

## Wholesale Retail Code Change Proposal – Ref CPW137

<b>Modification proposal</b>	Wholesale Retail Code Change Proposal – Ref CPW137 - Interim Supply Allocation Customer Data Provision
<b>Decision</b>	The Authority has decided to approve this Change Proposal with a modification to the legal text
<b>Publication date</b>	24 AUGUST 2023
<b>Implementation date</b>	27 OCTOBER 2023

### **We are approving this Change Proposal with a modification to the legal text.**

We consider that there is potential for significant customer detriment to arise from there being no retention of, or subsequent arrangements for transferring customer contact and billing data to an Interim Supplier following a Retailer failure. We think that there is potential for poor customer experience as a result of the transfer to an Interim Supplier from a failed Retailer, and we believe that steps must be taken to minimise this.

This Change Proposal provides a solution which will enable customer contact and billing data (i.e., billing contact name, address, email and telephone number) to be passed on to an Interim Supplier if needed. We agree with the Proposer that having customer contact and billing data in a central location, which can be kept updated, secure and accessible if needed is far preferable to having nothing available, with the consequential risk of delays and disruption to customer billing and poor communication.

Market frictions continue to affect the effective functioning of the market and improving data quality is a key market priority. Whilst we understand that Retailers may not currently hold all of the data items included in the reports required under this Change Proposal for all of their customers, we expect them to take every opportunity in future to gather this data, with a view to populating all the data fields accurately and as soon as reasonably practicable, thus helping to improve the overall availability and quality of data in the market. We recognise that there is limited capacity for MOSL to carry out data quality checks on Retailers' submission, however we expect MOSL to review the volume of data being provided, and to flag any concerns. We would like the Post Implementation Review to include information on the completeness and suitability of the data being submitted by Retailers.

In the event that a Retailer were to exit the market, we expect MOSL to put arrangements in place to enable the data to be extracted and securely transferred to an Interim Supplier in a timely way, and we would encourage MOSL to make these arrangements clear and transparent to Retailers.

## Background

Interim Supply Allocation happens where there is an unplanned Retailer exit from the market. The interim supply process is used to allocate a new Retailer to the affected customers. That Retailer will then provide interim retail services until the customer either agrees a contract with that Retailer or switches to a new Retailer. Customers' water and sewerage services supply will remain unaffected throughout this process; however, it is possible that the provision of Retail services, e.g., billing and payment arrangements could be impacted.

## The issue

In the event of an unplanned Retailer exit from the market, there is currently no means of guaranteeing or securing access to, or ensuring preservation of, data that will enable the Interim Supplier (appointed to take on the customers of the failed Retailer under the Interim Supply Allocation process) to continue provision of Retail services. This can mean that the Interim Supplier faces difficulty in making initial contact with transferring customers, billing them and providing ongoing retail services such as meter reading and support in emergency situations.

## The Change Proposal<sup>1</sup>

This Change Proposal was raised by the Market Operator (MOSL) on 22 December 2022. It seeks to improve the existing industry processes relevant to a Retailer failure and Interim Supply allocation. The proposal is that standardised customer data reports will be submitted on a monthly basis by all Retailers to MOSL. The customer data items to be populated in these reports include customer name and contact details, billing contact and billing address details, and occupancy status of the premises. MOSL will store this information in a secure SharePoint environment. In the event of an unplanned market exit, MOSL will provide the relevant customer data to the appointed Interim Supplier(s). This data can then be imported onto the Interim Supplier's systems and used for initial and ongoing provision of Retail services.

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<sup>1</sup> 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

A Working Group was set up in February 2023 to develop an interim solution to the issue that had been identified, as well as to consider an enduring solution. In addition to the proposer, the Working Group had limited representation from Trading Parties (one Retailer, one Wholesaler (who left the Group at the end of April), one consumer representative and one independent member). Ofwat attended as an observer.

The Working Group ran a consultation for CPW137 from 3 April to 5 May 2023. In total, 13 responses were received from nine Retailers, three Wholesalers, and the Consumer Council for Water (CCW). Of these, one Wholesaler and one Retailer advised they had reviewed the consultation but did not offer any comments.

Eight respondents (five Retailers, two Wholesalers and CCW) thought that the change would improve the current arrangements. However, several respondents expressed specific concerns about the proposed solution, as follows:

- Whether the cost of this change is justified, given that the additional data may not be needed and therefore the intended benefits of the change may not be realised.
- That Retailers may not hold the data items that are being requested, resulting in a lot of null entries in the monthly submissions.
- Whether the customer data would be securely held and whether it is appropriate for MOSL to hold this data.
- Frequency of submission of data by Retailers, with monthly thought to be too onerous.
- It might be resource intensive to import the data into a Retailer's systems and actually make use of it.

