



18 May 2021

Tom Georg
Manager Wholesale Markets
Electricity Authority

By e-mail: wholesaleconsultation@ea.govt.nz

Dear Tom,

Electric Kiwi supports wholesale-retail transfer price and segmented profitability disclosure

Electric Kiwi supports introduction of requirements for incumbent vertically-integrated suppliers to disclose wholesale-retail transfer prices (including methodologies for determining prices) and segmented financial accounts (including cost, margin and profitability measures) for both wholesale and retail.

Segmented financial reporting is important for the Authority's market monitoring function. There is a direct link between the level and strength of competition, whether incumbent profits are excessive and whether prices are inefficiently high. The Authority's, otherwise excellent, EMI website provides information on the extent of concentration and vertical-integration in the electricity market,¹ but one of the things missing is information on how this manifests itself in electricity prices.

Segmented financial information would help improve transparency and identify the extent to which high levels of market concentration result in excessive (wholesale and/or retail) returns and inefficient and inflated electricity prices.² While the consultation paper does not mention the role segmented financial reporting can play in identifying evidence of excessive profits it was a principal reason for the Government's EPR decision on segmented financial reporting. The Authority's proposal to limit segmented financial disclosure to gross retail margins only partially implements the Government's EPR reforms.

We also think it would be useful for the Authority to monitor the wholesale and hedging pricing available to incumbent retailers through self-supply versus the pricing available to independent and new entrant retailers. The extent to which they differ, or overlap, will help provide better information, versus the current benchmark methodology used in the Figure 2 analysis, on the extent to which there is a 'level playing field' or not.

We support and are a signatory to the joint independent retailers' submission.

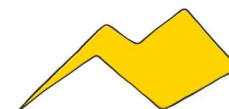
Summary of Electric Kiwi's views

- **Market power coupled with vertical-integration is the primary driver of competition concerns.** The European Union has observed "Where [a supplier] has significant market power on a specific market, it may also be deemed to have significant market power on a closely related market, where the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening the market power of the [supplier]".³
- **Improved transparency needed to identify problems in the market:** We agree with the EPR that "More accurate disclosure of transfer prices will enable a much clearer assessment of the extent of any competition problems, triggering further action if justified". The Authority made similar comment in its Market Monitoring Competition Paper: "Improved access to quality information on competition in the electricity market gives both the Authority and wider industry participants a basis upon which to identify the need for Code amendments".

¹ Last year, the Authority undertook to make changes to the EMI website to include market concentration statistics for the wholesale electricity market, but these changes have not been introduced yet.

² As noted in response to comments from Meridian at the 28 April, it can be the case that retail prices are excessive but the margin between wholesale costs and retail prices results in a price squeeze e.g. where the vertical-supplier is recouping its monopoly profits out of its wholesale business.

³ Article 14(3) of Directive 2002/21/EC: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32002L0021>.



- **Wholesale and retail profitability disclosure could help reveal if there are problems with the level of competition**, complementary to measures such as HHI and Concentration Ratios, by providing information on how close market outcomes are to the outcomes that would be expected in workably competitive markets. The process of rivalry in workably competitive markets should ensure gains from improved efficiency and reduced costs are shared with consumers and limit extraction of excessive profits. There is no reliable way for the Authority to provide surety this is happening without segmented financial reporting and disclosure of the incumbent vertically-integrated suppliers' respective wholesale and retail profitability.
- It is common practice for competition agencies and industry regulators to look at profitability to draw insights about the level of competition in a market and whether outcomes are consistent with the outcomes that would be expected in workably competitive markets.
- We agree with Trustpower, Vector and others that having a robust transfer price is key to measuring retail performance

Having a robust transfer price is key to measuring retail performance

Trustpower's methodology

- Establish a monthly base rate based primarily on ASX pricing (1/3 based 3 years ago, 1/3 2 years ago, 1/3 1 year ago).
- Adjust for location factors and load shape relative to pricing peaks (peaking factor).
- Adjust for the annual volume option premium provided by the internal trading division and an allowance for transaction costs.
- Establish a fixed volume for each month and location. If actual volume varies then Retail needs to buy/sell at spot prices.

Industry practice

- Steps 1 & 2 seem to be fairly consistent with market practice for setting transfer prices however steps 3 & 4 seem unique to Trustpower. Others appear to use variable volume, load following hedges with no premium above ASX.

	FY19 \$000	FY20 \$000	FY21 \$000
Reported Retail EBITDAF	64,481	35,343	46,983
Volume settled at spot	(5,632)	112	(3,782)
Option premium/transaction costs	4,529	5,951	6,211
Retail EBITDAF if hedge volume is variable and no risk premium	63,378	41,406	49,412



- **The more granular the vertically-integrated supplier profitability disclosures the more likely it is to be useful in identifying competition issues:** We agree with the Authority "geographical reporting could improve the understanding of competitive behaviours in regional markets". In order to understand whether the incumbent electricity retailers are extracting persistent supranormal profits, contrary to the outcomes expected in workably competitive markets, it would be useful to have information at a regionalised level, so that interrelationship between market concentration metrics across New Zealand and profits/retail margins can be tested e.g. Trustpower's retail profitability in Tauranga (highest HHI in NZ) versus Rotorua (lowest HHI in NZ), and Meridian's profitability in Waitaki where it has 53.9% market share versus Nelson where it has a market share of 20.3%.
- Consistent with the Authority's EMI website, the information should be provided on an aggregated and network reporting region basis.
- **Stronger regulation needed if light-handed regulation fails:** We agree with the EPR's suggestion of a review using the new disclosed information to consider whether operational separation should be introduced if wholesale competition isn't adequately strengthened. We similarly support that "The Authority intends to monitor ITP disclosures and will consider any implications this raises for the competitive operation of the sector. If this monitoring were to identify a misuse of a market power by large generator-retailers when pricing and supplying electricity to internal or independent parties, the Authority would consider appropriate penalties and policy responses".



Elements of the consultation material which warrant further consideration

There are a number of elements of the consultation material which we consider could lead to unsafe conclusions about the appropriate policy reforms and what would be to the long-term benefit of consumers:

- **The Authority proposals don't fully implement the Government EPR reforms:** The Government decisions on the EPR were clear: the Minister of Energy noted "The Review recommended the Electricity Authority require vertically integrated companies to report separately on the financial performance of their retail and generation operations using a common set of rules" and "I will inform the Electricity Authority that the Government places a high priority on this and other recommendations that will provide greater assurance the wholesale electricity market is performing well".⁴ The joint independent retailer submission suggests this be resolved by adopting a two stage implementation, with the current proposals or variation thereof implemented in the first stage along with enhanced market monitoring.

The consultation paper uses a requirement that profitability disclosure is "low cost to implement" to rule out full implementation of the Government's EPR reforms, but the TPM decision illustrates that "low cost" is not a principle the Authority universally applies.

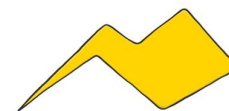
- **Error by omission:** The consultation paper makes no mention that the principle reason for the Government EPR for segmented financial disclosure was "ongoing questions about whether integrated generator-retailers are making excessive profits risks undermining confidence in the electricity market".⁵ Building "trust and confidence" requires that the disclosure regime is able to help identify problems, including evidence of excessive returns which would signal that there could be problems with the strength of competition and inefficient pricing.
- **The EA continually saying there isn't a problem won't make the problems in the market go away or build trust and confidence, quite the opposite:** A large part of the consultation paper is directed at trying to prove there isn't a problem and to justify current incumbent practices. There is a lengthy discussion around Figure 2, and defence of discriminatory FPVW arrangements, despite the statement that "The efficiency of wholesale pricing and hedge markets are outside the scope of this investigation".
- **Would an independent retailer be able to (profitably) compete if they entered the market now? Ditto an existing independent retailer looking to expand their customer base?** No prudent and efficient independent or new entrant retailer could obtain the wholesale electricity price of \$81 Meridian's wholesale business provides to its Meridian and Powershop brands,⁶ or the \$85.97 transfer payment from Genesis' wholesale business to its retail brand.⁷
- In order to test whether independent or new entrant retailers can compete on a level playing field, or whether there are price squeezes, what matters is comparing the wholesale input price the vertical-suppliers use for retail pricing purposes to what prices third party retailers could reasonably access. The Authority has not done this type of testing so does not have a reasonable or sound basis for its perception that vertical-integration is not a problem, or to answer the question "is there a level playing field".
- A vertical-supplier's ITP could be zero (a point the Authority made at footnote 9) but this wouldn't tell us anything beyond that its retail profits are inflated/wholesale profits are suppressed. The limitations of the Authority's approach to its Figure 2 analysis are made clear by the Authority itself but not reflected in its conclusions: "In this context an ITP is primarily an accounting concept for allocating costs across two business units and has limited application in commercial decision making, such as pricing new business", "ITPs are not used by integrated-retailers to price new retail customers or to drive retail strategy within a

