
Wholesale Retail Code and Market Arrangements Code Change Proposal – Ref CPW030

Modification proposal	CPW030: Market Performance Framework for 2018/19
Decision	The Authority has decided to accept this change proposal
Publication date	26 March 2018
Implementation date	29 March 2018

Background

The Market Performance Framework (MPF), as set out in Code Subsidiary Document 0002 (CSD0002), is intended to provide confidence to trading parties and the Market Operator that they and their peers are complying with their obligations; that risks to the Central Systems are being managed and that the performance of the market is being continually improved to ensure its orderly operation.

The MPF consists of a number of elements that monitor and report performance against a range of pre-defined standards and timescales. These standards are the Market Performance Standards (MPS) and the Operational Performance Standards (OPS). The MPS measure both retailer and wholesaler performance, whilst the OPS solely measures wholesaler performance. Peer comparison charts of the MPS and OPS are published on the MOSL website on a monthly and quarterly basis respectively. This reporting enables all trading parties to compare their performance with that of their peers.

From 1 April 2018, a charge will be applied to a trading party for each individual failure against certain standards. Charges were suspended for the first year of operations to allow time for market participants and MOSL to ensure their processes were robust.

Under the terms of CSD0002, the Panel is required to review the MPS and OPS no later than nine months after the market went live. The Panel elected to do this through creating the Market Performance Committee (MPC). The MPC is independently chaired and consists of four retailer members and four wholesaler members.

The MPC reported that it was only able to carry out a limited review in the time allowed by the code because:

- The market had only been open for 10 months so there was insufficient evidence upon which to base a comprehensive review of the charging mechanism or to propose an alternative mechanism; and
- There are a number of defects affecting the reporting of MPS, which limited the MPC's ability to draw conclusions around market performance.

Following consultation, the MPC has now put its proposals to the Panel, which has now recommended this change proposal to the Authority for approval.

The issue

Following the MPC's review of the standards, it concluded that the MPS are ineffective in driving market behaviours and providing confidence to trading parties that their peers are complying with their obligations.

The MPC identified the following issues:

- Four MPS do not measure discrete activities, these measures across the MPS and OPS include either multiple SLAs or different activities within a single performance standard, increasing complexity and reducing transparency and consistency across the standards.
- The success criteria do not align to the SLAs set out in the Market Codes. Therefore, there is a lack of consistency between the required level of performance as stated in the code and the level of performance being measured and reported;
- Failure of a single MPS task may be reported as multiple failures where it is only the timescale which is different
- Wholesalers are not incentivised by the MPS to submit missing meter reads because the standards relating to this measure the lateness of the read based upon when the read was submitted. This creates a perverse incentive for wholesalers not to submit a read to avoid a charge;
- Retailers incur a charge for any missing meter reads, where this level of performance is unattainable

- The OPS do not include standards on trade effluent and a key element of deregistration which have a high market impact;
- The level of the cap and charges for retailers, combined with the significant volume of retail tasks, create an inappropriately small active range of financial incentive;
- OPS data is only submitted on a quarterly basis which limits the ability to frequently compare performance; and
- OPS are not included within the performance resolution process which provides recourse for long-term underperformance.

The modification proposals¹

This proposal is made up of nine recommendations, each of which have been detailed in the table below:

Recommendation number	Detail
Recommendation 1	Each performance standard should be separated out to ensure each standard measures a single discrete activity.
Recommendation 2	Each performance standard should align to the SLAs within the Market Codes.
Recommendation 3	Failure of a single activity should be reported as a single failure. It is recommended that the MPS is restructured to allow multiple timescales to be applied against single standard to ensure that a single late task will be reported as such. Differing charge levels may still apply.
Recommendation 4	To ensure performance standards incentivise wholesalers to submit meter reads, even if they are late, by replacing MPS 6A and MPS 6B with measures based on the expected date of a meter read. This would be consistent with the equivalent measure for retailers.
Recommendation 6	To add an additional standard on deregistration to the OPS. ²
Recommendation 9	To reduce the level of charges for all retailer MPS and to introduce a 95% performance threshold for MPS18 and MPS19 (missed meter reads) to be

