

Code Administrators Working Group (CAWG) Issues Log

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Issue No:	Description:
5.1	<p>Do the current modification rules adhere to the principles set out in the November letter?</p> <p>(Reminder, these principles were:</p> <ol style="list-style-type: none"> 1) promote inclusive, accessible and effective consultation; 2) be governed by rules and processes that are transparent and easily understood; 3) be administered in an independent and objective fashion; 4) provide rigorous and high quality analysis of the case for and against proposed changes; 5) be cost effective; 6) contain rules and processes that are sufficiently flexible to circumstances that they will always allow for efficient change management; and 7) be delivered in a manner that results in a proportionate regulatory burden).

Code	Current Process	Pro's	Con's
UNC	[Please replace this text with examples of current process(es) you think deliver, or inhibit, those seven principles.]		
BSC	As above		
CUSC	As above		
Other codes	As above		

Preference:

Each code has different rules which meet the objectives to a greater or lesser extent. There is need for uniformity.

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.1.1	In what areas does each code work well / not so well?

Code	Current Process	Pro's	Con's
UNC	[Please replace this text with examples of areas where you think this code demonstrates best / worst practice]		
BSC	As above		
CUSC	As above		
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.2	How does small party, new entrant and consumer representation vary across the codes?

Code	Current Process	Pro's	Con's
UNC	Consumer Focus has no voting Panel seats; but can appoint two non-voting representatives. Can raise information provision mods only.		
BSC	Consumer Focus has 2 voting Panel seats, and can raise any kind of mod.		
CUSC	Consumer Focus has 1 voting Panel seat, and can raise any kind of mod.		
Other codes			

Preference:

Small parties and new entrants receive no special treatment, and the concept is not formally recognised in any codes. This means officially, all parties are treated equally with the same burden of responsibilities. Unofficially, some secretariats do go out of there way to assist smaller suppliers. But this can be at the whim of the particular individual at the secretariat.

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.2.1	What aspects of the arrangements do small parties, new entrants and consumer representatives find to be a particular burden?

Code	Current Process	Pro's	Con's
UNC	[Please replace this text with examples of any (governance, rather than market design) problems with this code that you think may inhibit these groups from participation]		
BSC	As above		
CUSC	As above		
Other codes	As above		

Preference:

Sheer weight of documentation, meetings, analysis etc. Not helped by there being no conformity across codes. The cost of being fully engaged for small parties is the same as large parties. These costs are prohibitive and as such smaller parties dis-engage from the process.

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.2.2	In which aspects are the codes sufficiently transparent or need to improve?

Code	Current Process	Pro's	Con's
UNC	[Please replace this text with examples]		
BSC			
CUSC			
Other codes			

Preference:

All codes are transparent, but seeking out the critical impact issues is like looking for a needle in a haystack. Or several haystacks as each code is transparent in a different way. (different website, document layout, processes etc)

The codes become opaque once passed to Ofgem, who reach their conclusions behind closed doors.

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.2.2.1	Should websites conform to agreed standards/principles?

Code	Current Process	Pro's	Con's
UNC	Not subject to external agreed standards / principles. Content is "open-to-all" – passwords not needed to access content.		
BSC	Same as UNC.		
CUSC	Same as UNC.		
Other codes	Not subject to external agreed standards / principles. On most code websites content is "open-to-all", though there are issues around constrained access to the DCUSA website.		

Preference:

Would prefer one website and one secretariat treating codes uniformly.

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.2.3	Do small parties, new entrants and consumer representatives consider that enough assistance is available to them in order to participate [in code governance and modification processes]?

Code	Current Process	Pro's	Con's
UNC	[Please replace this text with examples]		
BSC			
CUSC			
Other codes			

Preference:

Small parties and new entrants receive no special treatment, and the concept is not formally recognised in any codes. This means officially, all parties are treated equally with the same burden of responsibilities. Unofficially, some secretariats do go out of there way to assist smaller suppliers. But this can be at the whim of the particular individual at the secretariat.

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.2.3.1	If further assistance would be helpful [to small parties, new entrants and consumer representatives], in what areas?

Code	Current Process	Pro's	Con's
UNC	Informal assistance from code administrator prior to raising mods (i.e. chat through issues).		
BSC	Informal assistance from code administrator prior to raising mods (i.e. chat through issues). Periodic education seminars for new joiners to industry. Range of information sheets and publications on website. Plain English summary of the code maintained (as code requirement?).		
CUSC	Informal assistance available from NG as administrator.		
Other codes			

Preference:

Uniformity across the codes. Single secretariat with dedicated support managers for smaller parties and new entrants.