⁴ In the joint independent retailer submission we suggest this issue be dealt with by implementing the disclosure reforms in two stages: initially ITP and retail gross margin disclosure, and then full financial segmentation of wholesale and retail.

⁵ Electricity Price Review: Government Response to Final Report, 3 October 2019.

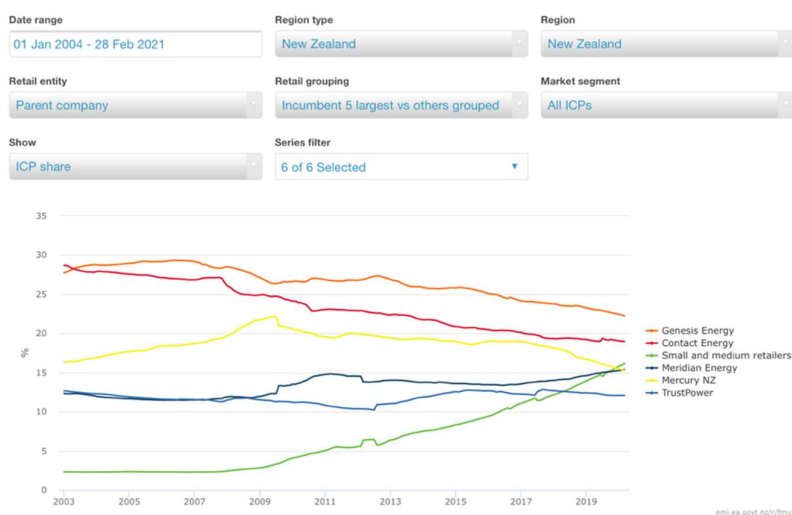
⁶ <https://www.meridianenergy.co.nz/assets/Investors/Reports-and-presentations/Shareholder-meetings/2020/Meridian-Energy-Integrated-Report-for-year-ended-30-June-2020-v2.pdf>

⁷ [https://gesakentico.blob.core.windows.net/sitecontent/genesis/media/new-library-\(dec-2017\)/about_us/investor/pdfs/fy21/genesis-energy-annual-report-2020.pdf](https://gesakentico.blob.core.windows.net/sitecontent/genesis/media/new-library-(dec-2017)/about_us/investor/pdfs/fy21/genesis-energy-annual-report-2020.pdf)



period”, and “The Authority was advised by generator-retailers that they do not rely heavily on the ITP in a period to price new retail customers”.⁸

- A better approach would be to assess the ITPs used as part of the Business Planning process prior to the commencement of the financial year. Currently vertical-suppliers will have a Business Plan transfer price for 2020/21⁹ and are about to set the transfer price for 2021/22 which will be part of the consideration for retail prices in the coming period. Consequently, requiring vertical-suppliers to disclose ITPs proactively rather than retrospectively will not only improve timeliness of the assessment but will also enable improved transparency regarding the wholesale cost used to set pricing strategy.
- To the extent that there is any link between the “accounting” ITPs, as disclosed, and retail price setting, it would explain why Meridian has been the only incumbent retailer that is growing its market share is driven by its market power/and its retail brand Powershop has been able to recently reach 100,000 customers.



- **The financial disclosure requirements should only apply to vertically-integrated suppliers that have significant or substantial market power:** Contact, Genesis, Mercury, Meridian and Trustpower. The Authority should simply follow the approach in clause 13.236K (market making) of the Electricity Industry Participation Code and list the market participants the requirements will apply to.
- **The internal transfer payment (ITP) proposals could, in the future, capture vertically-integrated suppliers with no significant or substantial market power:** We do not consider a 5% market share is a reasonable threshold between large/small or whether a supplier has significant or substantial market power. Nor do we consider that if a generator or retailer grew its market share organically to 5% or above it would somehow gain market power.

