

What stage is this document in the process?

01 Initial Written Assessment

02 Definition Procedure

03 Assessment Procedure

04 Report Phase

Request to raise a Modification Proposal

Improving efficiency and clarity of the Trading Disputes process

The Trading Disputes Committee (TDC) is requesting that the BSC Panel raise a Modification Proposal to improve efficiency and clarity of the Trading Disputes process.



The TDC recommends
The attached Modification is raised and issued to a 3 month Assessment Procedure



High Impact:
The Trading Disputes Committee, BSCCo and Parties who wish to raise a Trading Dispute.

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About this document:

This document is a request to raise a Modification, which ELEXON will present to the Panel on behalf of the TDC on 08 April 2010. The Panel will consider the recommendations and agree whether to raise a Modification and how it should be progressed.

If the Panel agrees to raise this as a Modification Proposal then this paper should be treated as the Initial Written Assessment (IWA).

Further information is available in the Modification Proposal which is Attachment A to this document.



Any questions?

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The role of the TDC is to ensure that all Trading Disputes are resolved so that errors are corrected and the integrity of Settlement is maintained

The Trading Disputes Process

The Trading Disputes process is a remedial Performance Assurance technique that provides a mechanism for correcting identified settlement errors where the Code has not been followed. Any data can be changed before the Initial Settlement (SF) Run but after this can only be changed through the Disputes process or if the Code explicitly allows it.

Trading Disputes can arise as a result of errors in the data, processes and/or application of the rules used for the purposes of Settlement, where such errors affect the determination of Trading Charges paid to or from Parties. The Trading Disputes process allows for incorrectly derived Settlement data to be re-calculated, and for the corrected Trading Charges to be adjusted accordingly. The process is defined in Section W 'Trading Queries and Trading Disputes' of the BSC and BSCP11 'Trading Disputes and Trading Queries'.

The Trading Disputes Process Review 2009

The last time the Trading Disputes process review was carried out, was in 2002. Over the recent years feedback from the industry has indicated that the current process is too complex. It includes steps that add no value and some Disputes criteria are no longer fit for purpose. This has stopped some Parties participating in the process and reduced the number of Disputes being raised each year.

As a result of this feedback, the Trading Disputes Committee (TDC) instigated a review of the Trading Disputes process to identify improvements that would make the process more user-friendly, simpler and efficient.

The TDC identified changes that would speed up the overall process, encourage participation and make the process easier to understand. These are:

1. Expanding the remit of the TDC;
2. Changing the SVA Half Hourly (HH) Query Deadline;
3. Removing Precautionary Queries from the process; and
4. Increasing the clarity of the definition of 'settlement error'.

These proposed changes were issued for industry consultation during November 2009 and received unanimous support from the industry, although only a few responses were received.

Which areas of the process need improving?

Rectification Decisions

Rulings on Trading Disputes are made by the TDC. The TDC consists of impartial industry experts who have been appointed by the BSC Panel. If a Party should disagree with a TDC ruling an escalation route to the Panel, and further to arbitration, exists as part of the Trading Disputes process.

If a Party disagrees with a TDC decision or the TDC fails to reach a majority decision, the TDC or that Party can refer the matter to the Panel, within 30 days. If the Party disagrees with the Panel's decision in respect of those matters referred from the TDC it can, within 30 days, refer the matter to arbitration.

Parties can only appeal (via arbitration) Disputes decisions that are made by the TDC and are firstly referred to the Panel. The decisions made by the TDC constitute checks against:

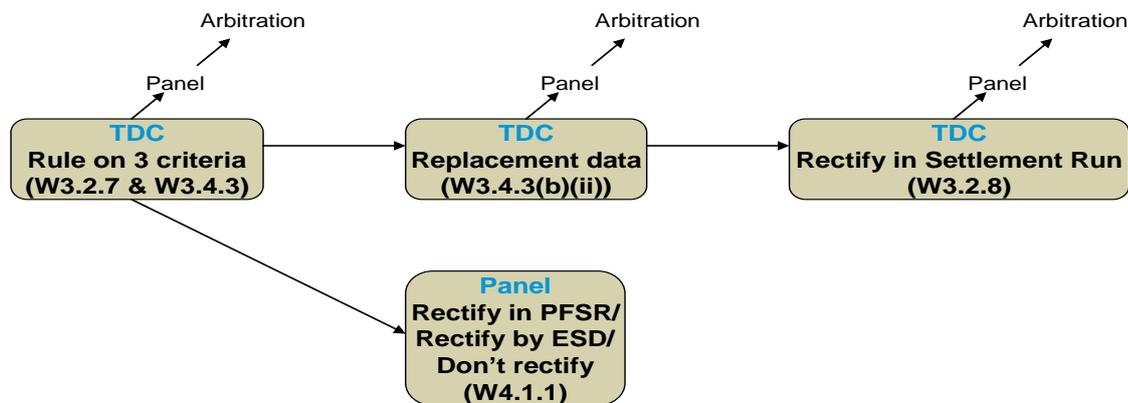
- The three Disputes criteria (1. Raised before the applicable deadline, 2. There is a settlement error, 3. The materiality exceeds the threshold); and
- Determination on replacement data.

