

Market Arrangements Code Change Proposal – Ref CPM056

Modification proposal	Market Arrangements Code – Ref CPM056 – Provision of Resource Support to Industry Groups
Decision	The Authority has decided to approve this Change Proposal with a modification to the legal text
Publication date	4 March 2024
Implementation date	4 April 2024

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

CPM056 will enable industry groups that meet certain criteria to request resource support, such as secretariat and project management support, from the Market Operator, MOSL. MOSL will consider all requests and provide support to those groups it considers to meet the criteria, subject to approval from its members (Trading Parties) through its annual business plan. In practice, initial support is expected to be provided to the Retailer Wholesaler Group (**RWG**), as the group is made up of volunteers and feels its effectiveness is limited by resource constraints.

We recognise that industry groups like the RWG have, and will continue to have, a significant role in improving the experience of NHH customers and supporting the effective development of the market, such as through the development of good practice guides and work towards developing innovative solutions to address wider market problems. We think the provision of resource support, where appropriate, to these groups will enable them to work in a way that is most effective, increasing the level of benefit they can provide to both customers and the market.

We have made a modification to the legal text to expand the industry groups eligible to request support. The original Change Proposal eligibility criteria includes that groups must "Provide a benefit to the entirety of the competitive market". We are concerned that this excludes groups which only deal with issues impacting a portion or segment of the market (such as only Retailers or Wholesalers), but whose work still could benefit customers. We think such groups should be eligible for support, and therefore have removed the aforementioned criterion. We think the remaining criteria – that groups must provide a benefit to customers, act in the best interests of the competitive

market, and must not unduly benefit one specific Trading Party or market segment – is rigorous but ensures any industry group that works for the benefit of customers and the market is eligible to apply for support.

Background

The [Retailer Wholesaler Group \(RWG\)](#) is a voluntary group of Retailer and Wholesaler representatives who work together to identify opportunities and deliver change initiatives that improve outcomes for customers. Specialist RWG sub-groups with subject matter experts explore particular issues, such as Meter Reading Standards, Leak Allowances, or Emergency Events, and the RWG has produced several [Good Practice Guides](#) for the market concerning various areas.

The issue

Under the market codes, the Market Operator, MOSL, is required to provide administrative and secretariat support for certain groups in the market, such as the Strategic Panel. The RWG is not defined by or mentioned in the market codes, and therefore MOSL does not have the ability to provide resource support to the group. Furthermore, the Market Arrangements Code (**MAC**) prohibits MOSL from undertaking activities outside those duties detailed in the codes.¹

RWG members have indicated that due to volunteers having limited time and competing priorities, the pace of work is slower than it ideally would be. Enabling MOSL to provide resource support where necessary could help mitigate this issue.

The Change Proposal²

The Change Proposal would amend the MAC to allow MOSL, if it chooses, to provide resources to industry groups³ that meet certain criteria, including groups such as the RWG. The criteria proposed are that the group must:

- Provide a benefit to the entirety of the competitive market;
- Provide a benefit to Non-Household customers; and

¹ MAC Section 3.1.1(g).

² The proposal and accompanying documentation is available on the MOSL website at <https://www.mosl.co.uk/market-codes/change#scroll-track-a-change>

³ These are defined in the legal drafting as groups which operate within, and for the benefit of, the competitive market, including Non-Household Customers.

- Act in the best interests of the competitive market, and it must not unduly benefit one specific Trading Party or competitive market segment.

The change enables, rather than obligates, MOSL to provide support to relevant industry groups; MOSL will assess all applications for support against the above criteria and make a decision on whether to provide it. The support MOSL intends to provide will be budgeted for in its business plan and is therefore subject to the approval of member organisations (Trading Parties). As a result, requests for support must be submitted at least five months in advance of the start of the financial year in which it will be received.

If the change is implemented, the RWG would be the first industry group to receive support, subject to business plan approval. The cost of this has been estimated to be £70,000, or 2.7pence per SPID.

Industry consultation and assessment

An objection window was open for this change between 7 and 21 November 2023. Ten stakeholders responded: four Wholesalers, five Retailers and the Consumer Council for Water (CCW). All respondents were supportive of CPM056.

Views of the Customer Representative

CCW is supportive of the change. CCW stated that they agreed with the proposal and legal amendments. They also supported the work of the RWG, and felt it is positive to see that each of the sub-groups that have requested secretariat or project management office (PMO) support are working on areas that have a significant customer impact and align with market strategic priorities. Topics such as water efficiency and market eligibility were key areas of focus in CCW's 5-year review of the retail market, so it is positive that there is a large degree of alignment between CCW and an industry group working on customer and market priorities.

CCW also highlighted, despite the benefits that may result from this change, that even if an industry group meets the proposed criteria in the MAC, this does not guarantee support from MOSL will be provided. It continued to state that MOSL should not be compelled to provide support in all cases as groups such as the RWG have developed beneficial market changes without secretariat and/or PMO support in the past. It would like to see a continued push for improvements, with or without Market Operator support.

In addition, while industry groups may benefit from Market Operator support, a balance needs to be struck between MOSL providing this, and the delivery of their core functions. CCW does not want to see the latter adversely impacted as a result of

secretariat and PMO support for industry groups, as this may negatively impact the water retail market and business customers. It is also important to ensure that there is no resource duplication where the Market Operator provides formal support for Committees. CCW therefore agrees with the code drafting allowing the Market Operator this discretion, and it will also be important for it to clearly outline the reasons why it may have been unable to grant support, on a request-by-request basis.

