

Modification proposal:	<b>Master Registration Agreement (MRA) Change Proposal (CP): MRA CP 0232 – MRA amendments following a post implementation review of materiality testing</b>		
Decision:	The Authority <sup>1</sup> has decided to approve <sup>2</sup> this modification <sup>3</sup>		
Target audience:	MRA Executive Committee, Parties to the MRA and other interested parties		
Date of publication:	10 February 2016	Implementation date:	25 February 2016

## Background to the modification proposal

Under Ofgem’s Code Governance Review (CGR)<sup>4</sup> a new process for non-material code modifications was introduced into certain industry codes. 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. A second phase of the CGR (CGR Phase 2) extended this ‘self-governance’ provision to further industry codes.

Under CGR Phase 2, we recognised that the MRA was a code that already operated mainly under a self-governance change process. At that time, the MRA set out that only changes to the matters specified in clause 9.5 of the agreement required our consent. 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 all proposed modifications against suitable ‘materiality’ criteria. This was introduced in July 2014 through MRA CP 0214.<sup>5</sup> It amended 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 require Authority consent if they are assessed as likely to have a significant impact against specified criteria set out in the MRA.

Following our decision on MRA CP 0214 we noted<sup>6</sup> that material provisions should be contained within the core MRA document, instead of the subsidiary MRA Agreed Procedures (MAPs). This would allow for better visibility of these obligations and require changes to them to follow the process established by MRA CP 0214. Following consideration of this issue by the MRA Executive Committee (MEC), a decision was taken to extend materiality testing to cover the ancillary MAP documents.

We noted in our decision on MRA CP 0214 that further consideration was needed of the MRA modification procedures which set out that Authority consent is sought only where MRA Development Board (MDB) (acting on behalf of MEC) votes in favour of the implementation of a change proposal. This means that under the current arrangements, proposed changes which would be likely to have a material impact on, for example the interests of consumers or competition, but which the MDB decide should not be made, can only be referred to the Authority using the MRA’s appeal procedures.

<sup>1</sup> References to the “Authority”, “Ofgem”, “we” and “our” are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

<sup>2</sup> This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

<sup>3</sup> ‘Change’ and ‘modification’ are used interchangeably in this document.

<sup>4</sup> CGR Final Proposals: <https://www.ofgem.gov.uk/ofgem-publications/61245/cgrfinalproposals310310.pdf>

<sup>5</sup> [https://www.ofgem.gov.uk/sites/default/files/docs/2014/07/mra\\_cp214\\_d.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/2014/07/mra_cp214_d.pdf)

<sup>6</sup> Code Governance Expert Group minute - 26 February 2015

## **The modification proposal**

MRA CP 0232 was raised by Gemserv on behalf of the Code Governance Expert Group (CREG) on 19 May 2015. It seeks to amend the MRA to extend the materiality criteria to MAPs which may contain material obligations. It also seeks to provide that proposals which are regarded as being material and are rejected at MDB are sent to the Authority for a decision, clarifying the role of MDB as a recommendation making body with regards to material changes.

## **MDB and MRA Forum**

The MDB considered MRA CP 0232 at its meeting of 26 November 2015. MDB voted unanimously to accept the changes. No appeals to the MRA Forum were made.

## **Our decision**

We have considered the issues raised by the modification proposal and the Change Report produced for MRA CP 0232.<sup>7</sup> We have concluded that:

- implementation of the change proposal will better facilitate the achievement of the relevant objectives of the MRA<sup>8</sup> and
- consenting to the modification being made is consistent with our principal objective and statutory duties.<sup>9</sup>

## **Reasons for our decision**

We consider that this change will better facilitate applicable objective (c) of the MRA and has a neutral impact on the other MRA applicable objectives.

### ***Objective (c) to promote efficiency in implementing and administering the MRA arrangements***

The change extends the materiality criteria to apply to proposed changes to MAPs. As noted above, we are of the view that, in general, it may be preferable for material code provisions to be contained within the MRA itself, rather than in code subsidiary or 'ancillary' documents. However, we recognise that custom and practice over time may have led to the ancillary MAP documents containing material obligations/provisions. We consider that this proposal promotes efficiency in the implementation and administration of the MRA arrangements by ensuring that any change proposal that has a significant impact on, for example, competition or consumers is sent to us for consent, irrespective of whether the change is to the MRA or to a MAP.

The other element of the proposal modifies the MRA change process to require material modifications that are rejected by MDB to be sent to the Authority for a decision. Requiring change proposals that are subject to Authority consent, whether they have been accepted or not by the MDB will allow better oversight of the proposed changes which are of a material nature. This approach is also consistent with arrangements in other codes.

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<sup>7</sup> MRA modification proposals and change reports can be viewed at [www.mrasco.com](http://www.mrasco.com)

<sup>8</sup> As set out in SLC 23.3A of the electricity distribution licence:  
<https://epr.ofgem.gov.uk/Content/Documents/Electricity%20Distribution%20Consolidated%20Standard%20Licence%20Conditions%20-%20Current%20Version.pdf>

<sup>9</sup> The Authority's statutory duties are wider than matters that the Panel must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

## **Decision notice**

In accordance with SLC 23 of the Electricity Distribution Licence, the Authority hereby approves modification MRA CP 0232 - MRA amendments following a post implementation review of materiality testing.

**Lesley Nugent**

**Head of Industry Codes and Licensing**

Signed on behalf of the Authority and authorised for that purpose