

## CoS Options Analysis – Change of tenancy flag

### 1. High level objective

1.01 Our high level objective in this work area is for the use of the Change of Tenancy (COT) flag to promote (and not to inhibit) fast and accurate customer transfers.

### 2. Description of the issue

2.01 The COT flag is used by an acquiring supplier to advise the current supplier that the contracting customer is not the customer that they have on record, and that any objection they may otherwise make to the transfer of the previous customer may therefore be invalid. The presence of a COT flag will therefore allow a site to transfer where the current supplier may otherwise have issued an objection. For example, on the grounds that they had a fixed term contact with the previous customer or there is a debt in relation to that previous customer.

#### 2.2 Regulatory framework in electricity:

2.02 The COT flag is an item used during the registration process on the D0055, D0057 and D0058 data flows<sup>1</sup>. It indicates to the current supplier that the customer is a new owner or occupier of the premises and the current supplier should have no valid grounds to object to the transfer of the customer to another supplier.

2.03 The MRA places requirements on suppliers in relation to use of the COT flag in registration:

- Suppliers of domestic and non-domestic premises should satisfy themselves whether a customer is a new owner or occupier before submitting a request to transfer (MRA clause 15.3);
- The supplier should only use the COT flag to indicate that the customer is a new owner or occupier where it has reasonable grounds to believe, having made reasonable enquiries of the Customer, that the Customer is a new owner or occupier. The supplier must retain evidence for at least 1 year to substantiate that belief. (MRA clause 15.5.1)
- Suppliers of domestic and non-domestic premises should use reasonable endeavours to ensure that the COT flag is set to “True” where the acquisition relates to a new occupier or owner (MRA clause 15.7).

2.04 The MRA rules around the COT flag apply equally to domestic and non-domestic consumers, as a result of modifications MRA198 and MRA200 that were accepted by Ofgem earlier this year<sup>2</sup>. Previously the COT flag was only a requirement for domestic, although it was commonly used in the non-domestic market as well. MRA198 and MTRA200 also introduced a new clause 15.3.1 to require all suppliers to ensure that the COT flag is set to “True” only when a genuine change of owner or occupier has taking place. This requires suppliers to retain relevant evidence for not less that one year.

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<sup>1</sup> Data flows communicate information between industry participants to support competitive trading. The D0055, D0057 and D0058 flows are the Registration of Supplier to Specified Metering Point, Rejection of Registration and the Notification of Termination of Supply Registration

<sup>2</sup> Ofgem’s decision letter is set out here [http://www.ofgem.gov.uk/Licensing/ElecCodes/MRA/Documents1/MCP198\\_200\\_D.pdf](http://www.ofgem.gov.uk/Licensing/ElecCodes/MRA/Documents1/MCP198_200_D.pdf). These changes have been included in the most recent release of the MRA (28 Feb 2013)

[http://www.mrasco.com/admin/documents/Master\\_Registration\\_Agreement%20v10.2.pdf](http://www.mrasco.com/admin/documents/Master_Registration_Agreement%20v10.2.pdf)

2.05 MRA Guidance Document 28<sup>3</sup> reminds the new supplier that, due care should be taken to ensure that the status of COT was correctly set to determine whether it has reasonable ground to issue an objection in accordance with SLC14.

## 2.3 Regulatory framework in gas

2.06 The confirmation request from the acquiring shipper has a mandatory field for COT. This data item is passed to the current shipper. Xoserve does not hold this item within their systems and they do not currently record use of the COT flag (but have indicated that they may be able to do so if requested).

2.07 Under Section G paragraph 2.8.1(b) the current shipper may not object where the domestic consumer supplied with gas at the premises “has ceased or is to cease to own or occupy the relevant premises”.

## 3. Key Issues

### 3.1 Concerns on misuse of COT Flag

3.01 In “The Retail Market Review – Updated proposals for businesses”<sup>4</sup> published in October 2012, Ofgem noted that it had received a number of allegations related to the misuse of the COT flag and we encouraged industry resolutions to the issue. We noted that the changes to the MRA (noted above) were likely to improve the current processes without placing a significant burden on suppliers. We committed to continue to keep this area under close scrutiny.

3.02 Concerns about the use of the COT flag focused on the non-domestic market where there have been allegations that suppliers have added this flag incorrectly to avoid their new customers being objected to on contractual grounds. There have also been some complexities around sub-leasing and group company structuring that may lead to issues whereby CoS is undertaken as a change of tenancy, when in fact the entity responsible for the bill has not changed.

### 3.2 Impact of COT flag on COS project

3.03 COSEG has been examining the opportunity to radically shorten the COS process. This has included changes to the objection process.

3.04 Some suppliers at COSEG have indicated that, where they are the current supplier, they wish to validate the COT flag before deciding whether to object. This is because they remain concerned that the flag may be incorrectly applied (i.e. there has not been a change of tenancy) or they may otherwise have a contract with the new occupant (there has been a change of tenancy but the current supplier has valid grounds to object).

3.05 The reform options for the objections process that have been considered would impact on the time that the current supplier would have available to review the validity of the COT flag.

- **Option 3a:** Shorter objection window - “x” hour objection window. Under this option the losing supplier would have a defined period, for example 2 hours, after receiving a loss notification to block the transfer.
- **Option 3b:** Shorter objection window - fixed cut-off within day. For any loss notifications received within the relevant period, this option would provide a fixed time within the day by which any objection must be lodged. This may be able to facilitate next day switching and

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<sup>3</sup> <http://mrasco.com/admin/documents/GD28%20v1.0.pdf>

<sup>4</sup> <http://www.ofgem.gov.uk/Markets/RetMkts/rmr/Documents1/The%20Retail%20Market%20Review%20-%20Updated%20proposals%20for%20businesses.pdf>

potentially offer the losing supplier more time to consider whether an objection should be made.

- **Option 3c:** Shorter objection window – one/two days.
- **Option 4:** Central register of objections. Under this option a supplier would be required to maintain an up-to-date flag on central systems if they wanted to block customer transfers. The gaining supplier would only be informed that the transfer had been blocked once a request had been submitted.

## 4. Next steps

4.01 To assist our understanding of the issues we would like to discuss with COSEG the following questions:

- Question 1: How many registrations are currently submitted with a COT flag? How often does the current supplier reject the COT flag as being spurious and submit an objection?
- Question 2: Is there an ongoing requirement for the current supplier to be able to validate a COT flag before deciding whether to object? If so, is this for all, or some customer groups?
- Question 3: How long does it take a supplier to validate a COT flag i.e. to determine if it been incorrectly applied?
- Question 4: If the answer to question 2 above is yes, are there any specific additional regulatory measures that could mitigate the perceived risk that a COT flag may have been applied incorrectly such that validation on a case by case basis by the current supplier is no longer considered necessary?
  - Further definition on the evidential requirements?
  - Audit/monitoring?
  - Enforcement/penalties?
- Question 5: Are there any reasons for adopting a different approach between the gas and electricity markets?