

CUSC: Guide to CAP049 – Working Group Alternative Amendments (WGAA) and Consultation Alternative Amendments (CAA)

History

NGC submitted an Amendment Proposal (CAP017) on Alternative Amendments to the CUSC Panel in March 2002. NGC considered that the arrangements for Alternative Amendments within CUSC were flawed and could be improved and thus better facilitate achievement of the Applicable CUSC Objectives (ACOs). Following the establishment of a Working Group to consider CAP017, NGC accepted that the issue was more complex than the scope of CAP017 and withdrew CAP017. The issue was then remitted to the Governance Standing Group (GSG) established in April 2002 to consider this and a number of other governance related issues relating to the CUSC at the time. The GSG reported in August 2002 and identified a number of parameters for the solution which NGC broadly agreed. NGC were invited to bring forward proposals in due course. CAP049 was duly brought forward to the May 2003 CUSC Panel by NGC, approved by Ofgem on 16/12/03 and implemented on 26/12/03.

Summary of CAP049

CAP049 revised the definition of Alternative Amendments contained in the CUSC to make clear that Alternative Amendments may be developed by a Working Group as well as being put forward during industry consultation. CAP049 also added two new definitions to section 11 to define two new types of Alternative Amendment, namely a "Working Group Alternative Amendment" and a "Consultation Alternative Amendment". Under CAP049 NGC must also carry out a separate consultation on any CAAs received to improve transparency. CAP049 prevents potential abuse of the arrangements for Alternative Amendments by ensuring that CAAs are subject to a separate secondary consultation with the industry. Pre-CAP049 it was possible for an Alternative Amendment to be submitted late in the consultation phase which meant that it would be included in the Amendment Report to the Authority without being seen at all by the industry. The definition of "Alternative Amendment" was also modified by CAP049 so that it could be used in CUSC where appropriate to mean collectively any WGAA or CAA.

More detail on CAP049

In the light of experience with of a number of CUSC Amendment Proposals in 2001/02 it became apparent to the GSG and NGC that the definition of "Alternative Amendments" was incorrect as it implied that an Alternative Amendment may only be developed during the consultation stage and not raised or developed by a Working Group. However, Paragraph 8.17.1 of the CUSC indicates that the key role of a working Group is to assist the Panel in "evaluating whether an Amendment Proposal better facilitates achieving the Applicable CUSC Objectives and whether an Alternative Amendment would, as compared with the Amendment Proposal, better facilitate achieving the Applicable CUSC Objectives in relation to the issue or defect identified in the Amendment Proposal." The GSG recommended that the CUSC should be clarified to make it clear that Working Groups should be free to develop Alternative Amendments and the CUSC Amendments Panel agreed with this recommendation. A key feature of the definition of a WGAA is that a WG Member is entitled to put forward a WGAA for inclusion in the WG report to the Panel even if there is no support for his WGAA from the other WG Members.

CAP049 also increases the transparency of CAAs that individual CUSC Parties can put forward. Pre-CAP049 there was no provision for Alternative Amendments that are put forward by individual CUSC Parties at the end of the consultation period to be seen and commented on by all CUSC Parties before the Amendment Report stage. CAP049 now enables CUSC Parties to consider such CAAs separately. Pre-CAP049 it was possible that Users may have put forward alternative amendments at the very end of the consultation stage to frustrate the intention of the original AP because they disagreed with it, rather than because they believed that the Alternative Amendment would better facilitate achievement of the ACOs. The new arrangements under CAP049 do not however allow the process of submission of CAAs to

continue on indefinitely in response to initial and secondary consultations. A CUSC user can only submit one CAA following the initial consultation and then a “guillotine” comes into operation to bring the process to a halt.

Post-CAP049 CUSC Parties also cannot invoke the confidentiality provisions in CUSC in submitting Alternative Amendments. The secondary consultation period for a CAA must be accommodated within the overall period for the consultation stage (2 months). However, by its very nature a secondary consultation may take the overall consultation period beyond 2 months in which case the Authority must be asked if it has any objection to such extension.

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