Improving visibility of competition in the over-the-counter contract market: clause 2.16 information notice

User:

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Summary of information submitted

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Submission

Introduction (optional)

Meridian supports competitive markets that deliver benefits to consumer in the long term. We are open to increased transparency of bids and offers in the over-the-counter hedge market provided the benefits of that transparency exceed the cost of information provision.

Q1. Do you agree with the Authority's proposed approach of collecting data on OTC bids and offers, including those resulting in trades?

We understand the Authority's reasons for the proposed approach. Meridian supports transparency where the likely benefits to consumers outweigh the associated costs to collect and report information. The scope of the notice should be tightly defined to minimise implementation costs.

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. We do not have thoughts on alternatives at this stage.

Q4. Do you have feedback on our approach regarding collection of information on PPAs?

Not at this time.

Q5. Do you agree with the Authority's proposed approach of collecting data from all retailers, thus including small, micro, and community retailers?

Yes.

We also note that such retailers may struggle to transact in the OTC market due to the requirements of the Financial Markets Conduct Act (FMCA). Electricity hedge contracts constitute derivatives for the purposes of the FMCA.

Many small, micro, and community retailers will not meet any of the categories of eligible "wholesale investor" for the purposes of the FMCA and therefore will be unable to transact derivatives in the OTC market. This may be something for the Electricity Authority to explore further with the Financial Markets Authority.

Meridian complying with its FMCA obligations should not be mistaken for refusal to trade

and the disclosure regime should include a field to indicate when there was no ability to respond to a request because the requestor was not an eligible wholesale investor.

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. However, the notice should set out precisely what is in scope. Requests made via text message or messaging apps are written requests and it is not clear from the draft notice what the Authority expects to be in and out of scope. Many interactions with brokers in particular are via messaging apps.

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.

In Meridian's opinion, the system should include an ability for counterparties to review any reported information that relates to themselves. This would improve data quality, mitigate the risk of misreporting, and resolve any disputes regarding the accuracy of data reported. This is how the hedge disclosure obligations currently operate (see clauses 13.227 to 13.229 of the Code).

This quality assurance is particularly important where the fields allow for subjectivity in explaining and interpreting responses received.

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?

We understand why only collecting initial bids and final offers is expedient.

Meridian sees limited value in a field to capture negotiation steps or a voluntary free-text field to capture other details of the negotiation. A voluntary free text field would provide limited insights and would likely be seldom used. When it is used, the information would be highly subjective, and it is not clear how the Authority could use or report on such

information in any meaningful way.

Negotiations regarding OTC transactions can be highly complex and evolve over time such that agreements reached have little resemblance to the initial bid or request. This is particularly the case for OTC negotiations between generator-retailers for bespoke products including swaps, options, and swaptions.

Meridian does not see any simple way for the Authority to collect information about the richness of such negotiations without imposing a considerable burden on the parties required to report the information.

Meridian also considers it unlikely that this is the sort of information the Authority is primarily interested in. The consultation paper makes clear that it is primarily concerned with availability and pricing when industrials and retailers are seeking to buy OTC contracts from generator-retailers.

In Meridian's opinion, information reported on complex negotiations between generator-retailers will be relatively meaningless and does not relate to any competition or other concern. The data would also not be relevant to forming a view of what hedge prices are available for standard types of hedges that a retailer might use for managing spot price risks. There are therefore no benefits commensurate with the costs that reporting would impose. Rather than consider how to capture such complex negotiations between generator-retailers in the information reported, it would be simpler and less onerous for the Authority to simply exclude such negotiations from the scope of the notice.

Q11. Do you agree with the Authority's proposal to require quarterly provision of information?

This seems reasonable.

Q12. Do you have any comments on the changes to the proposed data fields and/or the proposed file structures?

In addition to a free-text decline_reason field, Meridian recommends tick boxes or a drop-down menu for some of the more common reasons. This would enable more efficient data entry and help to remove any subjectivity in the reporting of reasons. Tick box decline reasons could include insufficient credit, no signed ISDA master agreement, and not an eligible wholesale investor under the FMCA.

The notice needs to provide clarity regarding what constitutes an initial request and a final response. For example, whether the intention is to only capture bids and offers that are capable of acceptance or to also capture indications.

The draft notice states that it applies to "large industrials (industrials who are participants under section 7 of the Act)". In Meridian's opinion this should more precisely limit the scope to participants that are registered as "a person who consumes electricity that is conveyed to the person directly from the national grid" and/or "a person who buys electricity from the clearing manager". Some large industrials may not be registered under the above

categories but may be registered as a trader in electricity – it is not clear to Meridian if these persons are intended to be captured by the notice.

The notice should clearly state the expectations for reporting of information in situations where a request and responses to a request straddle the end of a quarter. For example, the Authority could specify that the reporting obligation applies to complete negotiations, i.e. the reporting quarter is the quarter in which the due date for responses falls and/or all negotiations have been concluded. This would avoid splitting reporting across quarters.