## Alternative solutions

As part of the Working Group deliberations, alternative solutions were considered.

The Working Group considered the suggestion made during the consultation process that data already held in CMOS was in fact sufficient and could be drawn upon to address the issue identified. The Working Group concluded that the CMOS data was incomplete, potentially out of date (as it had been provided by Wholesalers at market opening) and was not easily accessible or usable.

The Working Group also considered suggestions made by respondents to the consultation. One Retailer had suggested that a better way to approach this issue would be to mandate the provision of monthly data only by Retailers who have missed payments to a Wholesaler as a "safety policy". The Working Group discussed the option of only requiring data to be provided by Retailers which had been identified [by Ofwat] as potentially in difficulty. However, this was thought to be unworkable, as Retailer failure can occur very suddenly without any external signs being present, and it might not be possible to obtain the data in time. Also, mandating the submission of data as a one-off at a time when a Retailer is under pressure could be unhelpful. There was also a risk of reputational damage arising from such a requirement, which could in itself make the situation worse.

The Working Group also considered the option of developing an enduring CMOS solution rather than pursuing the proposed interim solution. The Working Group agreed that a CMOS solution would be difficult to implement before December 2024 and would cost significantly more. The Working Group also noted that the Code Change Committee had tasked the Working Group with developing an interim solution as soon as was feasible, with an enduring CMOS solution taking more than an extra year to implement.

In its consultation response, another Retailer suggested that, rather than a monthly upload of data to a Sharepoint site, their preferred solution would be for all Retailers to agree to an assurance requirement which would give access to its billing system in the event of its failure. They said that Retailers could include a clause to this effect in their contracts with their billing system providers.

## **Views of the Customer Representative**

The response from CCW was positive, flagging up the importance of affected customers being quickly and efficiently transferred to a new supplier, with as little disruption to their Retail service provision as possible. CCW also supported reports being submitted monthly and held in a secure SharePoint environment, rather than being held in CMOS – CCW felt that this ensured access was restricted to the right parties and therefore provided greater assurance that customer data would be safeguarded appropriately. CCW requested that guidance be prepared to help Retailers explain the data use to customers (MOSL has undertaken to produce this guidance if Ofwat approve the Change Proposal). CCW noted the importance of data being as accurate as possible in the event of a Retailer exit. CCW's view was that the risk of this data not having been provided would increase if the submission frequency was reduced, and they considered that monthly submissions strikes the right balance between mitigation of the risk presented in the proposal, and increased burden on Retailers' resources.

## Code Chance Committee (CCC) discussion and recommendation

The CCC considered this Change Proposal at its meeting on 7 June 2023 and voted by majority (seven votes in favour and one against) to recommend the change to Ofwat for approval. The CCC member who voted against the change did so because of concerns about the security of the customer data and because they felt that an enduring solution should be developed instead of an interim one.

The CCC agreed that CPW137 furthered the principles of the WRC in terms of the Primary Principle, Continued development and sustainment of an effective market, and Efficiency. One CCC member disagreed due to the reasons mentioned above. The recommended date of implementation is 25 August 2023.

## Our decision and reasons for our decision

We have considered the issues raised by the Change Proposal and the supporting documentation provided in the CCC's Final Recommendation Report (FRR) and have decided to approve the proposal, subject to a modification to the legal text to correct an error in the legal drafting included in the FRR. Our amendment is summarised below:

Section	Amendments	Rationale
CSD0004 Section 3.2.6	Replace reference to Section 3.5 with a reference to Section 3.2.5	<i>Section 3.5 does not exist. This modification is needed to ensure that section 3.2.6 has the intended effect.</i>

We have concluded that the implementation of CPW137 will better facilitate the principles and objectives of the Wholesale Retail Code detailed in Schedule 1 Part 1 Objectives, Principles and Definitions, and is consistent with our statutory duties.

It will further the consumer objective to **protect the interests of consumers, wherever appropriate, by promoting effective competition**, as the change will facilitate the effective transfer of customer data to an Interim Supplier, and this in turn will enable the Interim Supplier to continue the provision of Retail services to affected customers.

We consider that the change supports **the Primary Principle** and several of the supporting WRC principles, as detailed below.

It supports the **Primary Principle** (that the Wholesale Retail Code and arrangements established by or under the Wholesale Contract shall be maintained, operated and developed in a manner that best seeks to protect and promote the interests of, and participation by, existing and future Non-Household Customers) by reducing the risk to customers who transfer to an Interim Supplier of potentially significant disruption, including inaccurate, delayed or misdirected billing. It will also assist Interim Suppliers in communicating with transferring customers and ensuring that Retail services continue. For the same reasons, it will also promote the principles of **continued development and sustainment of an effective market** and **Seamless Non-Household Customer Experience**.

