



## **DCUSA CHANGE REPORT**

### **DCP 211 and DCP 211 Alternative - Enhance Transparency of DCUSA Change Management**

## 1 PURPOSE

- 1.1 This document is issued in accordance with Clause 11.20 of the DCUSA, and details DCP 211 'Enhance transparency of DCUSA change management' and DCP 211 Alternative Proposal.
- 1.2 The voting process for the proposed variation and the timetable of the progression of the Change Proposal (CP) through the DCUSA Change Control Process is set out in this document.
- 1.3 Parties are invited to consider the proposed legal drafting amendments for DCP 211 (Attachment 1) and DCP 211A (Attachment 2) and submit their votes using the form attached as Attachment 3 to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) no later than **14 September 2015**.

## 2 BACKGROUND

- 2.1 DCP 211 was raised with the intention of increasing the transparency of the DCUSA change process by providing for all minutes, reports, consultation responses, data and other information (except in the cases covered by clause 57.1 "Confidentiality and the Panel") to be publicly available on request and on the Public Pages of the DCUSA website.
- 2.2 The proposer of DCP 211 believes that the purpose of the DCUSA has changed. It is no longer merely a contract covering the administration of commercial relationships between licensed industry parties. Instead, it is also now the governing vehicle for the National Terms of Connection and for commercially important charging methodologies for connections and for use of system, all of which have significant effects on people who are not licence holders or DCUSA Parties.
- 2.3 As a result of this expansion of the scope of the DCUSA, many non-DCUSA parties now require to be involved in, or informed about, DCUSA change processes. These include potential new entrants into the generation, supply or distribution businesses who need to understand the prospective costs and revenues governed by DCUSA, and the future risks associated with DCUSA changes; potential customers and generators seeking new connections where charges are governed by a DCUSA charging methodology; and customers who are on supply contracts where the distribution

charges are passed through (a common form of supply contract). The most practical way of providing the necessary information to these parties (whose plans to enter the market might reasonably be commercial secrets) is to make the information publicly available.

2.4 This Change Proposal is intended to facilitate effective competition in the generation and supply of electricity and promote effective competition in the sale, distribution and purchase of electricity. By making information about DCUSA-governed charges, revenue opportunities and associated risks more readily available, potential new entrants should be better able to identify opportunities to compete and customers and potential customers could take better advantage of competition by being better informed about the operation of the industry.

2.5 Under DCP 211:

- All documents (including past documents without limit of time) related to change management would be available on request, except to the extent prohibited by clause 57.1 or clause 57.3.1.
- Documents created or received after 31 May 2014 that are not protected by clause 57.1 or clause 57.3.1 would be available from the Public Pages of the DCUSA website, with the exclusion of the DCUSA agreement including the Revenue Protection Code of Practice, to which the arrangements introduced by DCP 191 would continue to apply.

2.6 DCP 211A has been raised as an Alternative to DCP 211. It contains all elements of DCP 211 except that:

- Publication on the Public Pages of the DCUSA website would apply from the implementation date of DCP 211A, rather than 31 May 2014; and
- Unlike, DCP 211, under DCP 211A documents can only be requested if they were issued after the implementation date of DCP 211A..

2.7 Additional details on the differences between the two CPs are provided in Section 6 below.

### **3 WORKING GROUP**

- 3.1 The DCUSA Panel established a Working Group to assess DCP 211 and the Group also assessed DCP 211A. The Working Group was comprised of experts from Suppliers, Distributors and other organisations.
- 3.2 Meetings were held in open session and the minutes and papers of each meeting are available on the Password Controlled Pages of the DCUSA website – [www.dcusa.co.uk](http://www.dcusa.co.uk).
- 3.3 The Working Group discussed the CP and developed a consultation document (Attachment 4) to gather information and feedback from market participants.

#### **4 DCP 211 CONSULTATION**

- 4.1 The DCP 211 consultation was issued to DCUSA Parties on 12 September 2014. There were seven responses received to the consultation. The Working Group reviewed the responses to each question and developed the CP solution, taking into account the majority view of respondents and Working Group members.
- 4.2 A summary of the responses received, and the Working Group's conclusions are set out below. The full set of responses and the Working Group's comments are provided in Attachment 4.

