

ISSUE 82 SUMMARY

MEETING NAME	Issue 82 Workgroup Meeting
Meeting number	1
Date of meeting	20 August 2019
Venue	ELEXON Ltd, 4th Floor, 350 Euston Road, London, NW1 3AW
Classification	Public

MEETING SUMMARY

Meeting Objectives

The purpose of our meeting was to consider whether to expand the BSC Panel's ability to raise Modifications and explore potential solutions.

Background to Issue 82

ELEXON provided the background to Issue 82 noting that currently the BSC Panel cannot raise a Modification to facilitate the achievement of Applicable BSC Objectives (a) , (b) , (c) , (e) , (f) and/or (g) unless it would also better facilitate Objective (d).

Workgroup considerations

The WG noted the below regarding the Panel's ability to raise Modifications:

- There have been instances where a Modification with significant benefit to the industry has not been raised due to not finding a sponsor. ELEXON explained that where there have been recommendations from ELEXON's review of the BSC it's been difficult to find a sponsor to progress changes to the BSC. A change on Metering Dispensations struggled to find a sponsor to raise it. The change was identified by industry and had clear benefits to the market but not to individual businesses.
- Giving the Panel more powers to raise Modifications could result in the Panel 'picking winners' and not acting independently. It does not seem right for the Panel to put their name to changes and not Parties. If a change is worth raising then a Party will raise it. The panel should act independently and impartially.
- There are mechanisms in place for BSC and non-BSC Parties to raise Modifications. The sandbox allows a trial phase for all market participants. Recently Modification [P370 'Allowing non-BSC Parties to raise Modifications'](#) was implemented introducing a designation process for non-BSC Parties. The process allows non-BSC Parties to raise Modifications.
- The Panel should avoid being put under pressure by the Authority. There is a risk of greater political interference. The Panel should not feel pressured and obliged to raise changes. This impacts how the Panel is perceived. Panel members could end up with indemnity if it is perceived that they are not acting independently. The Workgroup noted the direction of travel towards code managers, under the REC and the BEIS/Ofgem code reform, but did not believe this relevant for this BSC Issue. If political pressure did manifest itself, this could impact the right of appeal for Parties. Parties can only appeal an Ofgem decision where it is different to the recommendation from Ofgem. If the Panel were raising more changes to facilitate greater competition (Objective (c)) and benefits for consumers, it is more likely to form a view that

ISSUE 82 SUMMARY

the Modification should be raised at the point of raising the Modification and not want to change its mind. The Workgroup noted that a mitigation to this would be to allow Parties to appeal all Panel raised Modifications.

The WG raised the below questions on the Panel's role in raising Modifications:

1. **Does the Panel have a strategic role to play?** It is down to how the Panel utilises its powers. They have to provide a rationale for recommending a change and show transparency. The Workgroup believed it appropriate for this to be limited to keeping the BSC in good working order, responding to government policy, such as Half Hourly Settlement, or keeping the lean and efficiently operated. The Issue Group did not believe this extended to changes such as P379 'Multiple Suppliers' as these have a significant impact on the market and are optional. If a Party believes there is a significant enough issue or benefits, a Party will raise the change.
2. **Who would be seen as the Proposer if the Panel raises the Modification?** The Panel can appoint anyone as Proposer. It could be a Panel member, ELEXON or non-BSC Party. The WG would have ownership of the Modification, where ELEXON is appointed as the Proposer's Representative. A Member pointed out that the BSC funding model should be considered as the costs for progressing a Modification is borne by BSC Parties. Parties outside the BSC do not have exposure to funding those costs.
3. **Should the Panel be proactive or reactive?** There is no issue with the Panel being proactive as it needs to keep up with industry changes but there is a concern with the Panel trying to find a solution for new business models to work.
4. **Who is the Panel making a decision on behalf of?** Currently the Panel is an independent arbiter. This perception is key. The Panel has a duty to operate in a way that is accountable to BSC Parties. If the Panel is seen to be making unfair decisions this could be dealt with through the Panel elections.
5. **Can the Panel be relied on to raise sensible Modifications?** Anything material and not related to responding to consequential industry changes or 'keeping the BSC in order' should be sponsored by a Party.
6. **Should the Panel be allowed to raise Modifications without the existing constraints?** If this were allowed, there should be prioritisation criteria to mitigate the risk of too many new changes being raised. This could be a guide to the Panel's decision making process. If criteria were met upfront it can mitigate some of the risks.

Workgroup Conclusions

The WG recommended that no Modification be raised to expand the BSC Panel's ability to raise Modifications and noted the below key points:

- If someone feels strongly about a change then they should raise it. ELEXON is already helping industry participants through the change process.
- The Sandbox is there to help both BSC and non-BSC Parties
- Currently the BEIS and Ofgem code review overshadows the need for the Panel to have more powers as the outcome is not yet known.
- The WG is not convinced the Panel should have more powers as there is already a route to raise changes. The recently implemented P370 allows non-BSC Parties to raise Modifications through the designation process. This gives all industry Parties more access to the BSC.

ISSUE 82 SUMMARY

Action

Given the concerns raised on the Panel's role in raising Modifications and what changes it can raise, the WG suggested that ELEXON carry out further investigation on what the Panel legally can and cannot currently do. Legal advice should help clarify the Panel's restrictions also provide answers to the following:

1. Is there any limit as to who could be designated by the Panel?
2. The change to what is a non-standard BMU Unit should have been in the interest of all Parties and the Panel could have raised the Modification for the benefit of the industry. Why was the Panel not able to raise this Modification?
3. Why is it only the Performance Assurance Board (PAB) and Trading Disputes Committee (TDC) that can make recommendations for the Panel to raise Modifications and no other committees?

The legal feedback will be shared with WG and the BSC Panel.

Any Other Business

No other business was discussed.

Next Steps

The WG noted the below next steps for progressing Issue 82:

- ELEXON to carry out analysis on the Panel's current role in raising Modifications
- ELEXON to draft the Issue 82 Report for WG review by week beginning 16 September
- The Issue 82 Final Report will be submitted to the October 2019 BSC Panel meeting