

CAP190: Panel Vote



CUSC Modifications Panel, 28th October 2011
Emma Clark, Code Administrator

CAP190 Defect

- The proposer believes that Modification Proposals that arise from license obligations are likely to contain contentious issues and may have significant impacts and commercial implications.
- Under the current system of voting, these proposals could be approved by the Authority without the full support of the Panel, as a single vote could result in making a recommendation to the authority, and subsequently remove the right of appeal to the Competition Commission.

CAP190 Solution

- CAP190 proposes that a two-thirds majority is required for proposals resulting from an Authority request, direction or obligation. This means that the number of votes cast in favour of approval would have to be at least twice the number as against approval.
- Where a two-thirds majority is not reached, the Panel recommendation will be to retain the status quo and not recommend implementation.

Total Votes Cast	Votes required 'for	Votes required 'against'
9	6	3
8	6	2
7	5	2
6	4	2

Developments

- Issue identified by QC with existing rights of appeal to Competition Commission
- NGET raised CMP196 to deal with existing anomalies
- CAP190 Workgroup put on hold.
- CMP196 approved by Authority and implemented on 29th September 2011.

Other code modifications

- UNC 0312 raised by E.ON UK in May 2010
- BSC P264 raised by Drax Power in August 2010
- Authority rejected both proposals on 20 July 2011

CAP190 developments

- Majority decision by Panel at July meeting not to extend Workgroup timetable
- Workgroup Report compiled to capture Workgroup discussions
- No Workgroup consultation carried out
- No Workgroup recommendations made
- No legal text drafted

Code Administrator Consultation

- 3 responses received
 - All supportive of CAP190
 - Believe it better facilitates the Applicable CUSC Objectives.
 - All agree with 10 day implementation timescale but varying views on approach.

National Grid Opinion

- CAP190 does not better facilitate the Applicable CUSC Objectives.
- Raised CMP196 to deal with ambiguities caused by the wording of the SI.
- Two-thirds voting represents only a minor change from the existing regime. CAP190 would not necessarily ensure that parties rights to appeal are protected as it is simply introducing a higher voting threshold.
- BSC and UNC like-for-like proposals have been rejected, therefore there would be cross code inconsistency if CAP190 implemented.

Panel Recommendation Vote

- (a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence; and
- (b) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity.