

FGO – DSC change control ¹

1 Background

- 1.1 This note sets out some proposals and certain options for change control arrangements for the Data Services Contract (DSC).²
- 1.2 It is useful to clarify two preliminary issues on legal structure:
- (a) currently the GTs sit between xoserve and the shippers. Xoserve provides services (as Transporter Agency) to GTs, and the GTs provide services (including UK Link services) to shippers. The ASA defines the relationship between xoserve and Transporters, and TPD Section U defines the relationship between Transporters and shippers, in respect of the same subject matter (ie change to UK Link). Under FGO these two interfaces can become a single interface (CDSP to core customers) in which case it would not be necessary to have both DSC governance and UK Link governance addressed separately;
 - (b) the ASA change control procedures are based on an interface between a single person as Network Operator's Representative and xoserve. The Network Operator's Representative is appointed by unanimous decision of the Transporters (or in the absence of such in accordance with the governance arrangements (by committee) established under the Joint Governance Arrangements Agreement). There is no obvious manner by which this simple approach could be replicated in the context of the future core customer base (ie all shippers, iGTs and GTs) for the DSC.
- 1.3 DSC changes would include:
- (a) changes in relation to services/service specification under the DSC;
 - (b) wider changes to the provisions of the DSC, eg to DSC Terms and Conditions.

This note is concerned with the first of these only. It may be possible to use the some of the same principles to cover all changes however.

- 1.4 The change control arrangements for the DSC broadly need to cover at least the following:
- (a) a classification of change;
 - (b) how changes are proposed;
 - (c) how changes are evaluated, costed, etc;

¹ We (Dentons) have prepared this note on the basis of preliminary thinking/discussions in the context of Modification 0565. We appreciate that work on aspects of change control has been undertaken within the FGO workgroups, all the detail of which has yet to be fully shared with us. Once we have the opportunity to understand the work done to date we can consider how to best take forward all current thinking on change control in the Modification 0565 process.

² There may be other options; though it is not yet clear (to us Dentons) what these might be.

- (d) how the ultimate decision to proceed with a change is made;
- (e) who pays for the change.

2 Principles

- 2.1 The most difficult of these issues is how are decisions made. It will depend on the nature of the services in question.
- 2.2 Under the proposed GTB7, CDSP services are classified as:
 - (a) Agency Services, where the CDSP continues to act as 'Transporters' Agency', contracted to perform or support obligations of the GTs under UNC or licence or other legal requirement;
 - (b) Direct Services, which covers everything which is not an Agency Service. In providing Direct Services the CDPS does not act on behalf of the GTs (or anyone else); it acts as contractor on its own account.
- 2.3 Direct Services in turn can be divided into:
 - (a) services provided or available on a uniform basis to all core customers or core customers of a class. This class includes the services prescribed in the UNC (mainly Sections G, H and M) where CDSP will fulfil functions assigned directly to it in the UNC. It also includes services (not prescribed by the UNC) which may be 'call-off' but are of a uniform specification for all core customers (in this note, referred to as Shared Direct Services);
 - (b) bespoke services which are provided to a particular core customer (in this note, referred to as Bespoke Direct Services).
- 2.4 The basic principles proposed for decision-making are:
 - (a) for Agency Services, the ultimate decision should be made by the GT or GTs who receive and pay for the services, and who will pay for the change;
 - (b) for Shared Direct Services, all Core Customers (or Core Customers of a class or classes) receive and pay for the services, and will pay for change, and some kind of communal decision-making is needed (see below);
 - (c) for Bespoke Direct Services, the ultimate decision should be made by the Core Customer which receives and pays for the service, and who will pay for the change.
- 2.5 In each of the above cases the ability to require change to services/service specification would be subject to certain limitations/requirements in terms of:
 - (a) adverse impact on the delivery of other services to core customers;
 - (b) adverse impact on the interface between the CDSP and other core customers;

- (c) (in the case of services related to the UNC) continuing compliance with the UNC, and (more widely) continuing compliance under licence or other legal requirements.

