

PROGRESSION APPROACH OPTIONS FOR A POTENTIAL MODIFICATION TO EXTEND THE PANEL'S SCOPE TO RAISE MODIFICATIONS

MEETING NAME	BSC Panel
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Purpose of paper	Decision
Classification	Public
Summary	This paper summarises the pros and cons of progressing a proposal to modify the Code, to extend the Panel's scope to raise Modifications, as either an Issue or a Modification. We invite the Panel to progress the proposal as an Issue.

1. Background

- 1.1 We presented a paper 'Further BSC Simplification Opportunities ([281/07](#))', to the Panel on 9 August 2018. In that paper we highlighted a potential Modification Proposal to extend the scope of the Panel's powers to raise Modifications. The Panel held mixed views as to whether this proposal should be progressed.
- 1.2 This proposal has been suggested as a result of signals from Ofgem that there should be better ways of changes that are needed and foreseen in the sector being raised. This would support and reduce barriers to innovation, leading to a more competitive market. It would also support Ofgem's calls for code administrators and Panels to be more self-governing. Some Panel Members believed there would be benefits in the Panel taking a more active role in raising changes and potentially leading on strategic changes.
- 1.3 Conversely, other Panel Members did not believe the Panel should become a central agent of change. The Panel's strength comes from its independence and engagement with stakeholders, which may be jeopardised if the Panel starts to drive BSC changes. The Panel was also mindful that each Modification that it raises will create more work for industry, at a time when there are already high volumes of change. BSC Parties, and not the BSC Panel, are best placed to raise changes to the BSC, as they are the entities that take on the obligations and fund the arrangements. The Panel should not be perceived to be creating issues which Parties are not willing to raise themselves. It was noted that a Party could raise this change if they wished.
- 1.4 The Panel asked whether this Modification was needed as the Panel already has powers to raise Modifications in certain circumstances. We believe this Modification will enable, but not require the Panel to progress changes that would better facilitate the BSC Objectives. The proposal is not about introducing additional powers for the Panel to approve changes. Rather this proposal is about having the ability to raise changes, which will still be subject to the normal Modification Procedures, including the Workgroup discussions, industry consultations and Ofgem decision (where not Self-Governance).
- 1.5 The Panel wanted to better understand the progression options and see more detail on the proposal before deciding how to proceed. To support the discussions we have drafted the Modification Proposal Form (see Attachment A). This paper invites the Panel to progress the proposal as an Issue.

2. Issues

- 2.1 Issues are raised when a proposal lacks detail and clarity around the problem and/or the solution. The issue is explored by an Issue Group and is not typically consulted on with industry. Issues do not make any

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changes to the BSC arrangements, but often result in recommendations to raise Change Proposals or Modifications.

2.2 It may be that there are several solution options, or it may be that the solution lacks detail and feasibility. In either case the Proposer can explore with an Issue Group the most appropriate way forward. Similarly, a Proposer may be unsure on the nature of the problem(s) and wants to investigate with an Issue Group the root cause and whether it is an issue being faced by others. Issues result in an Issue Report being submitted to the Panel for comment.

3. Modifications

3.1 Modifications are raised where the proposal has been detailed in sufficient and reasonable detail (as per F2.1.2). We believe there is sufficient detail available to meet these requirements. Should the proposal be raised as a Modification we would recommend it is submitted into the Assessment Procedure for consideration by a Workgroup for three to four months.

4. Advantages and Disadvantages of the Progression Options

4.1 The advantages and disadvantages of progressing this proposal as an Issue or as a Modification are summarised in the table below.

Progression Approach	Pro	Con
Issue	<ul style="list-style-type: none"> Views from Issue Group members will be gained to recommend next steps; Solution options will be discussed and refined. If Modification is subsequently raised the solution should be better defined, requiring a shorter Assessment Procedure. If no appetite to raise Modification, Issue will be more efficient route as less time will be spent assessing the proposal. 	<ul style="list-style-type: none"> Consultation not issued as standard; If appetite to progress as Modification, raising an Issue first will be a less efficient route, as views and solution can be discussed and gained from Modification Workgroup; Ofgem views will not be known as they will not be required to decide whether to approve or reject.
Modification	<ul style="list-style-type: none"> Will allow Ofgem, who have wider statutory duties, to decide whether to implement or not; Similarly to an Issue, Workgroup views can be gained and solution options discussed and refined, but additionally Assessment and Report Phase Consultations will be issued as standard. 	<ul style="list-style-type: none"> If Modification rejected, more industry time and effort will have been expended than necessary.

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- 4.2 The main benefit of raising an Issue is to socialise and discuss the proposal to see if it has the support and backing of industry via an Issue Group. Whilst an Issue doesn't typically consult industry, there is nothing preventing this. We estimate it will take two to three months to submit the Issue Report to the Panel (a consultation will add an additional two months).
- 4.3 The main disadvantage of an Issue arises if a Modification is subsequently raised, as in practice, the discussions start again and the overall timeline to progress the proposal will have been additionally extended by the time it has taken to progress Issue.
- 4.4 The main benefit of raising a Modification is that the proposal can be formally and properly assessed via the Modification Procedure, including Workgroups discussions, industry consultations, Panel views and Ofgem decision. We anticipate that the Final Modification Report can be submitted to Ofgem with five to six months, where as if an Issue is raised first, it will take eight to nine months.
- 4.5 There is also an option not to progress the proposal at this time, if for example the Panel believe it is not appropriate to progress this proposal or it is not a priority.
- 4.6 As drawn out in the draft Modification Proposal in Attachment A, at the heart of this proposal is a question on the role the Panel should play in progressing changes. The proposal has been developed to the point where a Modification could be raised. Whilst we believe the Modification route would be the more efficient and effective route, we also understand the concerns raised by some Panel members. We therefore recommend that an Issue Group is formed to open a dialogue with industry on the role of the Panel and specifically its role in raising Modifications.

5. Recommendations

- 5.1 We invite you to:
 - a) **COMMENT** on the pros and cons of progressing the proposal as either an Issue or a Modification;
 - b) **COMMENT** on the draft Modification Proposal in Attachment A; and
 - c) **AGREE** that an Issue is raised.

Attachments

Attachment A – Draft Modification Proposal Form

For more information, please contact:

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