

DCP 409 Working Group Meeting 04

19 August 2022 at 10:00 - Web-Conference

Attendee	Company
Working Group Members	
Derek Fairbairn [DF]	NPg
Kevin Woollard [KW]	Centrica
Peter Waymont [PW]	UKPN
Richard Ellis [RE]	WPD
Simon Vicary [SV]	EDF
Lois Clacher [LC]	SPEN
Laura Quinn [LQ]	SPEN
Code Administrator	
Andy Green [AG] (Chair)	ElectraLink
George Dawson [GD] (Technical Secretariat)	ElectraLink

1. Administration

- 1.1 The Working Group reviewed the “Competition Law Guidance”. All Working Group members agreed to be bound by the Competition Law Guidance for the duration of the meeting. There were no comments on the minutes of the previous meeting.
- 1.2 Updates on all actions are provided in **Appendix A**.

2. Purpose of the Meeting

- 2.1 The Chair highlighted that the purpose of the meeting was to review the collated consultation responses received from Parties which was sent to members prior to the meeting. The final WG summaries on each question can be found in the amended DCP 409 Collated Consultation Responses V2 document.

3. Review of Consultation Responses

3.1 **Question 1: Do you understand the intent of DCP 409?**

- 3.2 WG noted that all respondents responded that they understood the intent of DCP 409.

3.3 **Question 2: Are you supportive of the principles of the CP?**

- 3.4 WG conclusions: The responses were mixed with approximately a 50/50 split of support by respondents. Concerns were raised related to Supplier of Last Resort (SoLR) payments not being contracted within DCUSA. It was noted that without this change there will be no potential financial savings to the Supplier.

3.5 **Question 3: Suppliers Only - If this change were approved, would it alter your participation in the SoLR process? Please provide your rationale.**

- 3.6 WG conclusions: acknowledged that it could have a benefit on the cost associated with being a SoLR.

3.7 **Question 4: If the SoLR payment came to be taken, what value should be allowed to be offset? e.g. the full balance due to the user, the monthly balance due to the user or another value. Please provide your rationale.**

- 3.8 WG conclusion: Most respondents did not support the full balance being taken and referenced DCP 349 ‘Effectiveness of the current provision of unsecured cover under Schedule 1’. AG took an action to speak to Dylan Townsend and Richard Colwill about DCP 349’s possible interaction with DCP 409.

ACTION 04/01: The Chair to speak to colleagues Richard Colwill and Dylan Townsend about DCP 349’s possible interaction with DCP 409.

3.9 **Question 5: Are there any other DCUSA changes that you are aware of (past, current or future) that this Change could impact? If so, please provide the change numbers and your rationale.**

- 3.10 WG conclusion: A minority of respondents were concerned that this CP would undermine the provisions on DCP 349; see action 01 for solution to this.

3.11 **Question 6: Distributors Only- What proportion of Suppliers are required to provide collateral under the current credit process within Schedule 1? e.g., cash, letter of credit, parent company guarantees.**

3.12 WG conclusion: A Mixture of responses on the volumes and types of collateral from respondents.

3.13 **Question 7: Should the value of the SoLR payment reduce the Value at Risk or be treated as collateral?**

3.14 WG conclusion: 3 members favoured value at risk, 2 members favoured collateral, 1 member didn't state a preference for either. WG discussed whether SoLR could pay off duos payments and agreed to seek legal advice on the matter. AG took an action to speak to the DCUSA Legal Advisor regarding the possibility of using SoLR to pay off any overdue DUOS charges.

ACTION 04/02: Chair to query with the DCUSA Legal Advisor whether SOLR could be used to pay off unpaid DUOS fees?

3.15 **Question 8: What are your views on the provision of the insolvency act and does this influence your answer to Q7? Please provide your rationale.**

3.16 WG conclusion: it was agreed that gaining full legal understanding would be required before Parties are able to fully answer the question.

3.17 **Question 9: If approved, do you believe this should only apply to new SoLR's or would it need to be retrospectively applied? Please provide your rationale.**

3.18 There is no retrospection required in this CP. It should only be incorporated into Value at Risk calculations from the CP release. Had the solution proposed be in practice at the time, then it may have impacted a SoLR bid. Anything which reduces inefficient costs is good. It can disadvantage a consumer too. The impact on supplier involvement in SoLR participation is then small. Those suppliers who are SoLR's and have to provide collateral will be able to better compete as a result of this change.

3.19 WG conclusion: 4 to 2 in favour for New SoLR's. Majority of respondents are in favour of this change only applying to new SoLRs.

3.20 **Question 10: Do you consider that the proposal better facilitates the DCUSA objectives? Please give supporting reasons.**

3.21 Some members think that this change will help bigger suppliers who have entered SOLR rather than smaller suppliers. Some members believe it equally supports DCUSA General Objective 2.

3.22 WG conclusion: There is a 50/50 split in responses. 50% believe that it would better facilitate DCUSA General Objective 2 and 50% didn't believe it supported any DCUSA General Objectives.

3.23 **Question 11: Are you aware of any wider industry developments that may impact upon or be impacted by this CP?**

3.24 WG conclusion: Majority of respondents say no.

3.25 **Question 12: Are you supportive of the proposed implementation date?**

3.26 WG conclusion:

- 3.27 It's likely that the change Would go to February release. 3 yes. 2 no. 1 agree but caveated that it would be moving into the next release (so possibly feb release?) or is it still a yes making it 4 to 2. Majority are supportive of the release date.
- 3.28 Do you have a separate field for what collateral it is? What would the new field be: SoLR.
- 3.29 **Question 13: Do you have any comments on the draft legal text?**
- 3.30 WG conclusion: Majority of respondents (4-2) saying no. WPD refer to value at risk rather than collateral and note the legal text may need to change. NpG note that the text does not cater for the payments in the next month.

4. Legal Text

- 4.1 The Working Group discussed the legal text amendments, and the following items were captured:
- 4.2 AG to ask DCUSA Legal Advisors: "If a SoLR supplier went into administration does the insolvency act allow the offsetting of SoLR payments against any owed DUOS. Can the SoLR payments be treated as collateral in order to pay off unpaid DUOS and what are the consequences of doing so?"
- 4.3 Legal text: add in clause D and valid claims section? Related to the monthly value of payments? D) add in – "value of one month's payments"
- 4.4 WG are happy to leave it as value at risk in the legal text as there is an agreement to seek further advice on value at risk vs collateral.
- 4.5 Give the DCUSA Legal Advisor a week to review the Legal Text.

5. Next Steps & Work Plan

- 5.1 The Working Group discussed the next steps and agreed on a meeting to be arranged at the beginning of September to discuss the any Legal Text amendments suggested by the Legal Advisor and review a skeleton Change Report file.

6. Any Other Business

- 6.1 The Chair asked the group whether there were any other items of business to discuss to which nothing was raised.

7. Date of Next Meeting

- 7.1 The next meeting has been scheduled for Thursday 01 September between 10am to 1pm.

APPENDIX A

New and Open Actions

Action Ref.	Action	Owner	Update
04/01	The Chair to speak to colleagues Richard Colwill and Dylan Townsend about DCP 349's possible interaction with DCP 409.	ElectraLink	New action.
04/02	Chair to Ask DCUSA Legal Advisor whether SOLR could be used to pay off DUOS?	ElectraLink	New action.

Closed Actions

Action Ref.	Action	Owner	Update
02/01	Secretariat to update Section 5 of the consultation document.	ElectraLink	Completed