2.6 It will also be necessary to establish a basis for prioritisation where there are conflicts in the timing of delivery of change or the ability of the CDSP to manage change.³

3 Classification of change

3.1 As noted above, this note is concerned with changes to services rather than wider changes to the DSC itself.

3.2 As outlined above the change process depends on whether the service is an Agency Service, a Shared Direct Service or a Bespoke Direct Service.

3.3 A change to service could be:

- (a) adding or removing a service, or changing the definition of the service, (the 'what'), or
- (b) establishing or changing the basis of delivery of the service (the 'how'), such as service performance levels, supporting systems, level of resource, CDSP processes, etc).

3.4 Where a change is required as a result of a UNC modification, the 'what' is already decided and the DSC change issue is just 'how'. In other cases a change may be a 'what' or a 'how'.

3.5 Some changes would be 'cross-service' – ie affecting several services or areas of service eg a decision to upgrade a system component supporting multiple services.

3.6 A wider change to the DSC would be:

- (a) a change to the DSC Terms and Conditions, proposed to go through a Code Modification process; or⁴
- (b) a change to any of the DSC Service Documents (other than the services description).

3.7 We suggest we address the approach to these wider changes after converging on an approach to change to services/service specifications.

4 How are changes proposed?

4.1 In the case where a change is required as a result of a UNC modification (the 'what'), it is proposed:

³ The basis for prioritisation will require a fair amount of detail to ensure conflicts do not occur; it will also need to identify how prioritisation decisions are taken, e.g. between changes to services of different classes, or regulatory and commercially driven changes.

⁴ The current proposal is the DSC Terms and Conditions will largely comprise legal boilerplate, eg invoice and payment rules, confidentiality and IPR; accordingly change is not expected to be that frequent.

- (a) the CDSP will be responsible for proposing how to implement the change (ie changes to systems, processes, resources, and where applicable performance levels);
- (b) the CDSP may (or perhaps should) provide options where there are material choices in terms of cost, timing, performance level.

This would apply both in the case of Agency Services and Direct Services.

4.2 In the case of changes which are not required by a UNC modification:

- (a) in relation to an Agency Service, the relevant GT(s) may propose a change (a 'what' or a 'how'). The GT(s) will pay the CDSP costs of evaluating and developing the change;
- (b) in relation to a Bespoke Direct Service, the relevant Core Customer may propose a change (a 'what' or a 'how'). That Core Customer will pay the CDSP costs of evaluating and developing the change;
- (c) in relation to a Shared Direct Service (ie where all Core Customers or a class(es) of them would receive the changed service):
 - (i) any Core Customer may propose a change;
 - (ii) some 'communal' approval of the proposal is required for the CDSP to proceed to incur costs in evaluating/developing the change;⁵
 - (iii) CDSP costs of evaluating and developing the change are paid by Core Customers of the relevant class(es) (as per the charging methodology);
- (d) the CDSP should also be able to propose a change to any service. Should there again be a 'communal' approval before the CDSP goes ahead to evaluate and develop?⁶

5 Evaluation and development

- 5.1 When a change is proposed (and where applicable approved for development) there will be a process for the CDSP to assess it, cost it, come up with a timetable, develop the proposal, etc.
- 5.2 This can borrow from / build on ASA schedule 10 (or possibly the UK link modification procedures).
- 5.3 The allocation of the costs of evaluation and development depend on the services subject to the change (see paragraph 4.2 above).⁷

⁵ An obvious consideration here is how to best give small Shippers and iGTs appropriate representation in a 'communal' process.

⁶ This approval would obviously be without prejudice to the subsequent decision on whether or not to proceed with the change (see paragraph 6).

⁷ Issues specific to small Shippers again relevant, eg ability to afford share of evaluation costs.

6 Decision on change

6.1 Legally it will be necessary to have a clear definition of what body takes decisions, and how those decisions are taken, even if decisions in practice prove to be consensual.

6.2 Two possible approaches have been discussed, which we refer to as 'Committee' and 'All-Party'.

6.3 Committee approach

6.3.1 A committee (a UNCC Sub-committee) would be established, with shipper, GT and iGT representatives.⁸

6.3.2 It would be an option to specify that shipper representatives would be nominated based on different classes of shipper.⁹

6.3.3 The committee meetings would be open for attendance by a representative of any core customer. They could speak but would not vote. All proceedings of the committee would be open in this way.