##### **Question 1 - Do you understand the intent of the CP?**

- 4.3 The Working Group noted that all consultation respondents understood the intent of the CP, although two noted that they had reservations about the change that were described fully in response to later questions.

##### **Question 2 - Are you supportive of the principles of DCP 211?**

- 4.4 Five respondents to this question answered "yes". One respondent explained that they were supportive of the principles of greater transparency in DCUSA to assist potential new entrants into the industry and new customers; however they have some concerns over the control of publication of confidential information.
- 4.5 Another respondent said that they were supportive of the CP but suggested that due consideration should be given to the fact that DCUSA operates a system of voting on changes where all parties can participate, whereas some other similar bodies have

panel votes only. In addition, the respondent highlighted that Parties' requests to make their responses to consultations confidential should be respected.

- 4.6 The Group noted the respondent's comments. It was observed that should the decision be made to apply the change retrospectively then Parties may not have realised at the point of submitting information that in the future that it would be made more transparent. This could be detrimental for those who have made statements that they did not expect to be published to a wider audience. It could also restrict dialogue and limit discussions going forward if people think that their comments will be published for others to read.

- 4.7 In response, the proposer of DCP 211 highlighted that the competition law dos and don'ts that the Working Group have all agreed to state that Working Group members should not:

*"Share information which is of a type not easily available amongst parties and/or is likely to influence competitive behaviour. As a test, consider whether you would be prepared to publish the information in a newspaper."*

- 4.8 It was also highlighted that Clause 57 of the DCUSA states that in relation to information provided to any Working Group:

*"where the Party wishes such information to remain confidential, it shall clearly mark such information as such. The Panel, its Working Groups and the Secretariat shall ensure that all information so marked is kept secret and confidential, provided that such information shall still be made available to the Authority on the understanding that the Authority shall keep such information confidential"*

- 4.9 The majority of Working Group members noted their concerns that applying the CP retrospectively could expose confidential information that Working Group members never intended to be widely published.

**Question 3 - Do you have any comments on the proposed legal text?**

- 4.10 Four respondents had no comments on the legal text. Three respondents provided comments and based on these comments the Group refined the DCP 211 legal text. The finalised version of the DCP 211 legal text is provided as Attachment 1.

**Question 4a - In respect of publication on the Public Pages of the DCUSA website, the proposal would not apply to contact details or to documents produced before 31 May 2014. Are you supportive of this approach?**

- 4.11 All respondents agreed that contact details should not be publically available.

4.12 Out of the seven respondents to the question:

- Three supported the proposal as made.
- One suggested that there should greater transparency, with publication of all historical documents except where confidential.
- Three suggested that the threshold date should be set to the date of implementation of DCP 211 rather than 31 May 2014.

4.13 The Group noted that it would be a large administrative task to revisit all documents to make sure that nobody had submitted a confidentiality statement in relation to each item prior to publishing them on the Public Pages of the DCUSA website. The proposer explained that there would not be a requirement to publish all documents but only those where there is a request for it to be published. Some members of the Group said that in this case there should also be a retrospective right for those who submitted the information to say if they wish for it to be treated as confidential. The proposer does not accept that clauses 57.1 or 57.3.1 give any right to those who submitted information to be consulted on whether they wished it to be treated as confidential.

4.14 The Working Group considered the rationale for the retrospective application of the CP. In response, the proposer explained that in order to understand the rationale for decisions that have been made it needs to be possible to access the information behind those decisions.

**Question 4b. Documents not designated as confidential by the Panel in accordance with clause 57.1 would be available to the public on request, even if produced before 31 May 2014. Are you supportive of this approach?**

4.15 Three respondents supported this approach and four did not support it. The Working Group noted that those who did not support the approach had concerns that information would have been provided on the understanding that it would not be published widely; and around the volume of information that could potentially be asked for and the administrative burden of checking that this information is not confidential.

