

Workstream Report

Notice Period for Credit Limit Downgrade and Remedies for Non-compliance

Modification Reference Number 0025

Version 1.0

This Workstream Report is presented for the UNC Modification Panel's consideration. The consensus of attendees at the Distribution Workstream is that, while views may differ regarding the merits of the Modification Proposal, it is sufficiently developed to proceed to consultation.

1. The Modification Proposal

This Proposal is one of five which seek to implement recommendations identified within Ofgem's conclusion document "Best Practice Guidelines for Gas and Electricity Network Operator Credit Cover" 58/05. This concluded the high-level principles that should be applied and further work required in respect of credit cover arrangements for transportation.

This Proposal seeks to implement elements of recommendations detailed within paragraphs 3.50 to 3.54 of the conclusion document.

Uniform Network Code (UNC) Section S3.1 details the invoice payment terms to which Users are obliged to adhere. UNC Section V3.2.4 makes provision for Transporters to review in accordance with the Code Credit Rules a User's Code Credit Limit. This can only take place if a User's (or User's security provider) published credit rating is downgraded.

Currently, the credit limit reduction can only take effect after a notice period of thirty-days or a lesser period agreed by the User. It is proposed that where such a credit rating is reduced, this be reflected by the Transporter with a minimum notice period of two Business Days or a lesser period agreed by the User

Ofgem's conclusion document "Best Practice Guidelines for Gas and Electricity Network Operator Credit Cover" 58/05 identified that where such a reassessment of a User's credit rating leads to a need for revision, the notice period for additional security should be one day rather than the current 30 days. However, Transco believes that one-day notice period is untenable for both Transporters and Users as this provides insufficient time make the necessary arrangements including any required electronic payments.

It is further proposed that where a User does not comply with any request to provide additional security, the following would apply. The User will be in default (all monies will effectively become overdue and payable):

Number of days after default	Action suggested
Day 0	Due date
Day +1	Interest and administration fee trigger
Day +1	Transporter to issue a formal notice of default as to statement of position and how default is to be remedied
Day +3	Formal User response is required

Day +5

Ability to suspend registration of Supply Points

It is proposed that in all instances, interest and administration fees should be charged, in accordance with the above timetable and in line with the amounts detailed in the Late Payment of Commercial Debts (Interest) Act 1998. This Act permits a creditor to recover compensation as follows:

Size of the late paid debt	Value of Compensation that can be claimed
Up to £999.99	£40
£1,000 to £9,999.99	£70
£10,000 or more	£100

It is proposed that interest be charged in respect of the credit 'shortfall' at a rate equal to the Bank of England base rate plus eight percentage points per annum. This rate is calculated by adding 8 per cent to the reference rate, which is the Bank of England base rate on 30 June and 31 December each year. This rate is applicable for the following six-month periods i.e. 1 July to 31 December and 1 January to 30 June respectively. Transco believes that this would act as an incentive to ensure appropriate credit arrangements are in place.

It is further proposed to utilise any other legal remedy available. It is anticipated that this would prompt a User to take the required action.

2. Extent to which implementation of the proposed modification would better facilitate the relevant objectives

Implementing consistent credit processes which move towards recognised best practice would help ensure that there is no inappropriate discrimination, and no inappropriate barrier to entry, thereby facilitating the securing of effective competition between Relevant Shippers.

3. The implications of implementing the Modification Proposal on security of supply, operation of the Total System and industry fragmentation

No such implications on security of supply or operation of the Total System have been identified. Incorporating the existing Credit Rules within the UNC may help to reduce the prospect of industry fragmentation.

4. The implications for Transporters and each Transporter of implementing the Modification Proposal , including

a) implications for operation of the System:

No implications for operation of the system have been identified.

b) development and capital cost and operating cost implications:

The proposer has suggested that any costs would be minimal.

c) extent to which it is appropriate to recover the costs, and proposal for the most appropriate way to recover the costs:

No cost recovery mechanism is proposed.

