This document is classified as **White** in accordance with the Panel Information Policy. Information can be shared with the public, and any members may publish the information, subject to copyright.

Paper Reference:	**SECCB_34_1809_01**
Action:	**For Decision**

MP076 Change Board vote

1. Purpose

MP076 'Pursuing Non-Payment in Events of Default' has undergone Modification Report Consultation and is now being presented to the Change Board for vote. The Change Board are invited to recommend whether MP076 should be approved or rejected by the Authority.

This paper provides a high-level summary of the key points. Full details can be found in the Modification Report in Appendix A and the responses received to the Modification Report Consultation in Appendix B.

2. Summary of the proposal

What is the issue?

The wording of SEC Section J2.6 means that the Data Communications Company (DCC) will keep the Panel updated on matters regarding pursuing non-payment as well as allowing the Panel to express their views. Ultimately though, the DCC must decide what they consider to be the best course of action (unless the Panel say it is no longer worthwhile to try and recover the costs). This approach puts the DCC at risk by deciding how to comply with the obligation, and in terms of justifying their approach for the purposes of the price control. This could increase the risk of increased costs to be socialised if action is not swift enough in an Event of Default.

What is the Proposed Solution?

The Proposer seeks to amend Section J2.6(b) to oblige the DCC to undertake all reasonable steps to gain agreement from the Panel for their approach to pursuing non-payment. This would be in addition to the DCC consulting with the Panel under the current arrangements. The DCC could still choose not to take the Panel's advice but would have to show why they did so and that they took all reasonable steps to attempt to gain agreement from the Panel. This will provide clarity for the Panel as well as the DCC in how to manage such scenarios in future. It will also limit the risk of increased socialised costs amongst SEC Parties, by ensuring action is taken swiftly enough to prevent this from happening.

3. Modification Report Consultation responses

Five responses were received to the Modification Report Consultation, from three Large Suppliers and two Network Parties. Four respondents supported approving the modification, supporting the Proposer's rationale under objectives (b[1]), (d[2]) and (g[3]). They also believed that the legal text provides clarity for the Panel and the DCC in pursuing non-payment in Events of Default, reducing the risk of bad debt being recovered.

A respondent who supported approving the modification commented on the implementation approach. They noted that they would prefer that this modification be implemented on 7 November 2019 (November 2019 SEC Release) as opposed to delaying to the 27 February 2020. They felt this modification should be treated as urgent, in light of nine Parties exiting the SEC in the last financial year alone.

One respondent (a Large Supplier) supported rejecting the modification as they believe it has greater potential to weaken the effective resolution of Events of Default, than it does to improve it. They added that the modification produces an additional level of governance which has no ultimate authority and therefore provides no benefit. Taking this into account the respondent believes that this modification is detrimental against SEC Objectives (b) and (g).

4. Next steps

Determination approach

The Panel have determined that MP076 should be submitted for Authority determination. The Change Board's vote will therefore form a recommendation to the Authority, who will make the final decision.

Implementation approach

The Panel have agreed the following implementation approach of:

- **7 November 2019** (November 2019 SEC Release) if a decision to approve is received on or before 24 October 2019; or
- **27 February 2020** (February 2020 SEC Release) if a decision to approve is received after 24 October 2019 but on or before 12 February 2020.

5. Recommendations

The Change Board are requested to:

- **AGREE** that MP076 should proceed to vote;
- **RECOMMEND** to the Authority whether MP076 should be **APPROVED** or **REJECTED**; and
- **PROVIDE** rationale for this recommendation against the General SEC Objectives.

[1] To enable the DCC to comply at all times with the General Objectives of the DCC (as defined in the DCC Licence), and to efficiently discharge the other obligations imposed upon it by the DCC Licence.
[2] To facilitate effective competition between persons engaged in, or in Commercial Activities connected with, the Supply of Energy.
[3] To facilitate the efficient and transparent administration and implementation of this Code.

Joe Hehir

SECAS Team

11 September 2019

Attachments

- **Appendix A:** MP076 Modification Report
  - **Annex A:** MP076 legal text
  - **Annex B:** MP076 Refinement Consultation responses
- **Appendix B:** MP076 Modification Report Consultation responses