4.16 The proposer of DCP 211 highlighted that anyone can access the Password Controlled

Pages of the DCUSA website with a DCUSA Party sponsoring them and gain access to the documentation at present.

- 4.17 Some members of the Group observed that it would be difficult to check the confidentiality of historic documents by checking that those named and referenced in them are happy for them to be openly published, as these individuals may have moved to different roles and may no longer be contactable. The proposer did not accept that it was necessary or appropriate to contact any such individuals, since confidentiality under clauses 57.1 and 57.3.1 only applies where the documents are clearly marked as confidential or determined to be confidential by the Panel.

**Question 5 - Do you believe having this access in the public domain causes any commercial issues or may have unintended consequences?**

- 4.18 Four respondents to this question did not identify any adverse impacts or unintended consequences. One respondent stated that it would be difficult to tell but that they would expect the Panel to sanction those documents and details that would be made available.
- 4.19 Another respondent cautioned that allowing voting records to be made public could have unintended consequences as it could reveal commercial strategies and issues to competitors, and send signals to potential customers that could easily be misinterpreted. In response to the comment, the Working Group observed that most competitors will already have access to the voting records as they are DCUSA Parties and thus have access to the Password Controlled Pages.
- 4.20 One respondent highlighted that all information submitted in the past has been submitted in the knowledge it is only available for use in the development of DCUSA. This may have included information that was not intended for public access. It was the respondent's view that there would be no commercial issues or unintended consequences if the CP is only applied going forward.

**The Working Group considers that DCUSA General Objective 2<sup>1</sup> is better facilitated by DCP 211; do you agree with this opinion?**

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<sup>1</sup> The facilitation of effective competition in the generation and supply of electricity and (so far as is consistent therewith) the promotion of such competition in the sale, distribution and purchase of electricity.

- 4.21 All respondents agreed that the DCUSA Objectives would be better facilitated by the CP, although two respondents specified that this was subject to comments made in response to other questions. The table lists the DCUSA Objectives that they specifically mentioned as being better facilitated.

<b>DCUSA General Objectives</b>	<b>No. Of Respondents that agree it is better facilitated</b>
<b>Objective 1</b>	0
<b>Objective 2</b>	6
<b>Objective 3</b>	0
<b>Objective 4</b>	1
<b>Objective 5</b>	0

- 4.22 The Group observed that the majority of respondents agree that Objective Two is better facilitated and one feels that Objective Four is better facilitated. The group discussed the Objectives and agreed that Objective Two was better facilitated by the proposed change.

**Question 7 - Do you agree with the implementation date of DCP 211?**

- 4.23 No respondents expressed any concerns with regards to the implementation date of the CP.

**Question 8 - Are there any alternative solutions or matters that should be considered by the Working Group?**

- 4.24 Only one respondent provided comments in response to this question. The respondent highlighted that DCUSA response forms currently include a provision for Parties to state whether they are Confidential, Non-confidential, Anonymous or Other. The respondent explained that the DCP 211 legal text needs to cater for these and other confidential submissions not being published. The Working Group considered that the references to confidentiality provisions elsewhere in DCUSA in both the DCP 211 legal text and DCP 211A legal text provide protection against publication by DCUSA of information designated as confidential.

## **5 WORKING GROUP ASSESSMENT OF DCP 211 FOLLOWING INDUSTRY CONSULTATION**

- 5.1 After reviewing the consultation responses, the Working Group discussed the Change Proposal.



- 5.2 The group noted that the DCUSA Competition Law Dos and Don'ts document (Attachment 6) states that Working Group members should not share "information which is of a type not easily available amongst parties and/or is likely to influence competitive behaviour." This supports the view that change process documents should be made available.
- 5.3 It was also noted that the website terms and conditions specify that the information provided shall only be used for "its intended use". The DCP 211 Working Group recommend that this restriction should not apply to the public pages and suggest that the DCUSA Panel review the DCUSA website Terms and Conditions. The Working Group's suggested amendments to the Terms and Conditions are provided as Attachment 7.
- 5.4 The Working Group was split as to whether the publication of DCUSA documents on the public facing DCUSA website should be applied from 31 May 2014 (as suggested by the proposer of DCP 211) or from the date that the CP is implemented, and whether historical documents should be available on request. The Group decided that an Alternative (DCP 211A) should be raised so that Parties have the opportunity to vote on two options.
- 5.5 The DCP 211 legal text is provided as Attachment 1 and the Alternative legal text is provided as Attachment 2.