- d) **analysis of the consequences (if any) this proposal would have on price regulation:**
No such consequences are anticipated.
5. **The consequence of implementing the Modification Proposal on the level of contractual risk of each Transporter under the Code as modified by the Modification Proposal**
No such consequence is anticipated.
6. **The high level indication of the areas of the UK Link System likely to be affected, together with the development implications and other implications for the UK Link Systems and related computer systems of each Transporter and Users**
No systems impacts are anticipated by either Transporters or Users.
7. **The implications of implementing the Modification Proposal for Users, including administrative and operational costs and level of contractual risk**
The Proposal may increase costs for some Users. It may not be practical for Users to put in place the required security within the minimum timescale proposed.
8. **The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non Code Party**
No such implications have been identified.
9. **Consequences on the legislative and regulatory obligations and contractual relationships of each Transporter and each User and Non Code Party of implementing the Modification Proposal**
No such consequences are anticipated.
10. **Analysis of any advantages or disadvantages of implementation of the Modification Proposal**

Advantages

- Increased alignment of the UNC with best practice as identified in Ofgem's conclusions document
- Ensures credit cover continues to be sought on a non-discriminatory basis
- Ensures there continue to be no inappropriate barriers to entry as a result of credit requirements
- Significant reduction in time available to take required steps following a downgrade (reduced Transporter risk)

Disadvantages

- Significant reduction in time available to take required steps following a downgrade (increased Shipper risk)
- May create inconsistency between the UNC and each set of Credit Rules
- Potentially increases some Users' costs through application of penal interest rate

11. Summary of representations received (to the extent that the import of those representations are not reflected elsewhere in the Modification Report)

The report reflects issues raised at Workstream meetings. No written representations have been received.

The Workstream expressed concern that the proposed two day notice period did not provide sufficient time to take the required steps following a downgrade – the proposal fails to recognise commercial realities. This period should therefore be a minimum and the flexibility of a longer period may be useful. Clarity regarding how days were to be defined was also sought, with the conclusion that this should be business days. In addition questions were raised about the concept of a minimum period and how this was aligned with the table in the proposal, which appeared to be automatic with a fixed timetable rather than the two days being the minimum rather than a requirement.

Some Users' queried why 8% above Base Rate was proposed when this is identified as a maximum in the *Late Payment of Commercial Debts (Interest) Act 1998* when suitable contractual remedies are not available. The present 3% above base rate was suggested as being sufficient, and had not been an issue. The Transporters emphasised that this had not been tested one way or the other with respect to a downgrade.

12. The extent to which the implementation is required to enable each Transporter to facilitate compliance with safety or other legislation

Implementation is not required to enable each Transporter to facilitate compliance with safety or other legislation.

13. The extent to which the implementation is required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the Transporter's Licence

Implementation is not required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the Transporter's Licence.

14. Programme for works required as a consequence of implementing the Modification Proposal

No programme of works would be required as a consequence of implementing the Modification Proposal.

15. Proposed implementation timetable (including timetable for any necessary information systems changes)

Changes would be required in respect of operational processes and procedures were this Modification proposal to be implemented. The Proposer suggests that a lead-time of one calendar month will be required for implementation of the Modification Proposal if so directed.

16. Implications of implementing this Modification Proposal upon existing Code Standards of Service

No implications of implementing this Modification Proposal upon existing Code Standards of Service have been identified.

17. Workstream recommendation regarding implementation of this Modification Proposal

The consensus of attendees at the Distribution Workstream meeting on 23 June 2005 was that implementation of this Modification Proposal may be expected to facilitate achievement of the Relevant Objectives. However, Shipper's felt it would have been more efficient and a better use of resources to see a wider Modification Proposal encompassing Ofgem's recommendations in full and bringing the whole of the existing Credit Rules within the UNC – thereby facilitating the Relevant Objectives further than through implementation of this Modification Proposal.

Attendees believed that, were this Proposal to be implemented, increased facilitation of the Relevant Objectives would be achieved if implementation were coincident with that of Modification Proposals 0023, 0024, and 0026 (and any subsequent related Proposals in this area) which also reflect Ofgem's conclusion document, since this would mean that only one change to the existing Credit Rules would be needed, and any related systems changes associated with the various Proposals could be implemented in a coordinated and efficient manner. This would also apply to Modification Proposal 0027 if the proposed right of set off was elective for Shippers.

18. Text

No legal text has been developed by the Proposer or within the Workstream, either with respect to modifying the Uniform Network Code or each Transporter's Credit Rules.