



# Proposed Code amendments: implementing retailer default

Verbal submission from EMH Trade

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## Issue 1: Type 2 retailers

1. EMH Trade (EMH) consider that there are two issues in the consultation paper:
  - (a) the Authority cannot easily identify type 2 retailers as they have not registered under the Act
  - (b) in the event of a default situation, the Authority must have care when transferring ICPs that may have a type 2 retailer attached to them.
2. EMH consider that it is not necessary to have a retailer field in the registry as the type 2 retailer:
  - (a) should have a contract with the trader that will ensure the type 2 retailer is aware of the default occurring
  - (b) has strong incentive to contact the Authority immediately to ensure its ICPs are transferred appropriately
  - (c) the Authority should be proactively ensuring compliance with the Act and ensuring that type 2 retailers are on the participant's register, rather than amending the Code to accommodate non-compliant parties.
3. With regard to paragraph 2(c), EMH is concerned that the Authority is not ensuring that basic compliance with the Act, and subsequently the Code, is occurring. EMH does believe that, as most type 2 retailers are small to start with, compliance burdens should not be too onerous. However, if some type 2 retailers are not compliant with the Act and Code this may affect all small retailers and bring them into disrepute. Bad publicity due to poor practice by one small retailer will almost certainly affect other small retailers, which in turn may affect retail competition. Effective monitoring by the Authority should help prevent poor practice by participants.

## Issue 2: 'Trader' default rather than 'retailer' default

4. EMH agree with the amendment from 'retailer' to 'trader', although note that for all existing type 2 retailers the cost of compliance with the existing Code should already be sunk

### Issue 3: Information about ICPs at which traders cannot trade

5. EMH consider that, for small traders with a very focussed offering (NSPs/Meter configurations etc), providing information for each NSP or distributor (including embedded network owners) would be overly onerous and require active monitoring of the existence of NSPs that would be unnecessary otherwise. It may become more onerous as more embedded networks are created.
6. EMH would favour the ability to choose whether an inclusion or exclusion table was provided. Traders could then decide which table suited its business at a point in time. Traders would only have the ability to submit either an inclusion or exclusion table, not both.

### Issue 4: Customer information

7. EMH has concerns over the proposal to have:
  - (a) customer information held by the registry in an unopened file
  - (b) customer information held in the registry fields.
8. While EMH agree with the magnitudes in the cost benefit analysis, the cost benefit analysis did not take into account the low economic probability of an event of default occurring *and* that the trader would not release the customer information in such an event of default. EMH also notes that lost revenue should be treated as a wealth transfer, rather than a cost for the purposes of economic cost benefit analysis. EMH does not believe that the decision to hold customer information in the registry can purely be an industry cost (cost and benefit should be considered in the context of the wider economy and include social costs).
9. The Authority does not appear to have considered the ramifications of the proposal in that it would create, for virtually every address in the country, a database containing a valid email address and phone number (which in many cases would be a cellphone), which consumers could not opt out of (vastly different than say, the phone book).
10. EMH has strong concerns about such private customer information being contained in one central repository. Many consumers would not consider this to be a feasible solution and probably do not even know that the Authority is considering implementing such a solution. At the very least, consultation with the wider public should occur.
11. Given the value of such a database, for marketing or more malicious activities, keeping private customer information secure would also present some risks. Although the customer information would only be viewable by the trader with the current responsibility of the ICP at the time, there may be attempts to 'hack' into the secure database. Traders would have no control over the security put in place by the registry and would have to rely on the Authority setting the proper security standards in place. This risk should be considered in the CBA.
12. There may also be an inadvertent release of customer information (such as the ACC issues) which would impact the industry as a whole and damage its reputation.
13. As the probability of an event of default occurring, coupled with the probability that a trader would not release its customer information, is very low, there is not the justification to implement a national database of customer information. There is already sufficient provision in the Code for the trader in default to release customer information.