

Electricity Authority
via email: submissions@ea.govt.nz

3 October 2017

Electricity Authority Review of disclosure regime

Mercury welcomes the opportunity to provide comment on the consultation paper Wholesale Market Information: Review of Disclosure Regime. No part of our submission is confidential. We are pleased with the progress made in reviewing the disclosure regime and support the proposed changes. Our comments on the consultation questions are provided below.

We support the proposed changes to the disclosure regime. We believe the Authority has struck the right balance between being too prescriptive and being too vague. We understand and support adopting the “reasonable person” exclusion in place of “commercial disadvantage” and consider that the definition proposed by the Authority is the most appropriate. Likewise we support amending the timeframe for addressing misleading, deceptive, or incorrect information. We agree that “immediately” is not a practical requirement and that “as soon as reasonably practical” is a more workable requirement.

We support the amendments made to the disclosure guidelines to help participants understand their obligations to disclose. As our market becomes more sophisticated and disclosure obligations are refined and defined with greater precision to take account of this it will be necessary for market participants to review their internal procedures to ensure they understand their obligations and have systems in place to ensure compliance. Updating systems, including introducing more automation and training staff is not without cost but we see this as a necessary part of doing business and the benefits of a more robust and transparent disclosure regime will over time outweigh the costs.

It will be important that the revised guidelines are promoted and that new entrants are reminded to refer to them. We support the Authority allocating resources towards further education and monitoring of how the guidelines are being implemented by market participants. The guidelines should, in our view, be reviewed regularly to ensure they remain fit for purpose.

If you have any questions regarding this submission please contact Nick Wilson nick.wilson@mercury.co.nz 09 5803623.

Yours sincerely



Nick Wilson
Manager Government and Regulatory Affairs



Consultation Questions

Consultation Question	Mercury response
Q1. Do you agree with the issues the Authority has identified?	Yes.
Q2. Do you think the example definition of a “reasonable person” in section 6.9 should be the final definition adopted? If not, how would you define a reasonable person?	Yes.
Q3. Do you agree the Authority should update the guidelines in the way it is proposing?	Yes. The Guidelines will need to be reviewed from time to time to ensure they are still relevant. EA also needs to ensure that market participants know of their existence and refer to them, especially new entrants.
Q4. Can you suggest one or more case studies the Authority could consider using in the guidelines where parties have either disclosed, or not disclosed, information relating to wholesale markets in an effective way?	We consider that the examples collected at the workshop on the proposed guidelines will make helpful inclusions. In addition we would like case studies around counterparty disclosure included.
Q5. Do you agree with the objectives of the proposed Code amendment? If not, why not?	Yes.
Q6. Do you agree the costs of the proposed Code amendment to the exclusions will be minimal? If not, why not?	Yes.
Q7. Do you agree the benefits of the proposed Code amendment outweigh its costs?	Yes.
Q8. Do you agree the proposed Code amendment is preferable to the other options? If you disagree, please explain your preferred option in terms consistent with the Authority’s statutory objective in section 15 of the Act.	Yes.
Q9. Do you agree the proposed Code amendment complies with section 32(1) of the Act?	Yes.
Q10. Do you have any comments on the drafting of the proposed Code amendment?	Mercury agrees with the EA that it is preferable not to incorporate the guidelines into the rules on the basis that including the guidelines in the rules would add too much technical detail and limit the flexibility of the regime and add compliance costs and uncertainty. The guidelines should be for guidance only, it is not possible to cover off every eventuality and to try and do so will result in too much time and effort being expended relative to the benefits.