As the Authority notes “small integrated players do not raise competition concerns”. Vertical-integration isn’t an issue where the supplier does not have market power.

- **The gross margin reporting proposals would capture retailers with no market power:** We see no reason why a retailer with about 20,000 customers should be subject to profit or gross margin reporting requirements. It is unclear from the consultation material what problem or market failure this would help solve. The EPR was clear these requirements should apply to “vertically integrated companies” and the

⁸ Similarly, the Authority has noted “the ITP for a vertically integrated entity is little more than an internal means of accounting for the allocation of profits and risks between two internal groups. As a consequence, changing an ITP methodology in a vertically integrated retailer does not create financial risks or value for the aggregate business. Nor would it be expected to lead to significant changes in decision making about the terms offered to new customers” and “Hypothetically, if a generator-retailer chose to set its ITP at zero it would not result in the group pricing retail customers on the assumption that electricity had no cost. The entity would still look to maximise group profits, which would not be achieved by the retail group acting as if electricity had no cost”.

⁹ We understand that Figure 2 in the Consultation is mislabelled and only shows ITPs up to 2019/2020



Authority should apply “a minimum size threshold before reporting is required” to reduce compliance costs.

- **Enabling like-with-like profit/margin comparisons:** The \$20MWh spread in ITPs amongst the incumbent vertically-integrated suppliers¹⁰ highlights that if the Authority does not require a standardised method for determine the ITP used for financial segmentation/gross margin disclosure the reported disclosures will not provide comparable figures.
- **We are not sure of the relevance of Q12 unless the Authority is going to regulate hedge product prices:** It should be a function of the consultation to establish a set of disclosure requirements which will help identify whether ITPs used for pricing purposes appropriately reflect the cost of electricity, and don't result in price squeezes, not to form judgements about whether current arrangements are “fair” or not. The question would be more relevant if the Authority was proposing to regulate the price of hedge products to third party retailers and was determining the methodology for doing so.
- **Similarly, we are not sure of the relevance of Q13:** Both questions 12 and 13 appear to conflict with the Authority statement “The efficiency of wholesale pricing and hedge markets are outside the scope of this investigation”. The same applies to the lengthy justification for the incumbent vertically-integrated suppliers providing their own retail businesses with FPVV but discriminating against third parties and independent retailers by not offering the same arrangements.
- **Questions about compliance with the Code:** We are unsure about the inference that “Growing retailers may not be prepared to adhere to disclosure standards that were agreed in their absence”. The Authority is proposing mandatory ITP/gross margin reporting so there would be no discretion about whether retailers comply with them or not. Most of the Electricity Industry Participation Code was established before “growing retailers” came into existence e.g. the Customer Compensation Scheme.

Building the foundations for the Authority's strategic ambition of “thriving competition”

The Authority's near-term work programme for promoting competition is understandably, and principally, focussed on implementation of the Government's EPR reforms.

The EPR reforms (in particular, hedge market reform, restrictions on saves and winbacks, improved wholesale information disclosure and wholesale-retail segmented financial reporting) are important for strengthening the level of competition in the retail market **and** helping to identify problems.

The Authority's strategic focus and priorities should evolve from implementation of the EPR reforms to establishing its own, independent, work programme for identifying remaining barriers to competition and the further evolution of the competitiveness of the electricity market.

While the EPR reforms were principally conventional and sound there were noticeable gaps and limitations to the EPR reporting. The EPR was, for example, disadvantaged by the restricted timetable for the review, and absence of the information gathering powers the Commerce Commission and Electricity Authority have for undertaking market investigations or studies.

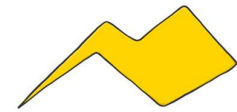
A notable gap in the EPR reforms is that they are exclusively oriented towards promotion of retail competition and don't offer a way forward to promote stronger competition in the wholesale electricity market or to address the current entrenched, oligopolistic structure. At present, there is little in the Authority work programme that would promote competition in the wholesale electricity market.¹¹ This is particularly regrettable as limitations in the wholesale electricity market spill over into the retail market.