Code Change Committee (CCC) discussion and recommendation

The CCC considered this Change Proposal at its meeting on 11 January 2024. It recommended, by unanimous decision, that the Authority approve this proposal, and agreed unanimously that CPM056 better facilitated the principles of the MAC.

One committee member believed that defining an industry group as an "organisation" would limit support to legal entities and suggested that the RWG did not meet this definition. MOSL's position is that "organisation" is not a defined term in the MAC and rather the plain English understanding will be used, in which case the RWG could be considered an organisation.

Some members felt that the requirement for the industry group to be an organisation which operates within the competitive market is a limitation. The benefit of MOSL providing support to groups within the market is that it would be funded from charges which all Trading Parties pay.

One member noted that the first criteria in the legal drafting requires that the group must be working for the benefit of the entirety of the market. However, some projects or groups may be looking at things that benefit only portions of the market, such as work on surface water charges which are only charged by some Wholesalers. MOSL responded that it would review each industry group request case by case and seek the agreement of its members through its business plan. Additionally, it said in the example given a policy would affect any Wholesaler who adopts surface water charging and so could impact the whole market.

One member queried how support could be continued into a later year or curtailed if a project became ineffective. MOSL confirmed that unless support became incorporated into their normal business, groups would need to re-apply for support in later years. Curtailing support within year was prudent business management and would be expected by MOSL's members.

Post-Implementation Review

MOSL recommended that a Post Implementation Review (**PIR**) not be conducted for this change, due to it being an enabling change and any changes in market behaviour

would arise from the supported work rather than the change. The CCC disagreed and recommended a PIR be carried out two years post implementation as this would measure whether the support provided by MOSL has produced the stated benefits.

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 [Final Recommendation Report](#) and have decided to approve the proposal, subject to a modification to the legal text. We have concluded that the implementation of a modified CPM056 will better facilitate the principles of the MAC detailed in Schedule 1 MAC, Principles and Definitions, and is consistent with our statutory duties.

Industry groups such as the RWG have been responsible for delivering outcomes that both benefit customers and contribute to the development of a flourishing market. For example, good practice guides can drive improvements in performance from both Wholesalers and Retailers and result in improved customer outcomes. We think the work of industry groups should be promoted and supported as part of a market-led approach to governance, and recognise their characteristics – such as collaboration, involvement of experts in decision-making, and innovation – can benefit customers and the market.

In light of the benefits industry groups can provide for customers and the development of the market, we think MOSL should be able to provide resource support to groups where appropriate to maximise their effectiveness. This is particularly necessary given that industry groups are often made up of volunteers who face limitations in dedicating time to the group.

While the provision of resource support will bear a cost, we are confident that the eligibility criteria and the inclusion of budgeting for support in MOSL's business plan provides sufficient rigour to the allocation process, to ensure groups with the potential to provide benefits to customers and the market that justify the costs are prioritised.

Modification to the legal text

We shared the concern of a CCC member that the proposed requirement in Section 2.1.a of Schedule 17 of the MAC that an industry group must "Provide a benefit to the entirety of the competitive market" in order to be eligible for support could act as a barrier to appropriate groups receiving support. We think it is feasible that an industry group could consider an issue that, while significant for customers, did not impact the entire market (such as one that only impacted Wholesalers or Retailers). In this case, we think the group should be eligible to apply for resource support. We have therefore modified the legal text to remove this requirement. This means that Section 2.1 of Schedule 17 of the MAC will read:

The following section outlines the defined criteria against which the Market Operator must ensure an Industry Group complies, in order for any request for support to be considered:

- a. the Industry Group must provide a benefit to Non-Household Customers; and
- b. the Industry Group must act in the best interests of the Competitive Market, and it must not unduly benefit one specific Trading Party or Competitive Market segment.

We think this modification aligns the change better with the Primary and Supporting Principles, as the provision of a customer benefit is placed at the centre of the criteria, while the interests of the competitive market are still considered.

Post-Implementation Review (PIR)

We agree with the CCC that this change would benefit from a Post-Implementation Review two years after implementation to assess whether the support provided by MOSL has produced the stated benefits.

Alignment with code principles

We think that this change will further the **Primary Principle** as it will improve current and future customers' experience through enabling industry groups that deliver customer benefit to maximise their effectiveness. For example, the provision of resource support may allow groups to reach outcomes more quickly and use members' time more effectively.

Additionally, we think this change will further the **continued development and sustainment of an effective market** and facilitate a **seamless non-household customer**

experience by enabling groups that support these efforts to work efficiently and effectively. We think the **Efficiency** principle will be furthered by enabling activities to develop the market to be undertaken in a way that is most efficient through using the time of volunteers wisely and outsourcing administrative activities where appropriate. We think the change also **supports innovation** by providing support to industry groups composed of experts who can work together to develop innovative solutions for the market. Finally, the change promotes a **Market Led** approach by supporting the work of market participants to drive innovation and change that will create value for existing and future customers.

We think our modification to the legal drafting ensures the change furthers the principle of **Non-Discrimination** by allowing all industry groups which could provide benefits for customers and the market to apply for resource support.

Decision notice

In accordance with S.6.3.7 of the Market Arrangements Code, the Authority approves this Change Proposal with the modification to the legal text detailed above.

Dan Mason
Director, Business Retail Market