Decisions made by the Panel as part of the current Disputes process concern the rectification approach and are:

- Authorisation of a Post-Final Settlement Run
- Authorisation of an Extra-Settlement Determination
- The decision to not rectify a Dispute

Parties have no right of appeal (via arbitration) for rectification decisions as these decisions are made solely by the Panel and fall outside the arbitration criteria in Section W of the Code.

The diagram below demonstrates what can and cannot be taken to arbitration.



The lack of appeals rights on certain Disputes rectification approaches is causing concern amongst the industry as they cannot ask for a second opinion on these decisions.

The Trading Disputes start and end dates

A Trading Dispute will not be accepted or processed by ELEXON unless the raising form (BSCP11/01) submitted contains all affected Settlement Periods claimed. Where an end date is not specified it will be assumed that the alleged settlement error is ongoing.

The TDC does not have the authority to amend the start or end dates where specified. This means that if the error is still ongoing and the end date has been specified on the raising form a second Trading Dispute would need to be raised so that all affected Settlement Days are covered. This creates unnecessary administrative work for both the Raising Party and ELEXON.

The SVA HH Query Deadline

The Query Deadlines are defined in BSCP11 Section 2.1. The deadlines were set so that Parties would be encouraged to detect settlement errors promptly and hence raise Disputes in a timely manner. Most of the Query Deadlines are still fit for purpose and do not require changing. However it has become apparent that the SVA HH Query Deadline of Second Reconciliation (R2) Run + 20 Working Days (WD) is too strict.

Most SVA HH errors are discovered on an ad hoc basis during the site visits or during the Change of Agent process. The current Second Reconciliation Run (R2) + 20WD deadline does not leave a long enough window of opportunity to identify them. The Suppliers can also correct more data outside of the Disputes process until the Final Reconciliation (RF) Run hence there is no need for them to raise a HH Dispute. The current HH deadline has

discouraged some Parties from participating in the process as they feel it is not worth raising a HH Dispute as it would most likely be timed out. As a result the average number of Disputes being raised per year has declined.

Precautionary Trading Queries

Precautionary Queries are part of the current Disputes process and are defined in Section 3.2 of BSCP11. They are SVA HH Queries that are likely to be resolved outside the Disputes process but are raised 'just in case' so as to meet the R2 Run + 20WD window described above. They are placed on hold until either the error is resolved or until the Third Reconciliation Run (R3) + 5WD when they will be treated as a normal Trading Query. Currently even if the Query is resolved outside the Disputes process the TDC will have to formally close it.

Settlement error definition

Settlement error is defined in BSC Section W.1.3. Three criteria must be satisfied in order for a settlement error to exist:

- There must be an error in the data and/or processes or the application of the rules used for the purposes of Settlement.
- Must constitute a breach of the BSC
- Must impact Trading Charges

The current settlement error definition is difficult to understand. It has been recognised that the definition needs to be legalistic however a few minor changes could make it easier to understand.

Related changes

This Modification is one of three Trading Dispute review Modifications that the TDC is recommending the Panel raises. The other two cover:

- Removal of the concept of Trading Queries; and
- Including Party Agents in the Trading Disputes process.

All three Modifications will be progressed together using the same Modification Group and proposed timescales.

2 Proposed Solution

To resolve the identified issues, the TDC recommends the following solutions.

The TDC to approve all rectification approaches

To address the concerns over Parties' inability to appeal certain rectification approaches, it is proposed to enable the TDC to determine all rectification approaches. Parties would then be given the right to refer these decisions to the Panel. If referred to the Panel, the Panel's decisions on Post-Final Settlement Run (PFSR), Extra-Settlement Determination and decision not to rectify would not be referable to arbitration¹ as per the current process.

This creates an appeal mechanism for rectification approach decisions, allowing for a second view to be taken without eroding the overall principles relating to Panel decisions of this kind. This approach would also speed up the overall Disputes process by removing the need for the TDC to make a recommendation to the BSC Panel regarding rectification, therefore providing more immediate answers to the Raising Party and allowing it and its agents more time to submit replacement data if PFSR is required.

The TDC to have authority to extend the end date of Disputes

It is proposed that the TDC should be able to amend the end date of the Dispute where it has been specified on the raising form, but the error is still ongoing. It should be made clear in the Code that the TDC has an authority to extend the end date of the Dispute to cover all affected Settlement Days if deemed appropriate.