## 6 DIFFERENCES BETWEEN DCP 211 AND DCP 211A

- 6.1 The following table provides an overview of the changes to the DCUSA made in the DCP 211 and DCP 211A legal text.

Clause	DCP 211	DCP 211A
5.3.10  This clause currently states that a copy of the DCUSA will be provided in return for a reasonable fee	Under both DCP 211 and DCP 211A the provision of a copy of the DCUSA Agreement is moved to a new Clause (5.3.10A)  Clause 5.3.10 is amended to state that the following items will be made available on the website (subject to confidentiality clauses): <ul style="list-style-type: none"> <li>• CPs, Consultations and Change Reports</li> <li>• all the matters, minutes, reports, consultation responses, data and other information related to the change control process</li> </ul>	
New Clause 5.3.10A	The right to request a copy of the DCUSA in return for a reasonable fee is moved to new Clause 5.3.10A.  In addition, this Clause introduces a right	The right to request a copy of the DCUSA in return for a reasonable fee is moved to new Clause 5.3.10A.  In addition, this Clause introduces a right

	<p>to request a hard copy of the following (subject to confidentiality clauses):</p> <ul style="list-style-type: none"> <li>CPs, Consultations and Change Reports</li> <li>all the matters, minutes, reports, consultation responses, data and other information related to the change control process</li> </ul>	<p>to request a hard copy of the following (subject to confidentiality clauses):</p> <ul style="list-style-type: none"> <li>CPs, Consultations and Change Reports</li> <li>all the matters, minutes, reports, consultation responses, data and other information related to the change control process</li> </ul> <p>Unlike, DCP 211, under DCP 211A these documents can only be requested if they were issued after the implementation date of DCP 211A.</p>
<p>Paragraph 3, Schedule 14</p> <p>This Paragraph currently states that the DCUSA Document (excluding the Revenue Protection Code of Practice), a list of Parties and the Change Register should be available on the Public pages.</p> <p>It also states that the full DCUSA document, meeting minutes and contact details should only be available through the password protected pages.</p>	<p>This Paragraph is amended to add the following to the list of items available on the Public pages (subject to confidentiality clauses) :</p> <ul style="list-style-type: none"> <li>CPs, Consultations and Change Reports issued after <u>31 May 2014</u></li> <li>all the matters, minutes, reports, consultation responses, data and other information related to the change control process produced after <u>31 May 2014</u>, excluding Party contact details.</li> </ul> <p>The Paragraph is also amended to remove the list of items that are only to be made accessible on the password protected pages</p>	<p>This Paragraph is amended to add the following to the list of items available on the Public pages (subject to confidentiality clauses) :</p> <ul style="list-style-type: none"> <li>CPs, Consultations and Change Reports issued after the <u>implementation date of the CP</u></li> <li>all the matters, minutes, reports, consultation responses, data and other information related to the change control process produced after the <u>implementation date of the CP</u>, excluding Party contact details.</li> </ul> <p>The Paragraph is also amended to remove the list of items that are only to be made accessible on the password protected pages</p> <p>Publication on the public pages will only apply to documents issued after the implementation date of DCP 211A.</p>
<p>New Paragraph 3A, Schedule 14</p>	<p>This new Paragraph contains the list of items that are only to be made accessible on the password protected pages.</p> <p>This list differs to the current DCUSA list by the addition of the term “that are not accessible through the Public Pages” in relation to the publication of meeting minutes.</p>	

