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## Market Arrangements Code Change Proposal – CPM003

<b>Modification proposal</b>	Market Arrangements Code Change Proposal CPM003 – Revised Market Incident Management Plan Committee composition
<b>Decision</b>	Ofwat has decided to accept this change proposal
<b>Publication date</b>	20 November 2017
<b>Implementation date</b>	1 December 2017

### Background

The Market Arrangements Code (MAC) came into effect on 1 April 2017 and, amongst other things, sets out the arrangements for how the retail market will operate.

The Market Incident Management Plan (MIMP) Committee is one of the three committees that the MAC requires the Panel to establish, provisions for which are detailed in Schedule 11 of the MAC.

The current membership arrangements in Schedule 11 require a representative from each Trading Party, therefore existing MAC provisions give rise to a committee with potentially over 70 members. A group of this size will find it difficult to oversee the governance processes of the Business Continuity Management Framework and struggle to deliver an effective and efficient response to an incident which affects the operation of the entire market and potentially needs to be treated as an emergency.

This Change Proposal seeks to redraft the provisions of the MIMP Committee as specified in Schedule 11 of the MAC, tackling membership arrangements and the roles and functions of the committee, in order to better suit the requirements of the group and enhance the overall scope of the MIMP Committee.

### The issue

MOSL ('the Proposer') contends that the current specifications in the MAC in relation to the MIMP Committee are not reflective of good working practices for the management of a market incident and do not clearly establish the roles and functions of the group.

In particular, the current provisions around the MIMP Committee:

1. Do not make a distinction between the two major roles that the MIMP Committee needs to perform and suggest that the same group performs both of the below functions:
  - overseeing governance arrangements in relation to the Business Continuity Management Framework; and
  - providing a strategic response to an incident.

However, an argument is made as part of CPM003 that such distinct roles cannot be effectively and efficiently delivered by the same group, as the nature of tasks performed are vastly different, which require the membership and expertise of the groups to be different.

2. Do not reflect good working practices for either overseeing governance processes in relation to the Business Continuity Management Framework or the provision of a strategic response to an incident.
  - This is a consequence of the way the membership of the MIMP Committee is set out, which requires a member from each Trading Party. This can give rise to a committee with potentially over 70 members, which can potentially find it difficult to perform either of the two major roles mentioned above in an effective and efficient manner.
3. Are not as clear as they could be and introduce uncertainty in relation to what are the roles and functions of the MIMP Committee.
  - There are a few roles and functions of the MIMP Committee detailed in CSD 0007, but the Proposer believes there are additional functions that the group should perform. As the existing roles do not fully describe the responsibilities and duties of the group, to the extent that a cohesive image of the committee is difficult to establish, it is proposed to further define the roles and functions of the MIMP Committee.

The lack of such a distinction poses a challenge on how such distinct roles can be effectively and efficiently delivered by the same group, as the nature of tasks performed are vastly different, which require the membership and expertise of the groups to be different.

## The modification proposal<sup>1</sup>

The Proposer believes that the MAC, in particular Schedule 11, should be amended in order to further develop the roles and functions of the MIMP Committee and to provide more flexibility in terms of the MIMP Committee membership. This would allow for the creation of a more manageable group and would enable the creation of a committee, under its Terms of Reference, which better suits the requirements of the group and reflects good working practices for the management of a market incident.

To this end, it is proposed that the current provisions in Schedule 11 of the MAC are amended in order to provide more flexibility in terms of the MIMP Committee membership, as a group overseeing the governance processes surrounding the Business Continuity Management Framework would find it difficult to operate under the existing MAC provisions.

In addition, the creation of a sub-group by the Market Operator on behalf of the MIMP Committee will provide further flexibility and reflect good working practices for the management of a market incident.

Additionally, Schedule 11 of the MAC does not contain any roles and functions that the MIMP Committee shall perform, and describes only the membership and secretariat provisions. In contrast, the Trading Disputes Committee and the Market Performance Committee have specific roles assigned to them in the MAC. The roles and functions of the MIMP Committee are detailed in CSD 0007 (Business Continuity Management), but there is merit, from a consistency perspective, to bring the roles on the MIMP Committee in the MAC.

In addition, the Proposer believe there are additional functions that the MIMP Committee should perform, but which are not currently drafted in either CSD 0007 (Business Continuity Management), the MAC, or another market code document. As the existing roles of the MIMP Committee do not fully describe the responsibilities and duties of the group, to the extent that a cohesive image of the committee is difficult to establish, it is proposed to further define the functions and roles of the MIMP Committee to be included within Schedule 11 if the MAC. This includes adding a function to the MIMP Committee to delegate its role and functions which relate to the strategic management of an incident to a sub-group established by the Market Operator on behalf of the MIMP Committee.

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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>

As a consequence of including the role and functions of the MIMP Committee in Schedule 11 of the MAC, there is the need to amend some other sections of the MAC to change the reference to CSD 0007 as the document which contains the roles and functions of the MIMP Committee.

## Industry consultation

There were nine responses to the industry consultation<sup>2</sup>, of which six were representatives of Wholesalers and three were representative of Retailers.

Key themes arising from the consultation responses were:

- 8 responses stated agreement with the proposed changes and one response stated partial agreement with the proposed changes;
- All responses agreed that the proposed changes further define the role of the MIMP Committee and enable the creation of a group which reflects good working practice.
- That careful consideration should be made to target key skills and knowledge when identifying resources/members of the MIMP Committee sub-group;
- General agreement that the proposed changes will increase confidence, whereby the governance of the market wide Business Continuity Framework will be better defined and that market incidents will be more effectively managed;
- That the new approach will provide a more proportionate response and allow Retailers, who are operating with small teams, to be involved at the appropriate level for the scale of the incident;
- 8 responses stated agreement that the changes better facilitated the Objectives and Principles of the Wholesale Retail Code, citing that the proposed changes will improve the efficiency of the market and promote transparency, simplicity, cost-effectiveness and security; and
- General agreement with the proposed implementation date of 10 Working Days following Ofwat approval.

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<sup>2</sup> Details of the consultation can be found at <https://www.mosl.co.uk/market-codes/change/details/22/revised-mimp-committee-composition>

## **Panel recommendation**

At the Panel meeting on 26 September 2017 the Panel reviewed the consultation responses received and considered its recommendation to Ofwat. The Panel determined, by unanimous decision, to recommend CPM003 to Ofwat for implementation 10 Business Days following Ofwat's approval, based on improving the Principles of efficiency and transparency.

The Panel submitted its recommendation report to Ofwat on 2 October 2017.

## **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 CPM003 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.

## **Reasons for our decision**

We set out below our views on which of the applicable Code Principles are better facilitated by the modification proposal.

### **Efficiency**

We think that this change will enable efficient decision making and management of an incident through the establishment of a sub-group by the Market Operator on behalf of the MIMP Committee. We agree with the Panel that this change will help to further develop the roles and functions of the group and will also promote a coordinated operation between different parties and enhance the response of the market to an incident.

### **Transparency**

We think that this change improves the existing provisions in relation to the MIMP Committee, making them more concise, clearly expressed and further defined. The proposed changes give a clearer definition of the role and functions of the MIMP committee as compared to what is currently contained in the MAC.

## **Decision notice**

In accordance with paragraph 7.2.8 of the Market Arrangements Code, Ofwat approves this change proposal.

**Emma Kelso,**  
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