

Via email: info.ea.govt.nz/sl/c497b9

26 May 2025

Improving visibility of competition in the over-the-counter market clause 2.16 information notice consultation paper

Mercury welcomes the opportunity to comment on the Authority's proposals for improving visibility of competition in the over the counter (OTC) market. We support the Authority building on current market-based initiatives by introducing further measures designed to boost the existing hedge market to solve issues around access to shaped hedge products. Ensuring best practice trading conduct and improving both transparency and liquidity of the hedge market will ensure all market participants have access to competitively priced risk management contracts to manage their risks if they so choose. This will support competition and investment in both the wholesale and retail markets.

The approach proposed by the Authority is broadly consistent with its findings of the Risk Management Review (RMR) where it concluded there may be competition risks in relation to pricing of OTC super peak products. The approach is also consistent with MDAG's recommendation that the Authority monitor OTC market performance in the context of effectively managing the energy transition as increasing intermittent generation exacerbates spot market price volatility.

In our submissions to the RMR and on the level playing field proposals we advocated for the Authority to use the Hedge Market Disclosure Obligations (HDO) to monitor and publish information about flexible contracts trading and undertake regular reviews to assess performance of the arrangements and consider deepening these obligations. We support better understanding of how this market works so any potential future intervention is targeted and proportionate. We see the current initiative as a step in the right direction. In the past the Authority has used the Standardised Flexibility Product Co-design Group, to advise it and design a super peak product. Mercury considers it would be beneficial to either reconvene this group or establish a standing technical expert group that can provide independent advice on hedge market issues including product development and information disclosure requirements.

It will be important to ensure the data collection balances costs with benefits and that the proposals are workable. We support using the information gathered to enhance the competition dashboard so that it includes meaningful metrics to help measure how competition is working in a specified market and agree that it will be important that data is anonymised and aggregated to protect commercially sensitive information. We also support expanding the scope of the information collection beyond the large gentailers to incorporate major electricity users and smaller contracts along with the initial bid and final offer. We consider the Authority has got the balance right in terms of level of granularity. We have provided more detail in our response to the consultation questions in appendix A below.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sharron Came', with a stylized flourish at the end.

Sharron Came
Regulatory Strategist



Appendix A Consultation Questions

| Consultation Question | Mercury Response |
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| Q1. Do you agree with the Authority's proposed approach of collecting data on OTC bids and offers, including those resulting in trades? | In principle yes but we recommend the Authority take a pragmatic approach focusing on what works with a view to keeping compliance costs to a minimum. In this respect seeking advice from independent experts with hedge market knowledge may be helpful. |
| Q2. Do you agree with the Authority's proposed approach of collecting information from large industrials through this clause 2.16 notice? | Yes. |
| Q3. 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? | Yes noting the notice will need to include clear definitions so market participants can determine whether the notice applies to them. |
| Q4. Do you have feedback on our approach regarding collection of information on PPAs? | Agree leave consideration for the PPA workstream. |
| Q5. Do you agree with the Authority's proposed approach of collecting data from all retailers, thus including small, micro, and community retailers? | Yes see response to Q1. |
| Q6. Do you agree with the Authority's proposed approach to collect data on requests made through energy brokers? | Yes. |
| Q7. 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? | Yes. |
| Q8. Do you agree with the Authority's proposed data collection from retailers and large industrials for requests larger than 0.1MW? | Yes. |
| Q9. Do you agree with the Authority's proposed approach to restrict the data collection to include only buy requests? | Yes. |
| Q10. 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 definitions for 'bids' and 'final offers' will be important for clarity and consistency. |



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| Q11. Do you agree with the Authority's proposal to require quarterly provision of information? | Yes. |
| Q12. Do you have any comments on the changes to the proposed data fields and/or the proposed file structures? | We have no specific comments but recommend the Authority obtain expert advice on how to streamline the process of data collection to ensure the process runs as smoothly and efficiently as possible. For example a portal arrangement may be more efficient than something CSV driven. There are likely to be learnings from the current processes which are manual. |
| Q13. Do you have any comments on the proposal to require participants to provide information that might be classified as confidential? | No so long as it is anonymised and aggregated. We note, however, that the Authority suggests the information is "highly likely" to be confidential – Mercury notes that the information referred to, including trading strategies, are most certainly confidential information. |
| Q14. 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? | Yes but it is important to maintain confidentiality so the identity of individuals data cannot be identified from the aggregate data, including by reverse engineering. Refer to our response to Q1, getting advice from independent experts could help with design. |
| Q15. Pursuant to clause 2.21 do you consider that any of the information we propose to collect is confidential? If so, please explain how it is confidential in line with clause 2.21 | Yes. All of the information is commercially sensitive, at a field level but also because of the inferences that might be drawn from the information. |
| Q16. 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 benefits and costs do you disagree with? | Yes. |
| Q17. Do you agree the proposed clause 2.16 notice is preferable to the other options? If you disagree, please explain your preferred option with reference to the Authority's statutory objective in section 15 of Act. | Yes. |
| Q18. Should the Authority consider further work to monitor competition in the industry? | We are generally supportive of consideration of further work to monitor competition in the industry in the event empirical evidence proves an issue, but have a strong preference for measures to be tested with an independent expert group, followed by consultation with industry participants and robust cost and benefit analysis to ensure compliance costs are kept to a minimum. |



Q19. Do you have any comments on the proposed data collection or about the notice in general?

Mercury's preference is for the Authority to work with market participants to find ways to identify the data it needs to most effectively monitor the OTC market. A collaborative approach will help ensure the right type of data is collected in the most appropriate way for ensuring compliance costs are kept as low as possible while maximising the utility of any monitoring effort.

