
Market Arrangements Code Change Proposal – Ref CPM035

Modification proposal	Market Arrangements Code Change Proposal – CPW035 – Panel election streamlining
Decision	The Authority ¹ has decided to reject this Change Proposal
Publication date	8 December 2021

The Change Proposal

This Change Proposal was raised in September 2020. At the time the proposal was raised, it was seeking to address issues that had been identified with the Panel election process. The proposed amendments were aiming to make the process more efficient and streamlined, for example by:

- Increasing the timeframe for consideration of nominations;
- Increasing flexibility around voting arrangements; and
- Improving the effectiveness of the decision making process.

Further detail regarding the issue that the proposal was seeking to address can be found in the [Final Report](#).

CPM035 was submitted to Ofwat with a recommendation to approve in November 2020. However, this Change Proposal was placed on hold in view of the ongoing review of Panel governance at that time, further detail regarding this work has been provided below. CPM035 remained on hold until the work relating to Panel governance had concluded, and subsequently whilst we considered higher priority Change Proposals.

Background to the review of Panel governance

In August 2020, Ofwat had published our [‘Review of Incumbent Support for Effective Markets’](#) (project RISE). Project RISE concluded that if the business retail market is going to deliver improved outcomes for customers, the environment and society more generally, then the market-led approach to governance needs to facilitate innovation

¹ Unless otherwise specified, the terms used in this document are those defined in the MAC.

and support real change that benefits customers, rather than focusing on minor amendments that reinforce the status quo.

Following project RISE, in October 2020, MOSL and the panel commissioned '[Satori Board Review](#)' to undertake a Panel effectiveness review. The Panel effectiveness review concluded that the current Panel composition and associated code provisions are unlikely to be able to support delivery against a revised purpose. As such, in April 2021, the Panel established the governance sub-group to develop changes to the Market Arrangements Code and Wholesale Retail Code, including to implement recommendations arising from the Panel effectiveness review. The governance sub-group considered a range of proposals including:

- [CPM040 / CPW121 – Market Arrangements Code and Wholesale Retail Code principles](#),
- [CPM039 / CPW124 – Panel composition \(alternative and proposed solutions\)](#), and
- [CPM021 / CPW125 – Panel membership and voting rights](#).

Both CPM039 / CPW124 and CPM021 / CPW125 included proposals to overhaul the composition of the Panel and the nominations process. CPM039 / CPW124 (the proposed solution) was [approved](#) by the Authority in July 2021. The alternative solution proposed under CPM039 / CPW124 and CPM021 / CPW125 were rejected.

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 reject this Change Proposal.

We have decided to reject this Change Proposal as we do not consider that approval of the proposed amendments would be proportionate in light of our approval of the proposed solution under [CPM039 / CPW124 – revisions to Panel composition](#). CPM039 / CPW124 revised the structure and composition of the Panel and introduced a new Panel Nominations Committee which is responsible for undertaking a selection (rather than election) process to appoint members of the strategic panel. Under the revised governance structure, the strategic panel is responsible for selecting and appointing the members of the Code Change Committee (which has delegated responsibility for considering Change Proposals and making recommendations to the Authority in respect of these).

CPM039 / CPM124 set out a transitional period for the current Panel's transition into the strategic panel and the Code Change Committee. The transitional period is due to end by 1 March 2022, following this the current Panel will cease to exist. Therefore, the

amendments proposed by CPM035 to streamline the Panel election process will shortly be superseded and are therefore no longer required.

As the proposal will shortly be superseded by improved measures, approval would not further the primary principle or supporting principle of proportionality.

Decision notice

In accordance with paragraph 7.2.8 of the Market Arrangements Code, the Authority has decided to reject this Change Proposal.

Georgina Mills
Director, Business Retail Market