Align the SVA HH Query Deadline with the NHH Query Deadline of RF+70WD

The SVA Half Hourly (HH) Query Deadline should be aligned with the SVA Non Half Hourly (NHH) Query Deadline of Final Reconciliation Run (RF)+70WD. This new deadline will allow BSC Parties enough time to uncover errors and encourage participation in the process. As a result the number of Disputes raised would increase, and therefore Settlement data would become more accurate.

Removal of the concept of Precautionary Queries from BSCP11

Extending the SVA HH Query Deadline would remove the need for the Precautionary Queries. Therefore, it is also proposed to remove Precautionary Queries from BSCP11, further streamlining and simplifying the process.

Increase clarification around settlement error definition

To assist clarity and understanding of 'settlement error' the definition should be amended to:

- Include a cross-reference in Section W1.3.1 to Section W1.3.2 in order to make it clear that these two paragraphs need to be read together for the full definition of settlement error; and
- Capitalise 'settlement error' to make it clear that it is a defined term in the Code. Section X of the Code should include a reference to the definition of "settlement error" in section W1.3.1.

¹ The Party could seek resolution in the courts if it was not happy with the Panel's decision.

Applicable Objectives

The TDC believes this Modification would better facilitate **Applicable BSC Objective (d)**, promoting efficiency in the implementation of the balancing and settlement arrangements as it would:

- improve the efficiency and clarity of the Disputes process, resulting in more accurate Settlement data; and
- increase the efficiency of BSCCo and the TDC when progressing Disputes.

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3 Proposed Progression

Terms of Reference

Proposed Terms of Reference	
The Modification Group will be formed from members of the GSMG. The Group will consider the following items:	
Ref	
1	The effect of the Modification on Applicable BSC Objective (d) and any other relevant BSC Objective(s).
2	Whether the Modification Group supports the TDCs proposed solutions to the identified defects.
3	Whether there is any Alternative Modification which would better facilitate the achievement of the Applicable BSC Objectives in relation to the identified issue or defect.
4	The most appropriate implementation approach for the Modification.
5	The most appropriate legal drafting to deliver the solution.

Costs

As noted above there are 3 related Modifications that the Panel is requested to raise which for efficiency will be progressed together. The costs detailed below are the progression costs for all three together and is duplicated in the other two 'Request to raise Modification Proposal' documents.

Estimated progression costs based on proposed timetable	
Meeting costs (including Modification Group member expenses)	£1500
ELEXON resource	44 man days, equating to £10,140

Timetable

Assessment Activity	Date
Modification Group 1	19 April 2010
Modification Group 2 (if required)	20 April 2010
Draft Consultation Document	20 April 2010
Assessment Procedure Consultation	30 April 2010
Modification Group 3	19 May 2010
Draft Assessment Report	20 May 2010
Submit Assessment Report to Panel	04 June 2010
Present Assessment Report to Panel	10 June 2010

The timetable above sets out the planned progression approach for all three Trading Disputes review Modification Proposals. Whilst the planned timetable is for two months, this may prove difficult should something unexpected turn up. Therefore we are pragmatically requesting a 3 month timetable, but will attempt to deliver in two.

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4 Likely Impacts

Impact on BSC Parties and Party Agents

BSC Parties and Party Agents should experience a Trading Disputes process that is more efficient and easier to understand and use.

Impact on Transmission Company

None

Impact on ELEXON

Area of ELEXON's business	Potential impact
Trading Disputes Processes	TDC Terms of Reference; Disputes Process Guidance Notes

Impact on Code

Code section	Potential impact
Section W	Changes to reflect new requirements as set out in the Proposal
Annex X-1	New entry for definition of 'Settlement Error'

Impact on Code Subsidiary Documents

CSD	Potential impact
BSCP11	Process changes to support Code amendments

Impact on other Configurable Items

Configurable Item	Potential impact
BSC Business Process Model	Changes to the 'Manage Disputes, Queries and Claims' process to reflect alterations to Section W and BSCP11

There is no impact on any Core Industry Documents.

5 Recommendations

The TDC invites the Panel to:

- AGREE to raise the Modification Proposal as included in Attachment A.

If the Panel agrees to raise the Modification Proposal, we also invite the Panel to:

- DETERMINE that Modification Proposal progresses to the Assessment Procedure;
- AGREE the Assessment Procedure timetable such that an Assessment Report should be completed and submitted to the Panel at its meeting on 08 July 2010;
- DETERMINE that the Modification Group should be formed from members of the Governance Standing Modification Group; and
- AGREE the Modification Group's Terms of Reference.

6 Further Information

More information is included in the Modification Proposal form which is an Attachment to this document.