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.3	What role do code administrators play in developing or bringing forward proposals?

Code	Current Process	Pro's	Con's
UNC	JO has drafted changes to the modification rule in line with governance workstream discussion – Party must then formally raise it. JO can request a consent to modify typo's etc.		
BSC	Asks Panel to raise housekeeping mods as needed. Provides informal support to proposers prior to submission (help with framing the issue etc).		
CUSC	NG can not raise mods as administrator but can and does as a CUSC party.		
Other codes			

Preference:

Means of implementation:

Custom and practice		Mod rules change		Licence modification	
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Details:

Issue No:	Description:
5.3.1	Should the Panel's ability to raise proposals be limited to housekeeping and governance?

Code	Current Process	Pro's	Con's
UNC	Panel cannot raise proposal in its own right – requires a 'sponsor'		
BSC	Panel can raise housekeeping mods, plus more material mods in limited circumstances specified within the code (i.e. to cater for changes to Fuel Security Code, the introduction of Euro).		
CUSC	Ambiguous if Panel can raise mods. Power to do so does exist ¹ but unclear in what circumstances it can be exercised.		
Other codes			

Preference:

Means of implementation:

Custom and practice		Mod rules change		Licence modification	
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Details:

¹ Paragraph 8.15.1

Issue No:	Description:
5.4.1	When should legal text be produced?

Code	Current Process	Pro's	Con's
UNC	If a GT proposal included from the outset, otherwise at panel or Authority request		
BSC	For housekeeping or self evident proposals, during the Report Phase. For other proposals, during the Assessment Procedure.		
CUSC	Prior to the Company consultation.		
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.4.1.1	Should legal text be consulted on [before a proposal is sent to the Authority]?

Code	Current Process	Pro's	Con's
UNC	This rarely happens. Often legal text is only produced after an FMR is sent to the Authority, at the Authority's request.		
BSC	In principle, this step is not 100% guaranteed ² . But generally legal text is consulted on at least once (in the Report Phase) and often several times (where a mod has gone to a work group).		
CUSC	If a mod goes to WG, the WG usually agree the legal text. It is then consulted upon during the Company (panel) consultation.		
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

² The BSC does provide that the Panel may consult the Authority on whether legal text is needed for a mod, but the Panel has shown no appetite to make such requests, and it is unlikely that the Authority would accede to any such request on any proposal that had a credible chance of being approvable.

Issue No:	Description:
5.4.2	Should legal text be flexible (i.e. a "work in progress") until a decision to approve or reject is made)?

Code	Current Process	Pro's	Con's
UNC	Legal text generally isn't developed during the industry process and is often only provided at the Authority's request after the Panel recommendation. Legal text is effectively flexible up to point of Authority decision.		
BSC	Legal text is flexible up to the point when FMR sent to Authority. After that point it cannot be changed.		
CUSC	Same as BSC		
Other codes	Problems have arisen under DCUSA where changes raised to common area of code, but legal text of each does not recognise the other, even post direction to implement.		

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.5	How long should consultation period be?

Code	Current Process	Pro's	Con's
UNC	Ordinarily 15 working days, can be varied by the panel.		
BSC	Not prescribed within the code. Working practice varies from a few days to a couple of weeks during Definition or Assessment Procedure, normally about a fortnight during Report Phase.		
CUSC	The WG phase incorporating consultation can be no longer than 4 months – unless extension approved, consultation element usually between 3 and 4 weeks. Company consultation usually 2 weeks.		
Other codes			

Preference:

Means of implementation:

Custom and practice		Mod rules change		Licence modification	
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Details:

Issue No:	Description:
5.5.1	Should the Panel have discretion over how long the consultation period is for each proposal?

Code	Current Process	Pro's	Con's
UNC	Full discretion. Often ties in with concurrent consultations.		
BSC	Full discretion. Usually varies from a few days to a couple of weeks. Complexity, public holidays and the volume of other work the industry and ELEXON has on may influence this duration.		
CUSC	Full discretion subject to a minimum of 10wd for housekeeping amendments.		
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification

Details:

Issue No:	Description:
5.6	How should implementation dates be determined?