6.2 The following table provides an overview of the differences in impact between DCP 211 and DCP 211A.

Area	DCP 211	DCP 211A
Impact on DCUSA Parties	With regards to DCP 211, consultation respondents expressed concerns that Parties would not have expected that information that they were providing could retrospectively be published to a wider audience. If this had been known, information might not have been provided	DCP 211A will not apply retrospectively, thus this is not a concern under DCP 211A.

	at all; may have been expressed differently; or may have been provided under confidentiality.	
Impact on non-DCUSA Parties	<p>Under DCP 211 those without a website account will be able to access all documents published after 31 May 2014 on the DCUSA website (subject to confidentiality restrictions).</p> <p>They will also be able to request earlier documents (subject to confidentiality restriction) in return for a reasonable fee.</p> <p>As an alternative to paying a fee for earlier documents, it is noted that currently anyone may be granted access to the DCUSA website with sponsorship from a DCUSA Party. In instances where the person does not have a sponsor, a DCUSA Panel member can be asked to act as a sponsor.</p>	<p>Under DCP 211A those without a website account will be able to access on the website all documents published after the implementation date of the CP (subject to confidentiality restrictions).</p> <p>As is currently the case, anyone may join the DCUSA website with sponsorship from a DCUSA Party. In instances where the person does not have a sponsor, a DCUSA Panel member can be asked to act as a sponsor. Therefore, documents published before the implementation date of DCP 211A can be accessed by being granted access to the website (subject to confidentiality restrictions).</p>
Impact on Secretariat	<p>Should DCP 211 be approved, the DCUSA Secretariat will need to revisit all documents published after 31 May 2014 to make sure that nobody had submitted a confidentiality statement in relation to each item prior to publishing them on the Public Pages of the DCUSA website. The cost of this exercise will borne by DCUSA Parties.</p> <p>In addition, this exercise would need to be repeated for each time a request is made for documents published prior to 31 May 2014. This cost of this would be borne by the organisation making the request.</p>	<p>As there is no-retrospective element to DCP 211A, the impact on the secretariat will be minimal.</p>

## 7 ACTIVITIES ASSOCIATED WITH IMPLEMENTING DCP 211

7.1 Should DCP 211 be approved, the following steps will be taken by the DCUSA Secretariat to update the DCUSA website in line with the requirements of DCP 211:

- a) An email will be sent to all DCUSA Contract managers asking if there are any documents on the DCUSA website that have been provided by their organisation that they would like to request be retrospectively made confidential. Justification must be provided for each document as to why it should be confidential.

- b) The DCUSA Panel will be invited to determine if any documents identified in the step above should be made confidential (noting that Clause 57.1 requires the Panel to use reasonable endeavours to keep instances where documents are deemed to be confidential to a minimum). Documents cannot be retrospectively made confidential without Panel approval as DCUSA Clause 57.3.1 makes it clear that where a Party wishes information to remain confidential it must clearly mark it as such on provision to the Panel. No further provision is made for a Party to change its mind as to whether the information is confidential at a later date. Clause 57.1 relates to Panel and states that the Panel may decide to keep information confidential in order to carry out its duties. Under this Clause the Panel can decide to make information confidential at any time whilst carrying out its duties.
- c) With the exception of any documents determined to be confidential in step (b), all “restricted<sup>2</sup>” documents published after 31 May 2014 will be made publically available (approximately 1000 documents). No changes will be made to documents that are currently “confidential<sup>3</sup>”.

7.2 For step (c) it is estimated that this activity will take 1.5 man-days of Secretariat work if all currently restricted documents published after 31 May 2014 are made public. Alternatively, if it is agreed by the Panel that some restricted documents should be made confidential, then this activity will take longer than one man-day as the confidentiality status of these documents will need to be individually amended. The exact timescales will depend on the number of documents involved.

7.3 Note, documents related to the change control process which have been submitted to DCUSA after 31 May 2014 and not flagged as confidential will be published. Items provided before 31 May 2014 will be available on request.

7.4 The Working Group notes that if DCP 211 is approved, it will only be possible to contact current DCUSA Parties. Parties which have left DCUSA will not be contacted and documents submitted by these Parties that were not flagged as confidential at the time will be made available.

