

## Representation - Draft Modification Report UNC 0674

### Performance Assurance Techniques and Controls

**Responses invited by: 5pm on 24 May 2021**

**To:** [enquiries@gasgovernance.co.uk](mailto:enquiries@gasgovernance.co.uk)

*Please note submission of your representation confirms your consent for publication/circulation.*

<b>Representative:</b>	Gareth Evans
<b>Organisation:</b>	ICoSS
<b>Date of Representation:</b>	24 May 2021
<b>Support or oppose implementation?</b>	Oppose
<b>Relevant Objective:</b>	d) Negative f) Negative

**Reason for support/opposition: Please summarise (in one paragraph) the key reason(s)**

The intention of this proposal seems to be to make the PAC unaccountable in its actions to any other UNC or regulatory body. Though the UNCC is referenced multiple times, in reality has not ability to effectively challenge its own subcommittee. As has been recently demonstrated by the concerns raised by industry parties over the AUGÉ process, it is important that the UNC Committee can ensure effective oversight of its sub-committees as concerns otherwise have to be escalated to the authority via UNC modifications.

We also have significant concerns about the powers PAC will receive, which will give it the ability to require substantial outlay by industry for comparatively little improvement in settlement accuracy. This could ultimately result in higher costs for consumers.

We are supportive of an effective and proportionate UNC performance assurance regime. This proposal does provide some marginal improvement to the performance assurance regime, but at the cost of removing any effective oversight of the PAC and giving it disproportionate powers.

More widely we question the value of this proposal considering that as part of the Switching Programme the REC will be developing its own performance assurance regime. It therefore seems to be little value to implement a radically revised regime into the UNC a few months before it will need to be revised.

**Implementation:** *What lead-time do you wish to see prior to implementation and why?*

Our opposition to this proposal notwithstanding we believe that the suggested 3 -month notice period is unrealistic owing to the level of change that is required to be delivered by industry parties and the PAC in that timescale.

**Impacts and Costs:** *What analysis, development and ongoing costs would you face?*

The potential costs for ICoSS members is significant from this change if they are required to engage with the PAC, owing to the wide-sweeping power the PAC will have to require demand detailed information.

**Legal Text:** *Are you satisfied that the legal text will deliver the intent of the Solution?*

We have not reviewed the legal text.

**Modification Panel Members have requested that the following questions / considerations are addressed:**

*Q1: Provide a view on whether respondents think it is appropriate to impact non-UNC parties with this proposal?*

No. There is no value in placing obligations on organisations that are not code parties. PAC has no ability to influence these organisations, or their behaviour and we do not believe it would be a useful exercises in either tracking or engaging with such parties.

*Q2: Consider impact of proposal for the overarching principle to apply to Modification Panel, UNCC, Sub Committees and Parties as set out in business rule 2a.*

It is unclear in the proposal how the overarching principles interacts with the overriding objectives within the UNC for the UNC Panel or the UNCC.

This could cause an issue with conflicting actions by UNC code parties. It is also unclear as to what the objective is, as it is defined differently throughout the document.

**Are there any errors or omissions in this Modification Report that you think should be taken into account?** *Include details of any impacts/costs to your organisation that are directly related to this.*

Please see below.

**Please provide below any additional analysis or information to support your representation**

- The modification seeks to go beyond the scope of the UNC, for example giving the PAC the ability to engage with 3<sup>rd</sup> parties. This is ultra vires of the code and it would represent a waste of time and resources from the PAC engaging with such parties as no improvement to the UNC processes can be achieved.
- The proposals give the PAC unlimited powers to treat any submission to it as a “report” on industry party compliance with the UNC, irrespective of its robustness.

We note there is no effective mechanism for parties to challenge the contents of these reports and it is unclear as to what level of access the affected parties will have to this information though they are expected to have regard for it.

- There appears to be no restrictions as to the information that PAC can request parties or any grounds for the party to contest the provision of this information. We would expect some limits for PAC to request information and for parties to refuse to supply information (in accordance with a civil court standard for example). This proposal gives the PAC greater information gathering powers than the regulator currently enjoys.
- There is no concept of proportionality to the requirements of the PAC to achieve its goal, which could potentially mean extremely expensive actions required by suppliers to achieve modest improvements, so ultimately costing the consumer more.
- Parties who are suspected of breaching UNC rules are not given the right to answer the concerns raised regarding their conduct.
- The concept of publishing anonymised data on shipper performance will not incentivise performance, but it likely to be taken out of context by non-industry parties to the detriment of that party.