Code	Current Process	Pro's	Con's
UNC	Can be day after Authority approval. Systems implementation often divorced from mod process – determined by consensus at UK Link committee after direction to implement issued.		
BSC	Determined by Panel prior to an Authority decision. Panel recommendation is generally based on mod group recommendation, which in turn is influenced by the results of industry impact assessments.		
CUSC	Date recommended by NG and included in consultation. Where respondents disagree with NG recommendation, date determined by the Panel.		
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.7	Should there be fast-track process for housekeeping / non-contentious modifications?

Code	Current Process	Pro's	Con's
UNC	Consents process available for housekeeping changes. Does not need to be assessed against code objectives.		
BSC	Raised by Panel on ELEXON request, proceeds directly to Report Phase. Recommendation and Ofgem decision made against code objectives.		
CUSC	Where Panel agree a mod is HK, then mod is posted on NG website for minimum 10 business days. HK report drafted and submitted to Ofgem for decision. Licence drafting under CUSC similar to UNC, so consent process possible, but never used in practice.		
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.7.1	What unnecessary process steps could be removed/made conditional on nature of proposal?

Code	Current Process	Pro's	Con's
UNC	[Please replace this text with examples of steps in the mod process you think could be optional or removed (please specify which) for this code]		
BSC	As above		
CUSC	As above		
Other codes	As above		

Preference:

Means of implementation:

Custom and practice		Mod rules change		Licence modification	
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Details:

Issue No:	Description:
5.9	How can the independence of the code administrator be assured?

Code	Current Process	Pro's	Con's
UNC	Joint Office staff are on secondment from NG, JGA stipulates they should act independently.		
BSC	ELEXON is 100% owned but uncontrolled subsidiary of NG ("at arms length"). Neutral in sense that non-affiliated and not-for-profit, but may be affected by mods insofar as they affect their scope, processes, and credibility.		
CUSC	NG are CUSC party and sole administrator of the CUSC.		
Other codes			

<p>Preference:</p> <p>The Elexon model should be used, and if the code administrator covers more than one code, then their independence is enhanced.</p>

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.10	Who should 'own' modification proposals during the process?

Code	Current Process	Pro's	Con's
UNC	The proposer		
BSC	'Rights, IPRs and moral rights' assigned to code administrator, ELEXON ³ .		
CUSC	Rights, IPRs and moral rights' assigned to all CUSC parties ⁴		
Other codes			

<p>Preference:</p>

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

³ BSC F2.1.11

⁴ CUSC 8.15.7

Issue No:	Description:
5.11.1	If proposers should have the right to withdraw proposals, up to what point should this right exist?

Code	Current Process	Pro's	Con's
UNC	Can be withdrawn at any point to submission of FMR to the Authority.		
BSC	Can only be withdrawn up to the point where first presented to Panel ⁵ (for it to consider whether to send to WG or straight to report).		
CUSC	Can be withdrawn at any point.		
Other codes			

Preference:

Means of implementation:

Custom and practice		Mod rules change		Licence modification	
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Details:

⁵ BSC F2.1.12.

Issue No:	Description:
5.12	Are modification processes appropriate for urgent proposals?

Code	Current Process	Pro's	Con's
UNC	[Please replace this text with examples of where you think the urgency procedures could be improved]		
BSC			
CUSC			
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.12.1	Should all urgent proposals be subject to a minimum period of consultation?

Code	Current Process	Pro's	Con's
UNC	Urgency timetable is determined by Authority, although fed into by the views of the UNC Panel. No minimum period.		
BSC	Urgency timetable is determined by Authority, although fed into by the views of the BSC Panel.		
CUSC	Urgency timetable is determined by Authority, although fed into by the views of the CUSC Panel.		
Other codes			

Preference:

Means of implementation:

Custom and practice		Mod rules change		Licence modification	
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Details:

Issue No:	Description:
5.13	Should proposer be able to speak at a panel where a recommendation is to be made on their proposal?

Code	Current Process	Pro's	Con's
UNC	No specific rule – allowed at Panel/Chairs discretion		
BSC	Proposer is allowed to present when mod is raised, but has no guaranteed right to speak when final recommendations are made. Rules appear to allow for the Chair to give permission for floor to speak ⁶ .		
CUSC	As BSC		
Other codes			

Preference:

Means of implementation:

Custom and practice		Mod rules change		Licence modification	
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Details:

⁶ BSC B4.5.1 http://www.elexon.co.uk/documents/BSC_and_Related_Documents/BSC_-_Live_Version/Section_B_v14.0.pdf

Issue No:	Description:
5.14	How should changes originating from outside the code [i.e. consequential changes that are “driven” by changes to licences, other codes or legislation] be dealt with?