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<sup>2</sup> Restricted documents are those that are available to anyone who is logged into the site

<sup>3</sup> Confidential documents can only be viewed by specific persons (e.g. confidential consultation documents can only be viewed by members of the Working Group that issued that consultation).

## 8 ENGAGEMENT WITH THE AUTHORITY

- 8.1 Ofgem was given the opportunity to engage with the development of DCP 211 as an observer of the Working Group.

## 9 IMPACT ON GREENHOUSE GAS EMISSIONS

- 9.1 In accordance with DCUSA clause 11.14.6, the Working Group assessed whether there would be a material impact on greenhouse gas emissions if DCP 211 or DCP 211A were implemented. The Working Group did not identify any material impact on greenhouse gas emissions from the implementation of the Change Proposals.

## 10 DCP 211 and DCP 211A LEGAL DRAFTING

- 10.1 The legal text for DCP 211 is provided as Attachment 1 and the text for DCP 211A is provided as Attachment 2.
- 10.2 The differences between the two sets of legal text are that:
- Under DCP 211A changes to the rules on the publication of items on the Public Pages of the DCUSA website would apply from the implementation date of DCP 211A, rather than 31 May 2014 under DCP 211.
  - Under DCP 211A, only the DCUSA agreement including the Revenue Protection Code of Practice and documents created or received after the implementation date of DCP 211A would be available on request (except where confidential). Under DCP 211, all documents would be available on request (except where confidential).

## 11 EVALUATION AGAINST THE DCUSA OBJECTIVES

- 11.1 The Working Group considers that the following DCUSA Objective is better facilitated by DCP 211 and DCP 211A.

**General Objective Two – ‘The facilitation of effective competition in the generation and supply of electricity and (so far as is consistent therewith) the promotion of such competition in the sale, distribution and purchase of electricity’**

- 11.2 **Working Group view on DCP 211:** The Change Proposal facilitates effective competition in the generation and supply of electricity and promotes effective competition in the sale, distribution and purchase of electricity in two ways:

- (a) It makes information about DCUSA-governed charges, revenue opportunities and associated risks available to potential new entrants, so that they are better able to identify opportunities to compete.
- (b) It makes information about DCUSA-governed charges, revenue opportunities and associated risks available to customers and potential customers, so that they can take better advantage of competition by being better informed about the operation of the industry.

**11.3 Working Group view on DCP 211A:** The change proposal facilitates effective competition in the generation and supply of electricity and promotes effective competition in the sale, distribution and purchase of electricity in two ways:

- (a) It makes information about DCUSA-governed charges, revenue opportunities and associated risks available to potential new entrants, so that they are better able to identify opportunities to compete.
- (b) It makes information about DCUSA-governed charges, revenue opportunities and associated risks available to customers and potential customers, so that they can take better advantage of competition by being better informed about the operation of the industry.

## **12 IMPLEMENTATION**

**12.1** The Working Group agreed to change the implementation date of DCP 211 to 30 Working Days following approval (instead of the faster implementation method proposed in the DCP 211 proposal form). The reason for this is that time will be needed to validate the list of documents published after 31 May 2014 which should be published on the Public Pages. 30 Working Days was selected as a compromise position. Some Working Group members felt that this was an unnecessarily long period and should be shorter, whilst others expressed concerns that this timescale would not provide sufficient time for Parties or the Secretariat to validate the documents and update the DCUSA website in line with the requirements of DCP 211. The Working Group notes that Parties have the option to vote in support of the DCP 211 solution but against the DCP 211 implementation date should they feel that the timescales are not appropriate.

12.2 DCP 211 provides that documents published on or before 31 May 2014 will be available on request but not published on the Public Pages. Validation of the confidentiality status of such documents will be undertaken as and when requests are received.

12.3 For DCP 211A the proposed implementation date is the next release following Authority Approval, as there is not the same need to validate a list of existing documents. Based on the timescales set out in section 13 below, the next DCUSA Release following approval would be on 5 November 2015.

