

Electricity Authority

Via email: infoframework@ea.govt.nz

24 August 2021

Consultation Paper – Improving the framework for the Authority’s information gathering

Mercury welcomes the opportunity to provide feedback on the Authority’s consultation paper Improving the framework for the Authority’s information gathering. We agree that it is appropriate for the Authority to proactively consider whether its information gathering powers remain fit for purpose, particularly in relation to its monitoring function. As noted, the electricity sector continues to evolve, particularly on the retail side. We are already experiencing rapid technological change and innovations in the way customers are served. On the wholesale side, decarbonisation is a government priority and the electricity sector has a key role to play investing in renewable electricity generation to help achieve this.

Mercury has always been responsive to information requests from the Authority regardless of their source – requirements of the Electricity Industry Act 2010 (Act), regulations, the Electricity Industry Participation Code (Code) or voluntary requests. We will continue to treat such requests as important and make every effort to comply promptly and in full.

We agree with the Authority’s assessment that the Authority does not currently require the same level of information about electricity traded in the retail market as it does in the wholesale market. Information relating to consumer choices and preferences, consumer engagement with the electricity products and services offered to them and outcomes provided to consumers by current market settings could all be the subject of future requests in order to effectively monitor the retail market. We agree that some of this information may need to be provided on a regular basis and there is likely to be efficiency gains in requiring the information to be provided in a standard format. Information is collected in this manner currently. However, the Authority could request this information using the existing avenues open to it. In particular, section 46 of the Act provides the Authority with the power to request the information it needs.

We agree with the Authority that there may be benefit in consulting with industry participants ahead of issuing information requests and the suggested draft notice process may be a good way of doing this. Such consultation would allow for collaboration between the regulator and industry participants over the most efficient method and format for providing information and the most relevant or pertinent information. Such collaboration is likely to involve transaction and compliance costs but lead to better outcomes for everyone. No method of information gathering is going to be cost free. We see no reason why a notice based collaborative approach could not be implemented under the current regime. The Authority notes that using section 46 is reactive in nature leaving little time to engage with industry participants. However, if the Authority plans in advance the type of information it would like to collect for specific monitoring purpose, there is no need to adopt a reactive approach. For example, if the Authority wants to collect information about consumer choices and preferences on a regular, say quarterly or monthly basis, it makes sense to discuss this with industry participants to work out the information requirements before making the formal request.

We are not convinced that section 46 does not easily lend itself to the use of standardised data formats and data transfer protocols. If the Authority used the notice process as a precursor the system should work well. We note also that section 46 provides market participants with protections such as legal professional privilege (section 48), that the proposed Code amendment proposal would not.



On balance, Mercury is of the view that the status quo with the addition of the practice of consulting on notices specifying new information the Authority wishes to collect followed by a section 46 or other regulatory or Code based request would have greater benefits and less cost than introducing a new system and meet the Authority's statutory objective under section 15 of the Act.

Yours sincerely



Sharron Came
Regulatory Strategist



Appendix One Consultation Questions

Question	Mercury Response
1. Do you agree the issue identified by the Authority is worthy of attention?	Yes. Mercury welcomes the Authority's proactive review of its information gathering powers.
2. Do you agree with the objective of the proposed amendment? If not, why not?	Yes. The objective of engaging with industry participants over the collection of ongoing information to be satisfied that the benefits outweigh the costs is important. We don't believe that a Code amendment is necessary for efficiency reasons. The Authority could consult over information requests before issuing them under the existing framework.
3. Do you agree the benefits of the proposed amendment outweigh its costs?	No. On balance Mercury considers consulting with industry participants then using the existing information gathering powers would provide a better cost and benefit ratio. The proposed change has the added cost of removing statutory protections from information providers while the same benefits can be achieved by consulting ahead of making formal information requests.
4. Do you agree the proposed 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 Electricity Industry Act 2010.	No. Mercury considers that the status quo with the addition of consultation over the nature and form of information requests is more likely to assist with the promotion of competition, reliable supply and efficient operation of the electricity industry for the long term benefit of consumers.
5. Do you agree the Authority's proposed amendment complies with section 32(1) of the Act?	Yes.