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 Following consultation the MPC changed its recommendation to include a standard on trade effluent. It now recommends that solely a deregistration standard is added to the OPS for April 2018, whilst the Trade Effluent Issues Committee develops an additional OPS on trade effluent for review by the Committee for potential future inclusion

Recommendation number	Detail
	applied such that only performance under 95% for these MPS will incur a charge each month.
Recommendation 10	Where it is currently stated that there is 'no charge' this is restated as a 'zero charge' to ensure flexibility for future MPS reviews.
Recommendation 14	To require wholesalers to submit OPS data on a monthly basis as opposed to on a quarterly basis.
Recommendation 15	To include the OPS within the performance resolution process administered by MOSL. The performance resolution process is invoked where a trading party has three consecutive months of underperformance.

Information regarding the MPCs rationale for each recommendation is provided in its responses to industry consultation questions, detailed in Appendix 1 of this document.

Industry consultation and assessment

The MPC issued a consultation on its proposed solution on 9 October 2017 and 22 responses were received. The consultation questions, responses and the MPCs rationale for its recommendation decisions have been summarised in Appendix 1 of this document.

The MPC reviewed and considered the responses to its consultation and refined drafting changes to the CSDs. The MPC consulted again in January 2018 to help refine its recommendation, it received 23 responses to this consultation. The consultation questions and responses are summarised below:

Question 1. Do you have substantive evidence/rationale for changing the MPC's proposals with regards to the form and structure of the performance standards and the related proposals included in the recommendations document?

The majority of respondents supported the proposed changes.

Of the others, two suggested that the standards associated with different but related activities create double exposure. One example cited was, new connections and meter installation. The MPC considered that in that case separate standards are

necessary due to the importance of achieving timely information to support new connections and install meters.

One other respondent said that the proposals should also address interdependencies between retailers where there are different providers for water and sewerage services, for example, where water and sewerage services are provided by different retailers, the sewerage retailer relies on the timely update of meter reads from the water retailer to enable it to bill in line with the market. The MPC did not think this issue could be dealt with by the present change proposal but noted that it may need consideration in the future.

Question 2. Do you have any substantive evidence / rationale that different levels of MPS charges would provide more effective incentives?

A number of points were raised by respondents to the consultation.

One retailer suggested that it is not necessary to have standards relating to meter reading. The respondent considered that the drivers for reading meters are commercially based. Establishing the appropriate frequency for meter reads and the commitment to then collect real data to indicate consumption reflect the wishes of customers, and trading parties continue to be held to account if this service is not delivered. The MPC considers that meter readings are essential to ensure appropriate invoicing of services between trading parties and therefore have a critical role in the orderly conduct of the market.

One wholesaler highlighted that a uniform reduction in all retailer MPS charges will materially reduce the financial incentives to deliver on lower volume transactions such as, getting SPIDs partial and tradable in the market, which may still have a relatively high market impact. The MPC accepted that this may be the case however, the administration process is simplified and similar priority is given to similar activities associated with all standards across the MPF. Reduction of retailer MPS charges increases the likelihood that low volume transactions will make a difference to the actual charges a retailer accrues. At present there is no incentive for retailers to meet the targets for low volume transactions as they would have breached the cap through charges incurred in other areas.

It was suggested that reducing charges for retailers has the unintended consequence of setting a different level of market penalties for wholesalers and retailers for similar activities. The MPC highlighted that it is acceptable to have different charging levels because of the different activity levels between the different class of trading party, compared with invoicing levels and the cap on charges.

A retailer highlighted that the differing levels of performance between retailers should be understood before lowering charges. The MPC considers it necessary to

introduce financial incentives relating to performance as soon as possible and suggest that refinement can take place when further review is undertaken.

