

CMP196 Revisions to “recommendations” in the final CUSC Modification Report



Emma Clark- CUSC Panel - 25th March 2011

Background

- Issue arose out of CAP190
- Statutory Instrument (SI) 2005 No. 1646 “ The Electricity and Gas Appeals (Designation and Exclusion) Order refers to a “majority recommendation”
- QC Advice highlighted an issue for the CUSC in that multiple recommendations in the Modification Report may cause ambiguity and could prevent an appeal
- CAP190 Workgroup approached DECC to investigate possibility of changing SI

Summary of Defect

- Ambiguity in interpretation of the SI with relation to the term 'recommendation'
- In CUSC Modification Report, reference to Panel, Company and Workgroup 'recommendations'.
- Could fetter right of appeal to Competition Commission

Proposed CUSC Modification

- Amend the CUSC to remove all references to ‘recommendation’ in the final CUSC Modification Report other than in reference to the Panel.
- The term ‘recommendation’ in relation to “The Company” and the “Workgroup” shall be replaced with similar meanings.
- Should have the effect of removing a potential barrier to the appeal rights

Justification against Applicable CUSC Objectives

- B) Facilitating effective competition
 - This Proposal will assist in facilitating competition in that it will remove a potential barrier to the right of appeal to the Competition Commission by having one clear Panel recommendation in the final Modification Report submitted to the Authority.

Code Administrator Proposed Progression

- The Panel is asked to:
 - AGREE the establishment of a Workgroup to develop the proposal
 - AGREE the Workgroup Chair

Proposed Timetable

25th March 2011	Panel to agree progression
29th March 2011	First CMP196 Workgroup meeting
31st March 2011	Issue draft Workgroup Consultation for Workgroup comment (5 days)
7th April 2011	Deadline for comments on draft Workgroup Consultation
8th April 2011	Publish Workgroup consultation (for 3 weeks)
5th May 2011	Deadline for responses to Workgroup consultation
10th May 2011	Post-consultation Workgroup meeting
11th May 2011	Circulate draft Workgroup Report
18th May 2011	Deadline for comment on Workgroup report
19th May 2011	Submit final Workgroup report to Panel Secretary
27th May 2011	Present Workgroup report to CUSC Modifications Panel

Questions?

