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## Improving visibility of competition in the over-the-counter contract market

Thank you for the opportunity to provide feedback on the consultation paper: Improving visibility of competition in the over-the-counter (**OTC**) contract market (**Consultation**) relating to a proposed clause 2.16 notice to expand the OTC hedge market information required to be disclosed.

2degrees welcomes the Electricity Authority's (**Authority**) intention to obtain better information on what is happening in the OTC market and for the purpose of monitoring how well competition is working. 2degrees supports improvements to hedge disclosure and market monitoring.

### Responding to the Authority's OTC Consultation

2degrees has provided responses to the Authority's specific consultation questions in Appendix A to this letter.

### Improving visibility of OTC information will not address underlying issues of market power

As previously raised by 2degrees, 2degrees considers that the issue with the wholesale hedge market is fundamentally a market power problem combined with vertical-integration. The problems have been well traversed most recently in the Risk Management Review and Level Playing Field consultations.

Obtaining better information may help establish a better understanding of the problems in the electricity market – and may complement reforms aimed at addressing the underlying market failure(s) – but, in-of-itself, the Authority's proposals won't fix the market failure or promote competition.

We are concerned statements such as that *"Enabling access to comprehensive, reliable and regular information about what types of contracts are being requested and the responses received to those requests promotes competition for the long-term benefit of consumers"* risk over-stating what enhanced information disclosure can achieve and, consequently, downplays the need for additional reforms aimed at directly addressing the underlying market failure(s).

### Regulation of access to hedge products is needed as well as increased visibility

2degrees considers that the Authority already has sufficient information to confirm lack of liquidity and trading *"is a result of sellers not providing contracts at reasonable prices or not offering contracts at all, or buyers not accepting the pricing"* and to establish further intervention is needed, including regulation of the standardised flexibility (super-peak) product, and adoption of additional shaped or flexibility products.

Information disclosure combined with voluntary arrangements are not adequate for dealing with market power, or the incentives created by vertical-integration, particularly for a market such as the OTC hedge market which is so critical to competition in the electricity market.

## Problems in the hedge market are supply-side not demand-side problems

2degrees is troubled by the Authority's suggestion that *"by collecting data on requests, the Authority will be able to assess whether a lack of trading, if it occurs, is a result of sellers not providing contracts at reasonable prices or not offering contracts at all, or buyers not accepting the pricing."* [emphasis added]

It should be well-established by now, including through the Risk Management Review and Level Playing Field consultations, that the underlying market problem is a supply-side problem (market power combined with vertical-integration) and not a demand-side problem.<sup>1</sup>

We share the Major Electricity Users' Group's concern that gentailers may be using arguments that New Zealand businesses in various sectors are not adequately hedging to obfuscate from the actual problems in the market.<sup>2</sup> By suggesting that the problem exists due to large electricity users or independent retailers purposefully being under-hedged and/or failing to manage the high spot prices creates a false impression that the problem is a demand-side problem.<sup>3</sup>

Statements such as Genesis' claim that *"the issue with some participants is a lack of understanding of the market that they, as purchasers, have elected to take risk in"*<sup>4</sup> and by Hansen in its submission, on behalf of Meridian, that market participants were deliberately adopting *"under-hedging strateg[ies]"*, making deliberate *"risky choices"* and engaging in *"opportunistic behaviour"*<sup>5</sup> fails to consider whether the under-hedging was due to a lack of availability and/or price or as a result of supply-side market power.

## Concluding remarks

2degrees supports the Authority's initiatives to improve information disclosure and market monitoring.

2degrees reiterates the commentary from previous independent retailer submission:<sup>6</sup>

**"Information disclosure does not reduce market power:** Information disclosure is not a substitute for regulating against the (ab)use of significant or substantial market power. **While we support enhanced information disclosure, regulation of access to hedge products is far more important."**

"It is not sufficient to "enhanc[e] transparency through broader information collection and publication on OTC contracts" in order "to increase market confidence and promote competition in, and efficient operation of, the electricity industry for the long-term benefit of consumers". Independent retailers also need access to hedge contracts on a non-discriminatory basis in order to compete on a level-playing field." [footnote removed]

It is importantly to recognise that, at best, disclosure and monitoring can reduce information asymmetries but not market power. Regulation is needed to address issues of market power and, potential and/or actual, abuses of market power. Improved disclosure requirements should be seen as a complement to interventions such as regulation of the standardised flexibility (super-peak) product, and adoption of additional shaped or flexibility products.