Following consultation, it was suggested to the MPC that the cap should be raised. The Panel considered that the cap should be maintained for the first year of chargeable standards. This is because it had been agreed at an early stage of the review process that there is not sufficient evidence available to review the viability of the cap or propose an alternative. It noted that the charging cap is widely supported by the industry and highlighted that this decision does not preclude a different cap being applied in future years.

The MPC has reviewed evidence which suggests that the current charging levels would not incentivise trading parties due to the narrow effective range over which any incentive to improve performance would apply. It concluded that the level of charges should be reduced for all MPS to ensure greater financial incentive to achieve success criteria, reduce the probability of breaching the cap and drive better market behaviours.

Question 3. Do you have any substantive evidence/rationale to support a different level of threshold for Retailer missed meter reads?

13 respondents said no and did not offer substantive evidence or rationale to support a different level of threshold for missed meter reads. There appears to be consensus amongst respondents that the evidence is limited at this time, the necessity to keep the threshold for missed meter reads under review was highlighted.

Seven retailers and two wholesalers offered evidence/rationale for implementing a different level of threshold for retailer missed meter reads.

Two wholesalers highlighted the potential for abuse of the threshold within consultation responses. It was suggested that the 5% hardest to serve meters could be persistently unread. This could cause an issue for wholesalers in relation to leakage and consumption reporting. The MPC has highlighted that it considered evidence which suggests that achieving 100% in relation to missing meter reads is unattainable due to access issues and potentially poor wholesaler data. The threshold is intended to provide mitigation in relation to unreadable meters. It is still expected that wholesalers and retailers would adhere to Code provisions relating to meters which experience persistent problems³. This can be monitored by the Market

³ Section 9.2.1 of the Customer Protection Code of Practice requires that retailers shall issue at least one accurate bill, or invoice each year which uses a meter read where the supply is metered. CSD0202 sets out the very limited circumstances in which an estimated transfer read can be submitted to MOSL – part of this is a requirement on the retailer to have taken remedial action to

Operator and the MPC has committed to closely monitoring the impact of the threshold.

There was opposition, in principle, to the introduction of a threshold. However, the MPC considered that its introduction provides a financial benefit for improving meter read performance which would not otherwise exist beyond the first 5% of missed reads because the overall charging cap would have been breached.

One respondent suggested that the combination of lower charges and a threshold will dilute the incentive effect. The MPC has assessed current market performance and believe that, on balance, the risk of this is outweighed by the incremental improvement incentives.

There appears to be consensus amongst trading parties that a target of 100% is not always feasible due to factors outside of the meter reader's control. Concern was raised by seven respondents (six retailers and one wholesaler) that a 95% target for meter reads is ambitious and evidence, including comparison to the Scottish Market, was provided to suggest that the threshold should be lower. Based on current market performance data, the MPC considers this target is appropriate and challenging for the first period of charge introduction.

Question 4. Are there other standards that in the future the MPC should consider applying a threshold to? If so, please include evidence/rationale.

17 respondents did not consider there to be other standards that the MPC should consider applying a threshold to in the future. Five respondents, two retailers and three wholesalers, considered that there are additional standards that the MPC should consider applying a threshold to in the future. It was suggested that thresholds should be introduced where there are interdependencies between wholesalers and retailers. For example, for MPS1 (partial registration), retailers are dependent on wholesalers to complete steps in the correct order for a SPID to become tradable. The MPC noted that it may need consideration in the future.

resolve the issue, if necessary with the wholesaler. It also provides specific obligations on retailers as to the timescales they need to meet in terms of cyclical reads. MOSL are obligated by CSD0302 to produce a monthly report of 'long unread meter reads' to retailers and wholesalers, so it will be possible to identify persistently unread meters.

Question 6. The drafting included in the CPW030 proposal has been delivered by MOSL based upon feedback from MPC. Furthermore, the Design Specification and User Manual have been delivered by MOSL in response to requests from MPC.

Please can you provide any feedback about any refinements that might be necessary or desirable to ensure a proper understanding and implementation of the proposed standards regime?