It will promote **Efficiency** as it has potential to reduce the costs incurred by an Interim Supplier in managing initial customer contact and billing as better data will be available. This should make revenue recovery for Interim Suppliers more efficient.

We acknowledge that some respondents to the consultation raised concerns relating to specific aspects of the proposal, specifically that:

- Whether the cost of this change is justified, given that the additional data may not be needed and therefore the intended benefits of the change will not be realised.
  - Our view is that if a Retailer were to fail, then the potential impact on customers under the current arrangements could be high if customer contact and billing data are lost, and there is potential for there to be customer detriment through severe disruption to Retail services and communication. We consider that the cost of implementing this solution is relatively low, and the benefits outweigh the cost in addressing a substantial risk that in the event of an unplanned exit the Retailer will not have access to customer information that is not available on CMOS or via the Bilateral hub.
- That Retailers may not hold the data items that are being requested, resulting in a lot of null entries in the monthly submissions.
  - We recognise that in some cases, no additional billing data will ever have been recorded in a Retailer's systems, whereas in other cases partial or full data will have been collected. As time moves on, we expect Retailers to take steps to gather more customer data and record the information provided by their customers. Retailers must provide the information needed to populate the submission form where this data is held. We note from the FRR that MOSL may in future include these customer data reports in market audits if it felt a Retailer was submitting an excessive number of 'null' data items. Whilst we recognise that MOSL cannot monitor each and every submission for completeness, we would like information on this to be included in any

Post Implementation Review that is carried out. We also note that the MOSL-led Central Data Cleanse project provides a further opportunity to improve the quality of data in the market.

- Whether the customer data would be securely held and whether it is appropriate for MOSL to hold this data.
  - MOSL have given consideration to the challenges made about data security and have concluded that the proposed use of SharePoint is in line with data protection requirements. We are therefore confident that the data will be securely held and maintained.
- Frequency of submission of data by Retailers, with monthly thought to be too onerous.
  - Once the initial implementation of this change has been completed and reports set up, we anticipate that extracting and submitting the data should be straightforward. We would not expect significant costs to arise from running a data extract, even if this were on a monthly basis.
- It might be resource intensive to import the data into a Retailer's systems and actually make use of it.
  - We recognise that it is difficult to anticipate how easy it will be to receive and use the data in the event of taking on the Interim Supplier role. We think it would be helpful to give further thought to the processes that will be used to provide the relevant data to an appointed Interim Supplier and to further explore the options for making this data easy to import and use. We encourage MOSL to work with Retailers with a view to identifying the best way to do this.

Some respondents to the consultation suggested that instead of pursuing this change, Ofwat should give greater priority to reducing the risk of Retailer failure and improving CMOS data quality. Market entry, exit and consolidation are common features of competitive markets, and it is often the case that the make-up of markets evolves over time. For example, ownership structures evolve, market shares change, and firms can fail and exit the market for a variety of different reasons. The realistic prospect of failure and subsequent exit from the market also acts as an incentive on companies to deliver service improvements on which they can compete, win customers and potentially grow their business. Whilst failure is regrettable, where this is the case, we strongly agree it is important that robust arrangements are in place to protect customers.

We agree that a focus on Retailer resilience and data quality are both very important, and Ofwat is already taking steps on both these fronts. We have recently issued a Request for Information (RFI) with a view to strengthening Ofwat's monitoring and oversight of Retailers' financial resilience and understanding of governance structures. On data quality improvements, as mentioned above, MOSL is taking forward a Central Data Cleanse project, which will benefit customers and the market through the improved quality and accuracy of Wholesaler owned data items. This change should be seen in the context of these other pieces of work.

With regard to the suggestion that all Retailers should instead agree to an assurance requirement which would give access to billing systems in the event of company failure, we think that this would not be feasible in practice. There is a risk in insolvency that customer data would not be available, or that it would take too long to arrange access.

We note that the CCC has charged the Working Group with continuing to develop an enduring CMOS-based solution and to put a proposal to the CCC as soon as possible. However, given the lead-in time for CMOS system change, our understanding is that the earliest possible implementation date for such a solution would be December 2024. We consider that the potential harm to customers from an Interim Supplier being unable to obtain customer contact and billing data following a Retailer failure or other unplanned exit could be significant. We therefore agree with the Proposer that having this data in a central location, which can be kept updated, secure and accessible if needed is far preferable to the current arrangements. It is our view that this change will deliver improved customer experience in an interim supply event.

## **Decision notice**

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

**Dan Mason**  
**Director, Business Retail Market**