Absent wholesale competition issues being addressed the sector will inevitably continue the cyclical pattern (every 9 or 10 years) of the Government instigating electricity industry reviews and reforms.

We look forward to seeing action on the Authority's strategy framework action point to “Identify and remove inefficient barriers to new entrants entering and competing with established participants, especially in the

¹⁰ Electricity Authority, Internal transfer prices and segmented profitability reporting Consultation paper, 8 April 2021, Figure 2.

¹¹ The battery reforms are welcome and could help in the margins.



wholesale market”.¹² What is needed isn’t just results from surveys of “Participant perception of ability for new entrants to compete with incumbents”, but evidence of actual increase entry, reduced market concentration and market outcomes that are closer to those that would be expected in workably competitive markets.

Segmented financial reporting and disclosure could be helpful for assessing the level of competition, and problem area hotspots.

It is useful to draw on the High Court Part 4 Input Methodologies Merit Appeal decision

MDAG usefully drew on the High Court Part 4 Input Methodologies Merit Appeal decision’s definition of workable competition when it reviewed the High Standard of Trading Conduct (HSOTC) rules. It could be useful for the Authority to do the same as part of its consideration of wholesale-retail segmentation. The Authority has been clear it “puts a premium on workable competition and ensuring that underlying or structural market conditions are conducive to competitive outcomes over the longer term” and “The focus on facilitating and encouraging sets a threshold for competition which is workable”.¹³

The High Court usefully articulated the outcomes that can be expected from a workably competitive market, with an emphasis on expectations about profitability. It is clear from the Merit Appeal decision that information on market segment profitability is needed to help establish whether, or the extent to which, markets are delivering workably competitive outcomes, and whether there are problems in the market (potential barriers to competition) which need to be remedied. This information can complement other competition measures such as HHI and Concentration Ratios.

For example, the High Court Merit Appeal decision noted:¹⁴

A workably competitive market is one that provides outcomes that are reasonably close to those found in strongly competitive markets. Such outcomes are summarised in economic terminology by the term “economic efficiency” with its familiar components: technical efficiency, allocative efficiency and dynamic efficiency. Closely associated with the idea of efficiency is the condition that prices reflect efficient costs (including the cost of capital, and thus a reasonable level of profit).

...

In our view, what matters is that workably competitive markets have a tendency towards generating certain outcomes. These outcomes include the earning by firms of normal rates of return, and the existence of prices that reflect such normal rates of return, after covering the firms’ efficient costs.

The Authority’s Market Monitoring Framework and Commerce Commission market investigations highlight the importance of monitoring profits/excess returns

There are strong parallels between the Authority’s Market Monitoring Framework and the Commerce Commission investigations into the petrol industry and (pending) the grocery market. This isn’t surprising. The Authority has been clear about the overlap between the Commerce Commission and its own interests in relation to competition in the framework paper. Broadly speaking, the Commerce Commission investigations represent a practical application of the “structure-conduct-performance” approach detailed in the Market Monitoring Paper.

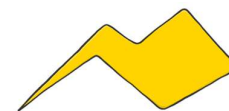
The core premise of the Authority and Commerce Commission views on market monitoring is reflected by the Authority commentary that: “Prices should reflect costs. If they are persistently higher, this suggests suppliers have market power”. The Commerce Commission similarly commented: “where levels of profitability are persistently above a normal return this suggests that current competition and the threat of entry by others are not effective in maintaining sufficient rivalry between incumbent firms to push prices close to efficient costs”. These are variations on the High Court commentary that “In a workably competitive market no firm has significant market power and consequently prices are not too much or for too long significantly above costs” and “The process of rivalry ... limits the ability to extract excessive profits”.

Both the Authority Market Monitoring Framework and Commerce Commission market investigations recognise there isn’t a single ‘silver bullet’ profitability statistic that can or should be relied on to assess the level of

¹² Electricity Authority, Strategy development, Final strategy framework, Feedback paper, 7 July 2020.

¹³ Electricity Authority, Industry and market monitoring: Competition, Information paper, 31 August 2011.

