ensure the accurate and timely operation of the market, where Retailers and Wholesalers are charged for underperformance against the standards.

The Authority and the Market Operator (MOSL) are undertaking a review of the interim supply processes in the market. As part of the review, it has been noted that there is low uptake by Retailers to opt-in for an interim supply event – indeed, this has been the case in the two interim supply events that have occurred since market opening. Part of the rationale on the part of Retailers being that suddenly managing Interim Duty Supply Points (IDSPs) could potentially put Retailers’ market performance at risk. The IDSPs received may come with a poor data record or alternatively a Retailer(s) could take a large portfolio of IDSPs. This could attract Market Performance Standard (MPS) Charges for performance failures outside of the Retailer(s) direct control and could result in it incurring financial penalties.

There is currently no mechanism in the Wholesale Retail Code (WRC) or Market Arrangements Code (MAC) for easing the potential performance burden on Retailers that take on customers as part of the interim supply process.

The Change Proposal¹

A Change Proposal has been developed to suspend the requirement for the Market Operator to issue invoices on, and Retailers to pay, MPS Charges for any IDSPs that are allocated to them following the unplanned exit of another Retailer. The suspension is time-limited to the three months following the Designated Date (which is the date on which the cessation of supply by the outgoing Retailer commenced) or any alternative period determined by the Authority. The measures have been developed to encourage Retailers to opt in for an interim supply event thereby potentially facilitating an increased number of Retailers participating in the interim supply process that could lead to better outcomes for affected customers.

The Change Proposal removes a requirement that may discourage Retailers from opting-in by relieving them of paying MPS charges for a limited period of time. Furthermore, it would protect Interim Suppliers from any increase to the MPS charges cap that would otherwise result from them taking on IDSPs. These changes seek to provide Interim Suppliers with more certainty in planning, to give them time to establish relationships with their new customers and raise necessary market transactions without being charged for underperformance against the standards. The Authority and MOSL envisage that the proposed changes will make the proposition of being an opted-in Retailer as part of an interim supply event more attractive.

Accordingly, the Change Proposal would be effected by a change to the MAC to be implemented via CPM025 and a change to the WRC, CSD 0002 (Market Performance Framework), to be implemented via CPW097.

This Change Proposal only affects IDSPs, meaning that the Interim Supplier would remain subject to MPS charges associated with any of their other Supply Point Identification Number (SPIDs).

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>

Industry consultation and assessment

No consultation was undertaken in relation to this Change Proposal. The Authority and MOSL have considered information and evidence obtained from past interim supply events and feedback from Trading Parties in its development. It is considered that implementation and operation cost impact on MOSL, Trading Parties and customers are minimal. Further details can be found in the Panel's Final Report on MOSL's website.

Panel recommendation

The Panel considered this Change Proposal at its meeting on 26 May 2020.

In its Final Recommendation Report, the Panel supported amendments to the legal drafting in CSD 0002. It also asked for further details on how and when the Authority might exercise its discretion to extend the three months suspension of MPS charges. The Authority clarified that it would not extend any longer than necessary and any variations would be considered on a case by case basis. Furthermore, the Panel questioned why a blanket suspension of all standards was applied and the Authority explained that a streamlined approach would be easier for the industry to manage.

In response to the Panel comment that the Change Proposal did not re-evaluate the standards themselves and a query about the materiality of the proposed changes, the Authority explained that this is an early change to make opt-in more attractive in interim supply events and that a wider package of measures is expected to be brought forward in due course. Some Panel Members also raised concerns about the potential detrimental impact on customers if Trading Parties were exempt for a period from MPS charges. The Authority responded that relevant Retailers would still be incentivised to provide a good service as they would otherwise risk losing poorly served customers, and that customers were in any event at greater risk by there not being an opted-in Retailer in the first place. Feedback from Trading Parties related to previous interim supply events supported the assertion that the changes would increase the number of opted-in Retailers.

The Panel recommended, by unanimous decision, that the Authority approve this proposal and the implementation date. This recommendation was made on the basis of improving the principles of efficiency, proportionality and non-discrimination. The recommended date of implementation is 1 July 2020.

Our decision

The Authority has considered the issues raised by the Change Proposal in the Panel's Final Report and has decided to approve it.

We are of a view that the implementation of CPM025 and CPW097 will better facilitate the principles and objectives of the WRC detailed in Schedule 1 Part 1 Objectives, Principles and Definitions and of the MAC detailed in Schedule 1, Principles and Definitions, and is consistent with our statutory duties.

Reasons for our decision

Having reviewed the Panel's Final Report, we consider that the Change Proposal removes a disincentive for Retailers to opt-in for interim supply events by supporting the on-boarding process for any Retailer that has received IDSPs following an unplanned Retailer exit, without unduly risking customer service. Furthermore, the risk to customers of having no opted-in Retailer(s) for the interim supply process is greater than the risk of poorer performance during the on-boarding process as a result of no MPS charges. Therefore, we approve the Change Proposal with the expectation that it would encourage Retailers to opt-in for future interim supply events.

This Change Proposal is expected to improve the functioning of the market and therefore benefit customers by easing the potential performance burden on Retailers by providing time-limited relief from MPS charges for any IDSPs that are allocated to them following the unplanned exit of another Retailer. These measures may increase the number of Retailers that are willing to opt in for future interim supply events. A better uptake by Retailers increases the Authority's capability to safeguard customers where their Retailer has unexpectedly left the market by enabling a choice of Retailer, rather than being reliant on a small number of Retailers.

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

Efficiency

We consider that this proposal should promote efficiency by encouraging Retailers to opt-in to the interim supply process without risk of immediate performance shortfall after taking on IDSPs following unplanned Retailer exit.

Proportionality

As the suspension of MPS Charges is limited both in extent and time, we consider that this change is proportionate, balancing the need for Interim Suppliers to manage the increase in SPIDs, whilst ensuring that market performance standards are maintained. There should be a relative infrequency of Retailer exits and the suspension of charges is time-limited. As such, this change proposal is proportionate to the issue it is seeking to address.

Non-discrimination

The Change Proposal confers the same benefit to every Retailer.

Decision notice

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

Georgina Mills

Director, Business Retail Market