Code	Current Process	Pro’s	Con’s
UNC	Less of an issue as UNC a more holistic code. All material changes must be assessed against relevant objectives and follow normal mods route – changes can be directed by SoS where specific powers to do so.		
BSC	Some major statutory changes may be enacted by Secretary of State (i.e. BETTA). But most changes enacted by normal mods route. Timing varies – sometimes coterminous FMRs and decisions are possible, more often there is a lag as one or more codes “catch up”.		
CUSC	As BSC		
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.14.1	Should consequential changes be assessed simply on the basis of consistency rather than assessing them against the relevant code objectives?

Code	Current Process	Pro's	Con's
UNC	Depends on nature of changes. Housekeeping can be dealt with under consents route. More material changes assessed against objs.		
BSC	All mods must be assessed against code objectives.		
CUSC	All mods must be assessed against code objectives.		
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.15	Is the membership of modification groups appropriate?

Code	Current Process	Pro's	Con's
UNC	Panel may approve composition. Must be at least 2 Users and 2 GTs. Proposer has right to appoint one individual. Non code Parties may become member by invitation. In practice, open door policy.		
BSC	Selected by Panel upfront from standing lists of volunteers who are considered to have relevant technical expertise. Must have at least five members. Proposer, NG and ELEXON have automatic membership rights. Others can attend, but cannot vote ⁷ . The code compels members to impartiality – this does not apply to attendees.		
CUSC	Selected by Panel upfront from standing lists of volunteers who are considered to have relevant technical expertise. Must have at least five members. Proposer, NG have automatic membership rights. Others can attend, but cannot vote.		
Other codes			

⁷ Although it should be noted that the code appears to envisage that mod groups could conduct business without the need for formalised voting processes, i.e. F2.4.18 *'[...] if the Group's terms of reference provide for voting [...]'* (which suggests that the need for groups to vote was not considered self-evident when the code went live). In practice, voting does take place to determine recommendations, whether to progress an alternative modification, and to resolve matters where there is no general consensus.

Preference:

Need to recognise most attendees take their "company positions" with them, and are sometime not really experts. Not sure of the solution, but weight must be given to industry responses to consultations, not the mod group.

Means of implementation:

Custom and practice		Mod rules change		Licence modification	
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Details:

Issue No:	Description:
5.15.1	Should there be greater scope for consultancy support for modification/working groups?

Code	Current Process	Pro's	Con's
UNC	None provided centrally – if desired, must be funded by the party that wants it.		
BSC	Provided on a case-by-case basis, usually only for high materiality or complex mods. ELEXON would seek Panel authorisation to spend funds.		
CUSC	Does not seem to be anything in the rules to prevent such support being taken on. However do not recall any occasions when such support has been employed. Unclear who would pay.		
Other codes			

<p>Preference:</p> <p>Yes</p>

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.16	Should alternative proposals be treated in a standard manner across all codes?

Code	Current Process	Pro's	Con's
UNC	Uncapped number of alternatives allowed. Do not require majority support to raise. Alts must be raised within defined time-window of 5 days from original going out to consultation		
BSC	Only one alternative allowed – if more competing concepts then further mods must be raised. WG by majority has to consider the alt better than the original if they are to develop it. Alt can be raised at any time whilst still with WG.		
CUSC	Uncapped number of alternatives allowed. Respondents can only raise consultation alternative requests during the WG consultation and WG has complete discretion whether a request is formally taken forward as an alternative – WG chair has an over-riding discretion.		
Other codes			

<p>Preference:</p> <p>Yes</p>

Means of implementation:				
Custom and practice		Mod rules change		Licence modification
Details:				

Issue No:	Description:
5.17	Should greater rationale/detail accompany panel recommendations?

Code	Current Process	Pro's	Con's
UNC	Both licence and rules require 'factors which justify' the Panel's recommendation – reference to Relevant Objectives not stipulated.		
BSC	Obligation under rules is specifically upon the Modification Group rather than Panel to justify opinion against relevant objectives ⁸ .		
CUSC	Only details of the outcome of the recommendation vote need to be provided in the FMR. Panel members can submit views as panel members during the consultation. This rarely happens.		
Other codes			

<p>Preference:</p> <p>Yes and Ofgem's decisions</p>
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Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

⁸ See Clause F 2.6.4