### 13 WORKING GROUP CONCLUSIONS

13.1 The Working Group has discussed the proposed amendment to DCUSA and the Group unanimously agreed that the legal text developed for both DCP 211 and DCP 211A better facilitates the DCUSA Objectives. The Working Group does not have a consensus view as to whether one proposed solution better meets the Objectives over the other. The majority of Working Group members prefer DCP 211A over DCP 211.

13.2 Those Working Group members who prefer DCP 211 note that:

- The DCUSA competition law dos and don'ts issued to DCUSA Working Groups say: *"Do not share information which is of a type not easily available amongst competitors and/or is likely to influence competitive behaviour. As a test, consider whether you would be prepared to publish the information in a newspaper"*. The information that would be made publicly available under DCP 211 is already available to current and future DCUSA Parties and sponsored DCUSA website users. No Party could have had a legitimate expectation of privacy about such information. DCP 211 adopts a pragmatic approach to deliver a reasonable level of transparency in respect of historical documents that are not confidential. DCP 211A would not deliver this level of transparency.
- The cut-off date of 31 May 2014 specified in DCP 211 was in the future at the time the CP was raised. Insofar as DCP 211 requires the Secretariat to undertake potentially significant checking of possible confidentiality breaches in older documents, then the cost of doing so results from the time taken by DCUSA processes to define and assess DCP 211 and DCP 211A. This cost should be borne by

DCUSA Parties, not by people seeking information. DCP 211 would deliver this outcome. DCP 211A would not.

- Under DCP 211, the level of transparency that is eventually achieved will not depend on the timely operation of DCUSA governance processes. Under DCP 211A, the delays that have occurred in the preparation of this change report, and any further delay that might arise from DCUSA processes, would permanently reduce transparency. Some Working Group members who prefer DCP 211 over DCP 211A perceive a risk that DCP 211A is vulnerable to gaming, as someone might permanently reduce transparency by causing delays in the DCUSA governance process. DCP 211 is less vulnerable to this gaming risk.

13.3 Those Working Group members who prefer DCP 211A note that:

- this version of the CP more reasonably reflects the public availability arrangements under which information was provided by Parties prior to the implementation date of the CP;
- the provisions of this version of the CP would take effect from the date of DCUSA version it is first included within, rather than an arbitrary retrospective date (31 May 2014); and
- this version of the CP does not require the Secretariat to undertake potentially significant checking of possible confidentiality breaches in older documents, at the cost of DCUSA Parties rather than the person making the request.

13.4 The Working Group agrees that DCP 211 and its Alternative should be issued for Party voting.

## **14 PANEL RECOMMENDATION**

14.1 The Panel approved this Change Report at its meeting on 19 August 2015. The Panel considered that the Working Group had carried out the level of analysis required to enable Parties to understand the impact of the proposed amendment and to vote on DCP 211 and DCP 211A.

14.2 The timetable for the progression of the Change Proposals is set out below:



Activity	Date
Change Report Agreed	19 August 2015
Change Report issued for voting	21 August 2015
Voting closes	14 September 2015
Change Declaration	16 September 2015
Authority Determination	21 October 2015
Implementation Date	DCP 211: 30 Working Days following approval DCP 211A: Next Release following approval

## 15 NEXT STEPS

15.1 Parties are invited to consider the proposed amendments (Attachment 1 and Attachment 2), together with the Consultation documentation (Attachments 4) and submit their votes using the Voting form (Attachment 3) to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) by **14 September 2015**.

15.2 If you have any questions about this paper or the DCUSA Change Process please contact the DCUSA by email to [dcusa@electralink.co.uk](mailto:dcusa@electralink.co.uk) or telephone 020 7432 2842.

## ATTACHMENTS

- Attachment 1 – DCP 211 Legal Text
- Attachment 2 – DCP 211A Legal Text
- Attachment 3 – Voting Form
- Attachment 4 – DCP 211 Consultation
- Attachment 5 – CP Form
- Attachment 6 – DCUSA Competition Law Dos and Don'ts document
- Attachment 7 – DCUSA Website Terms and Conditions