Some amendments were made to refine the legal drafting following consultation. A full list of these amendments can be reviewed in section 3.5 of the Panel recommendation report⁴.

Question 7. Which areas in terms of the MPS, OPS or market performance more broadly should the MPC consider or prioritise as part of its forward agenda?

Respondents made a number of suggestions in response to this question, including:

- One retailer suggested the MPC should keep under review the threshold for 'missing meter read' standards;
- Two wholesalers highlighted that the MPC should consider the consistency of OPS reporting and ensure uniform application and interpretation
- One wholesaler highlighted the need to focus on the avoidance of double jeopardy as well as keeping under review caps, charging and thresholds;
- One wholesaler considered that the forward agenda should be fluid and responsive to the evolution of the market;
- One wholesaler highlighted that the OPS has not received the same level of scrutiny as the MPS and therefore, more in depth analysis from the MPC is welcomed. There appears to be consensus amongst wholesalers that the OPS require further review; and
- One wholesaler suggested a heightened focus on qualitative measures of customer service and delivery should be on the forward agenda.

Panel recommendation

At the Panel meeting on 27 February 2018, the Panel determined by unanimous decision to recommend CPW030 to the Authority for implementation. The Panel has recommended that this change proposal is implemented on 29 March 2018.

⁴ The Panel recommendation report can be viewed on the MOSL website at <https://www.mosl.co.uk/market-codes/change#scroll-track-a-change>

Our decision

We have carefully considered the issues raised by the modification proposal and the supporting documentation provided in the Panel's recommendation report.

We have concluded that the implementation of CPW030 will better facilitate the principles and objectives of the WRC detailed in Schedule 1 Part 1 Objectives, Principles and Definitions and is consistent with our statutory duties. It is agreed that the changes will have a positive impact on the Objectives and Principles of Efficiency, Transparency and Barriers to Entry.

We consider the first MPC review of the MPF should start within six months of the implementation of this change proposal and its report be submitted to us no later than 31 December 2018. It is on the basis of this six month review being completed that we are approving this change proposal. We will closely monitor the impact of this code modification decision.

Reasons for our decision

Overall, we consider that this change proposal furthers the principles and objectives of the WRC. We set out in sections below our views on which of the applicable Code principles are better facilitated by the modification proposal. However, we note that the information and evidence available at this time is limited. There are questions around both the accuracy of the performance data captured so far as well as to how relevant the results are to a 'business as usual' situation. We also do not know the effect the changes will have on incentivising market participants to improve, a review of the MPS and OPS at regular intervals is key. We are encouraged that the MPC will be examining data on a monthly basis are committed to reviewing MPS and OPS on an annual basis as a minimum, to take account of a fuller and more accurate picture.

We note that the recommendation to introduce a 95% charging threshold for missed meter reads, proved to be the most contentious recommendation during industry consultation. In making our decision on this specific recommendation, we have been mindful of the issues which have been raised concerning current data accuracy and the inability of trading parties to achieve 100% compliance in relation to meter reads for reasons such as access issues and faulty meters.

We acknowledge industry support for maintaining the level of the charging cap. However, given the significance of the cap on the whole approach to charging, the next MPC review should specifically include ensuring the cap is set at a

proportionate level that balances incentives to perform well without significant reduction in competition within the market.

In light of the above factors, we are approving this change proposal but making clear that the 95% threshold should be closely monitored and reviewed i.e. first MPC review should start within six months of the implementation of this decision with a final report to be submitted to us by the end of 2018.

Efficiency

We consider that recommendations 1, 4, 6, 9 and 15 will promote efficiency in the market. This change proposal aims to improve efficiency of trading parties as they should be financially incentivised to fulfil their duties under the Wholesale Retail Code. In particular, the reduction of charges for MPS retailer charges is intended to provide greater financial incentive for retailers to efficiently fulfil their duties within the Market Codes as the overall charging cap will not be breached so quickly.