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<sup>1</sup> See, for example, Electric Kiwi, Flick Electric, Pulse Energy, and Vocus (the independent retailers), MDAG has highlighted well the importance of addressing competition problems to enable efficient operation of the wholesale electricity market and successful transition to 100% renewables, 11 March 2022. This includes a discussion that "The problems in the contract market stem from vertical-integration of incumbent suppliers with market power".

<sup>2</sup> MEUG, Hedging in the electricity market – Promoting a robust electricity market a large user perspective, May 2025.

<sup>3</sup> Ecotricity, Electric Kiwi, energyclubnz, Flick Electric, Pulse Energy and Vocus (the independent retailers), Hedge Market development: ensuring market-making arrangements are fit-for-purpose, 11 June 2020.

<sup>4</sup> Genesis, Improving market performance and transparency, 9 December 2019.

<sup>5</sup> [https://www.ea.govt.nz/documents/6744/Meridian\\_submission\\_appendix\\_Hansen\\_report\\_-\\_Omnibus\\_5\\_March\\_2025\\_redacted\\_updated.pdf](https://www.ea.govt.nz/documents/6744/Meridian_submission_appendix_Hansen_report_-_Omnibus_5_March_2025_redacted_updated.pdf)

<sup>6</sup> 2degrees, Electric Kiwi, Flick Electric and Pulse Energy (the independent retailers), The independent retailers support improvements to hedge disclosure and market monitoring, 7 February 2024.

Appendix A – Responses to the specified questions from the Consultation

	Question	2degrees' response
1	Do you agree with the Authority's proposed approach of collecting data on OTC bids and offers, including those resulting in trades?	Yes. 2degrees supports improvements to hedge disclosure and market monitoring.
3	Do you agree with the Authority's proposed approach of not collecting information from non-integrated generators through this clause 2.16 notice? Do you have any thoughts on alternative ways of collecting information on non-integrated generators requests and responses to those requests?	2degrees does not think non-integrated generators or PPAs should be excluded in the information request as full disclosure of the OTC market is necessary to properly illustrate the market dynamics. Independent generators also provide OTC hedges.
4	Do you have feedback on our approach regarding collection of information on PPAs?	2degrees does not support the proposed approach and consider the Authority should collect of information on PPAs.
7	Do you agree with the Authority's preference to restrict the data collection to written requests and requests made through brokers but to exclude text messages and phone calls? Improving visibility of competition in the over-the-counter contract market: clause 2.16 information notice 35 Questions	All OTC contracts should be confirmed in writing and as such 2degrees does not see why written confirmations of requests made via text or phone call should be excluded.
8	Do you agree with the Authority's proposed data collection from retailers and large industrials for requests larger than 0.1MW?	2degrees proposes that the requests should be limited to those larger than 1MW as reasonable baseline to balance compliance costs with the benefits of effective monitoring.
9	Do you agree with the Authority's proposed approach to restrict the data collection to include only buy requests?	We do not agree with the Authority's proposed approach to restrict data collection to include only buy requests. The Authority should collect data from the sell side as well. This provides important information around potential arbitrage as well as measuring market power via the difference between the price parties are buying and selling. The cost to add sell side contracts is minimal
10	Do you agree with our suggestion to collect information on the initial bids and final offers only? Or should we include a field to capture the number of negotiation steps?	Yes. 2degrees considers it only necessary to obtain information on the initial and final offers.
11	Do you agree with the Authority's proposal to require quarterly provision of information?	2degrees considers quarterly information requests as a reasonable frequency. However we note that while obtaining better information may help establish a better understanding of the problems in the electricity market – and may complement reforms aimed at addressing the underlying market failure(s) – information requests and monitoring, in-of-itself, will not fix the market failure or necessarily promote competition.
14	Do you agree with the Authority's proposal to publish aggregated information provided by the selected participants, and do you have any comments on how to best maintain confidentiality while providing as much transparency as possible?	2degrees supports the publishing of aggregated information.
15	Pursuant to clause 2.21 do you consider that any of the information we propose to collect is confidential? If so, please explain	2degrees considers the OTC information confidential as between the counterparties.

	how it is confidential in line with clause 2.21.	
16	Do you agree the benefits of the proposed clause 2.16 notice outweigh its costs? If not, what area(s) of the Authority's preliminary assessment of Improving visibility of competition in the over-the-counter contract market: clause 2.16 information notice 36 Questions Comments benefits and costs do you disagree with?	2degrees agrees the benefits of the proposed clause 2.16 outweigh its costs.
18	Should the Authority consider further work to monitor competition in the industry?	Effective monitoring and oversight of trading conduct, market performance and emerging security risks are critical for ensuring the electricity market is operating effectively. We recommend an independent review of the Electricity Authority's monitoring and oversight capabilities and powers against comparable jurisdictions to evaluate sufficiency and completeness.