

Minutes and Decisions of a Teleconference Meeting Held on 9th November 2005 in relation to the CAP092 Implementation Date

Present:

Simon Cocks	SC	Panel Chairman
David Payne	DP	Panel Secretary (Acting)
Ben Graff	BG	Panel Member (National Grid Rep)
Steve Mackay	SM	Authority Representative
Rupert Judson	RJ	Panel Member (Users Member)
Malcolm Taylor	MT	Panel Member (Users Member)
Bob Brown	BB	Panel Member (Users Member)
Garth Graham	GG	Panel Member (Users Member)
Paul Jones	PJ	Panel Member (Users Member)
Simon Goldring (Part Time)	SG	Panel Member (Users Member)

In Attendance:

Andrew Truswell	AT	NGET
-----------------	----	------

Introduction

1. SC stated that the aim of the meeting was to agree an implementation date for CAP092. SC encouraged the Amendments Panel to consider what the most efficient implementation date might be, consistent with the applicable Code Objectives. SC also made clear that the issue in hand focussed on the most appropriate implementation date, not the merits or otherwise of the CAP092 proposal.
2. The options were:
 - Implementation at the start of the next charging year i.e. 1st April 2006.
 - Implementation 10 business days after the Authority decision.

Background

3. SC asked MT, who had chaired the CAP092 Working Group, if he could give some of the background on the Working Group discussions concerning possible implementation dates.
4. MT explained that the Working Group had discussed the merits of the two implementation date options. The majority did not support implementation as soon as possible preferring implementation at the start of the next Financial Year. MT said those Working Group members who supported an implementation date of the start of the next Financial Year argued that if parties had been aware of impending CAP092 implementation they may have made different commercial decisions at the start of the year on whether to buy TEC or STTEC. Hence in their view mid year implementation was potentially discriminatory.
5. MT said those arguing for an implementation date as early a possible felt that as there was a perceived CUSC defect this should be fixed as soon as possible after the decision date within the current year and before the coming Winter 2005/06.

Discussion

6. PJ supported implementation as soon as possible. With respect to retrospectivity PJ argued that reconciliation of charges at the end of the financial year was also retrospective, and that CAP092 would simply change the rules for reconciliation. PJ said if CAP092 was implemented, only charges to parties using STTEC this year would be affected this year, although all parties would face slightly higher charges next year due to National Grid not having the extra STTEC revenue from 2005/06 to pass through to 2006/07.
7. GG was not persuaded by PJ's arguments but was persuaded by the majority of CAP092 respondents who had indicated that implementation at the new Financial Year was the most appropriate as it avoided discrimination. Some parties could have entered this year on the basis that CAP092 did not exist and to change charges part way through the year discriminated against those who had not gone down the STTEC route.
8. BB also supported implementation at the start of the next Financial Year noting that implementation mid – year did not in his view facilitate competition.
9. RJ stated that CAP092 was seeking to change the rules and thus also favoured implementation at the start of the next Financial Year.
10. BG said that should CAP092 be approved by the Authority National Grid would be neutral on an implementation date.
11. MT also noted that although he did not support CAP092 he felt that implementation should be effected as soon as possible.
12. SM noted as a point of observation that the decision on implementation dates should not be based on whether or not individuals supported CAP092.
13. SG also supported implementation from the new Financial Year.
14. Summarising the meeting views SC noted:
 - The Amendments Panel had had a very constructive discussion on the CAP092 implementation date. In his view the Panel had focussed successfully on the issue at hand, and Panel Members had not let their personal views on the substance of CAP092, affect their views on the appropriate implementation date.
 - The majority view (4 voting members (GG, BB, RJ, SG)) supported implementation from the new Financial Year;
 - 2 voting members supported implementation as soon as possible i.e. 10 business days from Authority decision (PJ, MT);
 - 1 voting member was neutral on implementation dates (BG).
15. SC raised the issue of what should happen if the Authority decision was made at a time that did not allow implementation from the first day of the 2006/07 Financial Year.
16. BG believed that if the start of the 2006/07 Financial Year passed without a decision being made then the back stop implementation date would need to be the beginning of the next Financial Year (April 2007). This was because the majority of the Amendments Panel appeared to have reached this view that it would be discriminatory to go for a mid year implementation date, and hence it would seem prudent given this, to roll out the same logic in relation to a back-stop date.
17. PJ agreed with the logic of BG's point in relation to a back stop date.

18. MT commented that if the rationale for implementation at the start of the Financial Year was solid then it followed that implementation at the start of the 2007/08 Financial Year or any other Financial Year was solid. Failing that it would be just as appropriate to implement as soon as possible after the Authority decision.
19. BG noted that the Authority have no limits imposed on them in relation to the timescales for making decisions and it was important to ensure that the Amendment was not put at risk of being timed out. The Panel was concerned that CAP092 did not fail on a technicality.
20. SM asked if BG could explain his reasons for not participating in the vote in relation to the appropriate implementation date, noting that in other governance structures Panel Members chose between the options available, and typically seek to abstain on grounds such as insufficient familiarity with an amendment. BG said that he respected both of the positions that had been put, and believed he had exercised his vote appropriately. BG also highlighted that however he had voted would not have affected the Amendment Panel decision.

Record of Decisions

21. The majority of voting Panel members present at the meeting AGREED that:
 - the CAP092 implementation date would be the first day of the 2006 Financial Year (1st April)
 - were an Authority decision not to be made by the 31st March 2006, the implementation date would be the 1st April 2007.