Transparency

We consider that recommendations 1, 2, 3, 10, 14 and 15 further the principle of transparency by reducing complexity and providing consistency across the standards.

Barriers to entry

We consider that recommendation 9 promotes the standard of removing barriers to entry. Introduction of a lower threshold lower in light of data that suggests the 100% threshold is unachievable, will reduce unnecessary costs/barriers for retailers.

Decision notice

In accordance with paragraph 7.2.8 of the Market Arrangements Code, Ofwat approves these change proposals.

Emma Kelso

Senior Director, Customers and Casework

Appendix 1: Consultation questions and summary of responses

Question 1: Do you agree that each performance standard should have a single set of measures?

All respondents agreed with the recommendation. One respondent questioned whether the recommendation could lead to an unwieldy number of standards to administer. The MPC noted that there will be an increase in the number of standards however, the change enables more transparent reporting.

Question 2: Do you agree that the success criteria for each MPS should align to the SLAs in the Code, where a measure is not included in the code, one should be added?

All respondents agreed that the success criteria for each MPS should align to the SLAs in the Market Codes. Two respondents did not consider it necessary to add an SLA into the code for MPS1D relating to partial registration. The MPC did not find that there was substantive evidence or rationale for changes to its recommendation and considered that the aligning the SLAs with the Market Codes will ensure consistency.

Question 3: Do you support the changing of the structure of the standards such that failure of a single task is reported as a single failure?

The majority of respondents agreed with the recommendation noting that it does not affect the level of charging. One respondent suggested that where standards have multiple levels, tabular reports should be retained to highlight the severity of MPS failures. The respondent felt that singular reporting could remove the ability to identify whether trading parties are failing more frequently at the lower or upper ends of each standard. The MPC considers that the level of MPS failures will still continue to be visible and no granularity in the reporting will be lost.

Question 4: Do you agree that the MPS 6A and MPS 6B should be changed to be measured based on the expected date for a meter read?

The majority of respondents supported amending the standards. One wholesaler and one retailer respondent did not support the associated MPS charge being Market Operator credited as this could dilute the strength of the incentive and underperformance would still negatively impact retailers. The MPC noted that the concept of retailer credited charges would remain in the MPF and that only a minor proportion of the MS charge is currently retailer credited. As such, it did not find substantive evidence or rationale for it to change its recommendation.

Question 5: Do you agree that no additional measures should currently be added to the MPS over and above the changes already proposed?

The majority of respondents agreed with the MPC's recommendation. It was highlighted by a number of responding parties that there is a need for more work relating to data quality. It was proposed by one retailer that Data Performance Standards should be introduced to help improve market data and the customer journey.

The MPC did not change its recommendation however, placed the development of data quality performance standards on its forward agenda of work.

Question 6a: Do you agree that three additional standards should be introduced to the OPS on the deregistration, VOA BA referencing and trade effluent processes?

The consultation responses expressed broad support for inclusion of an OPS on deregistration. There was also support for introduction of a standard on trade effluent however, it was highlighted that the proposed standard may not be the correct measure. Several wholesalers noted that the proposed standard on VOA BA Reference was not material for them and as such was not proportionate. One wholesaler stated that there should be acceptance criteria which define the benefit of introduction of any additional OPS.

Following consultation the MPC the introduction of the VOA BA Reference from its recommendation and now recommends that solely a deregistration standard is added to the OPS for April 2018, whilst the Trade Effluent Issues Committee develops an additional OPS on trade effluent for review by the MPC for potential future inclusion.

Question 6b: Do you think that there are any additional standards that should be introduced to the OPS, and if so what activities should be measured?

The majority of respondents did not consider that additional standards should be introduced to the OPS. A number of retailers highlighted that they consider wholesaler data quality is important, suggesting that a measure should be introduced to measure the proportion of data change requests in the wholesale area. The MPC has placed the development of data quality performance standards on its forward agenda of work for 2018/19.

