

Appendix E Format for submissions

Submitter	SEANZ (Gareth Williams, Manager Innovation Pathways)
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Questions	Comments
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Problem definition — competition concerns from Gentailer vertical integration

Q1. What are the benefits of vertical integration between generation and retail? Do you have any evidence to better specify and quantify these benefits? In particular, we are interested in benefits that would be realised by New Zealand's electricity consumers.	There is potential that vertical integration allows some level of risk balancing between generation cost and retail cost, buffering consumers from high wholesale market costs.
Q2. Do you agree with our description of the competition concerns that can arise from the combination of Gentailer vertical integration and market power? Why/why not? Do you have any evidence to better specify and quantify the competition risks of vertical integration?	<p>Yes. Currently Gentailers have significant advantage over non generating retailers since the hedges available to the retail arms of Gentailers are not available to all retailers.</p> <p>The ability for all retailers to develop consumer products on an equal basis is key to enabling innovation and providing consumer choice.</p> <p>We have seen non gentailer retailers unable to acquire new customers (in fact sometimes actively using price increases to dissuade consumers from remaining) due to lack of viable hedges.</p>
Q3. To what extent does vertical integration of smaller gentailers, such as Nova and Pulse, raise competition concerns? Should these smaller gentailers be subject to any proposed Level Playing Field measures?	The application of the level playing field measures will have most impact if applied to the large Gentailers. There should be a clear definition for the criteria and rationale for determining who is included and who isn't included. (i.e. at what point does a retailer with generation capacity cross the threshold to be included as they grow)
Q4. Are there other specific areas (other than access to hedges) where Gentailer market power and vertical integration are causing competition concerns?	No view

Q5. Do you agree with our preliminary view that the evidence indicates there may be good reasons to introduce a proportionate Level Playing Field measure to address the competition risks in relation to hedging/firming? Why/why not?	Yes agree
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Level Playing Field options we have identified

Q6. Have we focused on the right Level Playing Field options? Are there other options that we should add or remove to the list in paragraph 4.1?	Yes agree that these are the right options
Q7. Are there any other important factors we should consider when identifying options (see paragraphs 4.2 to 4.5)?	No
Q8. Are there other key features, pros or cons we should consider in our description of the four Level Playing Field options?	No

Our assessment of Level Playing Field options

Q9. Have we identified the right criteria for assessing Level Playing Field options (Figure 6)? Is there anything we should add or remove?	Yes – the criteria seem reasonable
Q10. Do you agree with our application of the assessment criteria (Table 5)? Are changes needed to the colour coding or reasoning?	Yes – this assessment seems reasonable
Q11. Are there any other material benefits or risks that should be considered (but are currently not) in our assessment of options?	No

Q12. Do you agree with our selection of non-discrimination obligations as our preferred Level Playing Field measure? Why/why not?

This seems a reasonable first step. This needs to be accompanied by formal review steps and timeframes post implementation to validate that the intended benefits are being achieved. Clear definition of success metrics need to be established as part of the implementation (i.e. it should be transparent upfront how it will be determined whether an escalation in measures will be undertaken). It is acknowledged that this issue has been raised and answered previously but we submit that having suitable success metrics defined is critical.

Roadmap for implementing non-discrimination obligations

Q13. What are your views on our proposed roadmap for the implementation of non-discrimination obligations?

Firm timeframes for reviews and if required escalations should be set.

Q14. Which products should any non-discrimination obligations apply to? Should all hedge contracts be captured, or should the rules be focused on super-peak hedges only? Are there are other interactions between Gentailers and their competitors which would benefit from non-discrimination rules?

All hedge contracts should be included since this will maximise competition

<p>Q15. Do you have any feedback on the indicative draft non-discrimination principles (and guidance) set out in Appendix B? Without limiting your feedback, we would be particularly interested in your views on the following questions:</p> <p>a. Have we got the level of detail/prescription right? For example, do you consider that the principles and guidance will lead to economically meaningful Gentailer ITPs being put in place? What would be the costs and benefits of instead applying a more prescriptive ITP methodology?</p> <p>b. How far should the allowance in the principles for different treatment where there is a “cost-based, objectively justifiable reason” extend? Do you agree with the guidance that this allowance should not be extended to volume (at paragraph 13 of Appendix B)?</p>	<p>Happy with the principals defined</p>
<p>Q16. Do you agree that escalation options are needed if principles-based non-discrimination obligations are implemented initially? Why/why not?</p>	<p>To provide sufficient incentive for Gentailers to adopt the principles described there needs to be escalation options in place. These escalation steps should be automatically triggered (without further consultation) by the EA. As previously the criteria that will be used to determine escalation should be clearly laid out.</p>
<p>Q17. Are prescribed non-discrimination requirements and mandatory trading of Gentailer hedges via a common platform suitable escalations given the liquidity, competitive pricing and even-handedness outcomes we are seeking? Why/why not? What alternatives would you suggest (if any)?</p>	<p>Yes, these would seem to be suitable escalations</p>
<p>Q18. What costs and benefits are likely to be involved in setting more prescriptive regulatory accounting rules which detail how ITPs should be calculated? What would be appropriate triggers for introducing more prescriptive requirements for ITPs?</p>	<p>The measures described should be sufficient without the need to set prescriptive ITP calculation methods. More prescriptive methods may be needed if ITP's are seeming to be set high relative to market prices.</p>

<p>Q19. Do you have any views on how the non-discrimination requirements should best be implemented to ensure that Gentailers are no longer able to allocate uncontracted hedge volumes to their own retail function in preference to third parties? What are the key issues and trade-offs?</p>	<p>No view</p>
<p>Q20. Do you have any views on the triggers for implementing the stronger regulation proposed in our roadmap?</p>	<p>No view</p>
<p>Our current thinking on virtual disaggregation</p>	
<p>Q21. Does our proposed approach to implementing non-discrimination obligations (as set out in the roadmap in Figure 7) sufficiently address the underlying issue that originally led to MDAG recommending virtual disaggregation?</p>	<p>Until the measures have been implemented it is difficult to be certain of the effectiveness.</p>
<p>Q22. Do you have any views on whether virtual disaggregation provides a useful response to the competition risks we have identified (relative to the proposed roadmap) and, if it does, how it should be best applied?</p>	<p>Virtual disaggregation provides a useful backstop option if other actions are ineffective.</p>