

Modification proposal:	Master Registration Agreement (MRA) Change Proposal (CP): 0214 – Introduction of Materiality Testing to MRA		
Decision:	The Authority ¹ provides its consent for this modification to be made		
Target audience:	MRASCo, Parties to the MRA and other interested parties		
Date of publication:	22 July 2014	Implementation date:	Next working day following Authority consent

Background to the modification proposal

Under Ofgem's Code Governance Review (CGR)² a new process for non-material code modifications was introduced into certain industry codes.³ This enabled modification proposals that would be unlikely to have material impacts on, for example, consumers or competition to be determined by the relevant code panel without requiring Authority consent.⁴ A second phase of the CGR (CGR Phase 2) extended this 'self-governance' provision to further industry codes.

MRA already operates substantially under a self-governance mechanism. However, in our CGR Phase 2 Final Proposals we set out our view that the MRA modification processes should be updated to provide for an assessment of proposed modifications against suitable 'materiality' criteria. This would enable proposed modifications to be referred to the Authority in the most appropriate cases.

Currently, any changes proposed to specified clauses of the MRA require Authority consent in order that they can be made, regardless of the materiality of the change.⁵ Conversely, modifications that may have significant impacts on, for example, consumers or competition may be made in other sections of the MRA without a mechanism to refer these changes to the Authority for decision.

The modification proposal

MRA CP 0214 was raised by Electricity North West Ltd in response to the CGR Phase 2 Final Proposals. It seeks to amend the MRA so that only 'material' changes to the clauses that are specified in MRA clause 9.5 require Authority consent, and any changes to other clauses of the MRA shall require Authority consent if they are assessed as likely to have a significant impact against specified criteria.

This modification proposal also seeks to update MRA clause 9.5 to include certain clauses that were newly inserted into the MRA by modification proposal MRA CP 0204.⁶

MRA Development Board and MRA Forum

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of Gas and Electricity Markets

² CGR Final Proposals: <https://www.ofgem.gov.uk/ofgem-publications/61245/cgrfinalproposals310310.pdf>

³ Balancing and Settlement Code, Connection and Use of System Code and Uniform Network Code

⁴ The self-governance criteria are set out in the relevant licences

⁵ The clauses that currently require Authority consent are set out in clause 9.5 of the MRA

⁶ Authority decision on MRA CP 204: <https://www.ofgem.gov.uk/publications-and-updates/master-registration-agreement-mra-change-proposals-0204-amendments-mra-compliance-legislation-code-governance-review-phase-2-and-0207-code-governance-review-phase-2-code-modification-decision-appeal-provisions>

The MRA Development Board (MDB) considered MRA CP 0214 at its meeting of 29 May 2014. MDB voted unanimously to accept the changes. No appeals to the MRA Forum were made.

This modification proposal seeks to change MRA clauses which are reserved for Authority consent, and which require or permit matters to be referred to the Authority. Therefore Authority consent to make these changes is required.⁷

The Authority's decision

We have considered the issues raised by this modification proposal. We have also considered and taken into account the Change Report produced for MRA CP 0214. We have concluded that the implementation of the changes proposed would better facilitate the requirements of Standard Condition ('SLC') 23 of the Distribution Licence compared to the existing provisions and should be implemented.⁸ We consider this to be consistent with our principal objective and statutory duties.

Reasons for our decision

SLC 23 requires the MRA to contain arrangements for the modification of the MRA and provisions by virtue of which whole or specified parts of the MRA are not to be capable of modification without the Authority's approval. We consider that the changes proposed by MRA CP 0214 will improve the efficiency of these arrangements by providing a more effective decision-making mechanism. We do not consider that it is necessary for the Authority's consent to be required for minor housekeeping changes. MRA CP 0214 removes this restriction from the specified clauses and enables discretion to be used in appropriate circumstances. This change also recognises that MRA's remit has extended over the years and that it is not robust to assume that changes with significant consumer or competition impacts will only occur to specified clauses.

The number of MRA modification proposals that require Authority consent as a result of this change may not significantly differ compared to the status quo; however, it will ensure that Authority consent is sought in the most appropriate circumstances. We also note that the clauses previously carved out as requiring Authority consent to change (as set out at 9.5 of the MRA) have been retained and therefore serve to provide a guide to when Authority consent might usually be required. Once the new process for seeking Authority consent has bedded in, it may however be appropriate to consider reviewing or removing this list in the future.

Other comments

We consider that all modifications that are determined as requiring Authority consent should be submitted to the Authority for a decision. The MRA modification procedures (which are in part contained within an ancillary process document)⁹ set out that Authority consent is sought only where MDB (acting on behalf of the MRA Executive Committee) votes in favour of the implementation of a change proposal. This means that proposed changes which would be likely to have a material impact on the interests of consumers or competition, but which do not pass the threshold of an industry vote, can only be referred to the Authority using the MRA's appeal procedures. This may not be to most

⁷ In accordance with clause 9.5 of the MRA

⁸ Standard licence conditions available at:

<https://epr.ofgem.gov.uk/Content/Documents/Electricity%20Distribution%20Consolidated%20Standard%20Licence%20Conditions%20-%20Current%20Version.pdf>

⁹ MRA Agreed Procedure (MAP) 17

efficient process for considering such significant changes, and in light of the changes implemented by MRA CP 0214 we would welcome further consideration of this process.

Decision notice

We consent to modification proposal MRA CP 0214 being made.

Lesley Nugent

Head of Industry Codes and Licensing

Signed on behalf of the Authority and authorised for that purpose