¹⁴ WELLINGTON INTERNATIONAL AIRPORT LTD & ORS v COMMERCE COMMISSION [2013] NZHC [11 December 2013].



competitiveness in a market and it can be useful to apply various different performance measures. The Authority's Market Monitoring Framework recognises "no single indicator – or set of indicators – will provide definitive information on the competitiveness of the electricity market in New Zealand".¹⁵

The introduction of full wholesale-retail segmentation requirements (not just gross margin or retail gross margin disclosure requirements) would usefully provide a suite of cost/margin/profitability information that could inform the Authority on progress towards promoting competition and the extent to which further work/reform is needed.

Approaches taken by other competition agencies focus on profitability

The Commerce Commission has noted "Competition agencies can look at profitability to draw insights about the level of competition in a market. For example, the OECD's Roundtable on Market Studies Methodologies for Competition Agencies notes that profitability and cost passthrough analyses can be helpful tools to address consumer concerns ..."^{16,17}

The Commerce Commission has also noted and drawn on other precedent from international regulatory agencies. For example, the Commission noted the UK Competition Commission's guidelines for market investigations state that:¹⁸

Firms in a competitive market would generally earn no more than a 'normal' rate of profit—the minimum level of profits required to keep the factors of production in their current use in the long run, i.e. the rate of return on capital employed for a particular business activity would be equal to the opportunity cost of capital for that activity.

Similarly also, the Commerce Commission has noted the UK Competition and Markets Authority considers that:¹⁹

The purpose of conducting profitability analysis, therefore, is to understand whether the levels of profitability (and therefore prices) achieved by the firms in the reference markets are consistent with levels we might expect in a competitive market. If excess profits have been sustained over a relatively long time period, this could indicate limitations in the competitive process.

Questions about the current incumbent segmented profitability reporting

The Government EPR financial segmentation included that there should be standardised rules. We agree. The current incumbent segmented profitability reporting raises as many questions as they answer.

It is notable that during the Authority's saves and winbacks review, Mercury dismissed the Electricity Authority EMI calculation that the level of the loyalty tax was \$360m in 2017, on the basis the five incumbent retailers' retail EBITDAF in FY2017 was circa \$400m:²⁰

Mercury's comments were particularly notable given that, at the time Mercury made these statements it and other incumbent retailers provided billing data to the Expert Advisory Panel undertaking the EPR which demonstrated the EMI data substantially UNDERSTATES the level of the loyalty tax.

¹⁵ There are, for example, profitability measures such as Tobin Q which are not referred to in the framework paper.

The Commerce Commission has noted "Tobin's q can be used as a measure of profitability and of market power. Put simply, Tobin's q is the ratio between an asset's market value and the cost of replacing it". Source: Commerce Commission, Market study into the retail fuel sector, Final report, 5 December 2019.

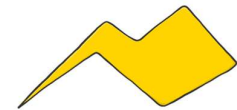
¹⁶ Commerce Commission, Market study into the retail fuel sector, Final report, 5 December 2019.

¹⁷ OECD "Executive Summary of the Roundtable on Methodologies for Conducting Market Studies" (2017) Working Party No. 3 on Co-operation and Enforcement at 4. Dr Helen Jenkins, makes the same point – see Jenkins "Analytical techniques for market studies" (20 June 2017) at 3.

¹⁸ Competition Commission "CC3: Guidelines for market investigations: their role, procedures, assessment and remedies" (April 2013) at [116], adopted by the UK Competition and Markets Authority.

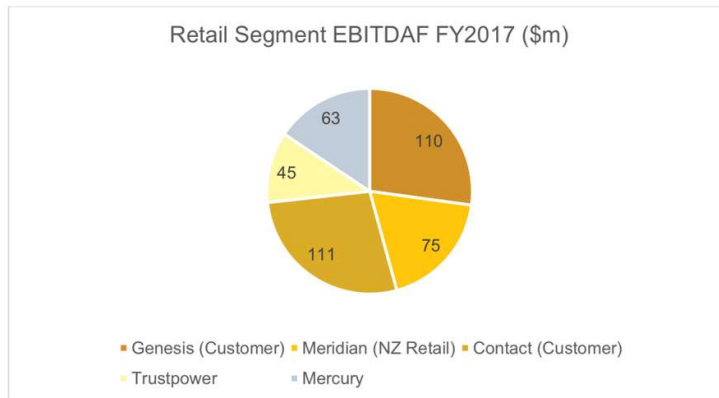
¹⁹ Competition and Markets Authority "Energy Market Investigation, Approach to Financial and profitability analysis" (8 December 2014) at [8].