6.3.4 For transparency, changes to both Agency Services and Direct Services would be discussed at the committee.

6.3.5 For changes to Agency Services, only the committee member(s) who are representatives of the relevant GT(s) representatives would vote (ie those representatives of the GT(s) receiving the service).

6.3.6 Where a 'communal' decision is needed (ie a change to a Shared Direct Service) the decision would be taken by all members of the committee. For simplicity, a single approach to voting would apply in all cases. This could be a simple majority of votes, or possibly a majority coupled with a requirement for the positive vote of at least one representative of certain classes (eg shipper, GT, iGT).

6.3.7 For Bespoke Direct Services, potentially a different approach would apply; the individual core customer would take the decision, outside of a committee meeting, but some transparency and scrutiny would be needed to ensure the conditions are satisfied (see next point), and the committee could be involved there.

6.3.8 In the case where a change has impact across several services/service areas (see paragraph 3.5 above), one approach might be that all representatives would vote.

6.3.9 The committee would also review that the checks and balances in paragraph 2.5 above are met for all changes.

6.4 All-party

6.4.1 Each core customer can appoint an individual representative.

⁸ Detail rules will be needed on committee membership, eg manner of appointment, procedures for conducting business and basis for representation of constituencies (rather than appointees).

⁹ Similar considerations to previous footnote.

- 6.4.2 The decision-making body is the body of the individual representatives of all core customers or all core customers of a certain class or classes, or perhaps all the representatives who turn up to a meeting.
- 6.4.3 Decisions are made by votes of the representatives (or representatives of certain classes), or those present at a meeting.
- 6.4.4 For Agency Services, only relevant GT representatives would vote.
- 6.4.5 For Shared Direct Services, all relevant representatives of Core Customers (or of the relevant class(es) of Core Customer) would vote, or possibly all representatives of a class of core customer. Voting would be based on the classification of services.
- 6.4.6 The FGO work done so far on charging suggests that in many cases a service is paid for by allocating the costs of the service across more than one class (eg shippers and DNs), in various proportions, and then with various different cost allocation bases between customers in a given class. It is assumed it would be necessary to replicate in some way this approach to charging, so that (for example) if DNs paid 25% of the cost of a given service they would carry 25% of the votes. Similarly, within a class, voting weights could be based on different measures.
- 6.4.7 For a 'cross-service' change (see paragraph 3.5) the position would be complex as there would be no basis for weighting 'across services'.

6.5 Considerations

- 6.5.1 The Committee approach is intended to be simple and to operate in the same way as all other governance under the UNC (except of course Authority decision-making), ie that the interests of different classes of party to the UNC are represented by committee members nominated to represent them.
- 6.5.2 The All-Party approach is intended to allow every individual party to represent itself and to reflect the relative importance of a given change to different classes and of customers within a class.
- 6.5.3 Dentons' view is that relevant considerations in relation to the two approaches include the following:
- (a) avoiding undue complexity and ensuring change control is workable in practice;
 - (b) ensuring change control can deliver change in an acceptable timeframe;
 - (c) consistency with UNC governance, ie using (or adapting) recognised and established UNC processes where (and if) fit for purpose;
 - (d) inclusivity and legitimacy in practice will depend on all parties' representatives attending (larger shippers and iGTs will have the resource to attend, smaller shippers or iGTs may not be able to afford to); or otherwise all parties' being 'represented';
 - (e) facilitating a consistent degree of representation (and participation) in the change process amongst all parties, in the short, medium and long term; and

- (f) recognising existing ASA change processes are designed for a GT only decision making process and anticipate high levels of consensus.

7 Paying for change

7.1 Paying for change covers:

- (a) paying the costs of evaluating and working up a change proposal to the point at which a decision can be taken;
- (b) paying for development costs – ie implementing the change once the decision is taken;
- (c) paying the on-going costs of the changed service.

7.2 These issues have been discussed above (see paragraphs 2.4 and 4.2 above). Broadly, it seems workable to allocate these costs, in relation to change to a given service, to the parties or class(es) of party who pay for the service.

7.3 The budget and charging methodology would need to include a basis for charging for work on evaluating and costing change proposals (as well as the basis for on-going charging for services).