It was highlighted in consultation responses that there are no OPS relating to customer experience. The MPC considered this point and noted that this is more closely aligned with Ofwat's market monitoring framework than the performance framework. As such, no customer experience OPS will be introduced at this stage.

Question 7: Do you agree that no changes should be made to the code to prevent MPS charging commencing in April 2018?

There was a mixed response to this question. The majority of retailers do not agree with the introduction of MPS charges due to the accuracy of MPS reporting, it was suggested that the suspension should be extended for a further six months. Wholesalers also expressed concerns regarding the accuracy of reporting.

The MPC has highlighted that it recognises the concerns expressed on this question, and accepts further work must be done to provide assurance on the robustness of reporting prior to the commencement of charges. MOSL will continue to address and monitor reporting issues and provide assurances that the post-Apr 2018 standards reporting and charging system will be fit for purpose.

Question 8: Do you agree that the level of the cap should remain unchanged for 2018/19?

The majority of respondents agreed that the level of the cap should remain unchanged for 2018/2019. There were no responses suggesting a higher cap should be introduced. Issues raised mainly related to the margin and not the cap. One respondent implied there were differentials with the Scottish Market.

The MPC concluded that, the level of the cap should remain unchanged at this time. However, it considered that this should be kept under review and re-examined once accurate and extensive evidence is available.

Question 9: Do you agree that the level of MPS charges should remain unchanged?

The majority of respondents agreed that the level of charges should remain unchanged. One retailer highlighted that it has been recognised by Ofwat in historic measures (DG8) that it is not possible to achieve 100% performance for meter reads.

Following consultation, the MPC has reviewed evidence which suggests that the current charging system would not incentivise trading parties due to the narrow effective range over which any incentive to improve performance would apply. It decided to recommend that the level of charges should be reduced for all MPS to ensure greater financial incentive to achieve success criteria, reduce the probability of breaching the cap and drive better market behaviours. The MPC also considered evidence suggesting that MPS8 (relating to retailer missing meter reads) is unattainable due to access issues and potentially poor wholesaler data. It therefore, decided to recommend that a 95% threshold is applied for retailer missing meter reads (MPS8).

Question 10: Do you agree that a zero charge should replace no charge?

All but one respondent agreed that a zero charge should replace no charge. The respondent who did not agree highlighted that it did not see any benefit to making the change. The MPC did not change its recommendation following consultation as it considers that the change ensures flexibility in the MPF for future reviews.

Question 11: Do you agree that all MPS charges should currently be Market Operator credited?

The majority of respondents agreed that the charges should be Market Operator credited. Some respondents suggested that wholesaler missed reads (MPS6) should be retailer credited as failures have detrimental effects on retailers. One respondent suggested that the charges should be donated to charity.

The MPC noted that assessing the impact of wholesaler underperformance on retailers is challenging however, it did not change its recommendation following consultation. The MPC proposes to maintain the concept of retailer credited charges for potential use at a later date.

Question 13: Do you agree that performance charges should not be introduced for the OPS for 2018/19?

The majority of respondents agreed with this recommendation. Although, some retailers suggested that the OPS should be implemented in 2018/19 as these activities have an impact on retailer performance under the MPS.

In reaching its decision, the MPC noted the disagreement between retailers and wholesalers concerning when the charges should be introduced. It did not change its recommendation but committed to developing a plan for potential introduction of charging for OPS no later than March 2018.

Question 14: Do you agree that OPS data should be submitted by wholesalers on a monthly basis?

Most respondents agreed with this question. Two respondents highlighted that they did not see the advantage of monthly reporting and highlighted that it would require additional effort. The MPC did not change its recommendation following consultation.

Question 15: Do you agree that OPS should be included within the performance resolution process?

Most respondents were in agreement that the OPS should be included within the performance resolution process. Three wholesalers disagreed with the recommendation due to OPS data lacking sufficient robustness, lack of value and potential 'double jeopardy' with Outcome Delivery Incentives.

The MPC considered that the performance resolution process involves engagement with MOSL and carries no financial charges.