²⁰ Mercury, Customer Acquisition, Saves and Win-backs – Cross Submission, 14 August 2018.



Some of the claims made in cross submissions as to apparent consumer detriment appear to Mercury to not be capable of standing up to scrutiny. Mercury is surprised that Entrust for example would claim that incumbent retailers are somehow overcharging consumers by up to \$360m p.a. This claim appears to be based off a media report from Electric Kiwi. A number of other submitters appear to make these claims in a similar range.

Based on publicly available data from the annual reports on the five largest retailers in the market the combined retail segment earnings from these entities in FY2017 was circa \$400m.



This raises a number of issues including the extent to which current segmented profitability information can be relied on (does it understate retail profitability?) and/or if the incumbent retail profitability was \$400m and residential loyalty taxes were \$360m or above, are non-residential and non-sticky residential customers being supplied by the incumbents at losses? The answers to these questions have significant policy implementations either way but require disclosure of robust-standardised segmented profitability information, as well as information on potential residential savings/locality taxes.

The type of monitoring the Authority should consider

The Authority's Market Monitoring Framework provides a good starting point for the type of information that it would be useful to monitor, including not in relation to retail and wholesale financial performance/profitability. The joint independent retailer submission also provides details of the type of monitoring and reporting the Authority could undertake.

While there are problems with the Figure 2 analysis contained in the consultation paper, we think it would be useful for the Authority to monitor the wholesale and hedging pricing available to incumbent retailers through self-supply versus the pricing available to independent and new entrant retailers. The extent to which they differ or overlap will help provide better information on the extent to which there is a 'level playing field' or not.

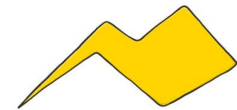
Also, while the Authority's analysis was backwards-looking, retail price setting is done on a forward-looking basis. Any prudent business will have an established view of the wholesale prices for the up coming year and have a pricing strategy that reflect this view embedded in their Business Plan. As such, The Authority's analysis can be done in real time or ahead of time e.g. the Figure 2 analysis could be extended to include 2020/21 and 2021/22.²¹

Concluding remarks

The Authority is correct; the size of integrated retailers is a problem for competition²² and we are hopeful that by identifying this issue The Authority is intending to take action to create a more level playing field. However, it is wrong to conclude that vertical integration is not a problem. These factors are implicitly linked, and it is these two factors together – vertical integration and size of integrated retailers - that act as a barrier to competition. As a retailer whose growth is hampered by the current structure of the electricity industry, we are well aware of the drivers for competition and the fact we are not on a level playing field with large retailers that are vertically-integrated.

²¹ Figure 2 incorrectly states that it includes 2020/21.

²² Page 4 of the consultation "it is largely the size of integrated retailers, rather than their vertical integration per se, that is the primary driver of any competition or confidence concerns" (small integrated players do not raise competition concerns)"



A combination of substantial market power/concentration in the wholesale electricity market and vertical-integration is placing a handbrake on retail competition, which largely explains the slow growth of independent retailers over the last decade. This has real customer impact as without strong competition there isn't sufficient downwards pressure on prices or incentives to innovate.

Disclosure of ITPs coupled with incumbent supplier wholesale and retail profitability reporting would help shed light on concerns about the impact of vertical-integration and whether competition is working in the way it should to curb electricity prices and profits. The Authority's Market Monitoring Framework details that "An internationally-accepted way of examining a sector's competitiveness is to use the 'Structure-Conduct-Performance' (SCP) framework" which "provides the starting point for the Authority's monitoring framework". The Market Monitoring Framework – including the focus on cost, margin and profitability – aligns with the approach the Commerce Commission and other international competition agencies take to investigating and evaluating the competitiveness and performance of markets.

At present, the Authority has good information available on structure (with information on HHI, Concentration Ratios, vertical-integration available on EMI), but substantive gaps in relation to conduct and performance. A robust reporting structure to assess pricing and profitability through the disclosure of internal transfer prices and segment profitability of the vertically integrated retailers is a good place to start.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'L. Blincoe', located below the 'Yours sincerely,' text.

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