The notice also needs to be clear on what fields are mandatory and which may or may not need to be completed depending on the circumstances (for example if there are no responses to a request are the response fields in Tables 3 to 6 still mandatory?). The notice will create a compliance obligation on participants so it should be as specific as possible to remove ambiguity and subjectivity and enable participants to easily understand and comply with the obligations.

Q13. Do you have any comments on the proposal to require participants to provide information that might be classified as confidential?

The issue is not with the provision of confidential information. The issue is how the Authority intends to publish the information received. The consultation paper lacks clarity in this respect, and it is therefore difficult to comment on whether publication would lead to commercial prejudice. In principle, anonymisation and aggregation will mitigate risks of commercial prejudice. However, it may not always be clear to the Authority what information would enable identification of parties and reveal commercially sensitive information. Leaving publication to the Authority's discretion does not give participants confidence regarding the treatment of commercially sensitive information. Meridian would prefer that publication obligations were set out in the Code in the same way as for the existing hedge disclosure obligations.

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?

Meridian considers anonymisation and aggregation by grid zone to be reasonable for each type of contract.

We consider it likely that the Authority has generally underestimated the difficulty in publication of any meaningful information. Given the details of negotiations cannot be easily captured, information about raw bids and offers is unlikely to reveal any useful insights and may at times mislead.

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 the information proposed to be collected is confidential due to its commercial sensitivity. To the extent bid and offer information can be attributed to Meridian, publication of that information would unreasonably prejudice Meridian's ability to engage in commercial negotiations with counterparties in future.

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?

Meridian is not satisfied that "the benefits of the Authority obtaining the information outweigh the costs of the information requirements set out in the proposed notice".

The Authority must focus on the benefits of the data collection per se. The Authority should not assume any benefits of further interventions in future informed by the data collection, which are purely hypothetical and may or may not occur. Any cost-benefit analysis on this proposal will therefore likely set the possibility of benefits against definite costs.

The costs that will be imposed on participants as a result of this notice are direct and measurable. They will increase the cost of doing business and could be expected to ultimately flow through to consumers.

By contract, the provision of information to the Authority in and of itself does not provide any benefits to consumers. Benefits only result to the extent that the Authority identifies positive actions that it may take based on the information provided to promote competition, efficiency, and reliability for the long-term benefit of consumers. This is one step removed from the provision of information and there is no guarantee the Authority will identify any such actions. For example, reporting of information to the Authority will not enhance market competition.

Publication of information (distinct from the clause 2.16 notice) may help participants to make more informed hedging decisions but only if the information published is of use to participants. Meridian is not convinced that is the case, since information about transactions is already available and it is more informative as a source of index prices for various products.

Supporting the Task Force's initiatives is not a benefit. The consultation paper refers specifically to the development of the standardized super peak product and transactions on the now operating platform. It is Meridian's understanding that bid and offer information from this platform is already visible to the Authority, so it is not clear what additional benefit the Authority expects will result from the notice to support this Task Force initiative.

Meridian encourages the Authority to prepare a more robust assessment of costs and benefits to consumers if this proposal is to proceed.

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.

It would be preferrable if both the reporting obligation on participants and publication obligations on the Authority were set out in the Code, in a similar fashion to the existing hedge disclosure obligations. This would be more efficient and enable participants to readily understand the totality of their disclosure obligations as well as what the Authority would do with that information.

A code obligation aligned with existing hedge disclosure obligations could also enable the quality assurance steps that Meridian has recommended above in response to question 9.

It is not possible for a clause 2.16 notice to specify how the Authority will publish information therefore participants will face ongoing uncertainty regarding the treatment of their confidential information.

The consultation paper suggests a Code amendment is not a good option because the existing hedge disclosure obligations are on sellers. This is not a good reason since the Code could easily specify different reporting obligations in respect of requestors for bids and offers.

Q18. Should the Authority consider further work to monitor competition in the industry?

No.

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

In Meridian's opinion, the notice should not be backdated to cover requests sent out and responses received since the beginning of the 2025 calendar year.

Backdating would significantly increase the initial burden and challenges associated with establishing a new reporting system and processes.
In principle, the Authority should not be creating obligations with retrospective effect. If the Authority identified a need for data from the start of 2025, then it should have asked for that data at the start of 2025. If Meridian knows in advance that information is subject to a reporting obligation, it can put in place data management process to facilitate this. By contrast, a retrospective obligation to go back several months will require a far more manual process to search emails and records, in some cases for staff members that are no longer employed by Meridian. This would greatly increase the cost for no clear benefit.

It is not clear to Meridian why 1 January 2025 is the desired start point. It would be no less meaningful to have a data set commencing on 1 July 2025 (i.e. the start of the 2025/26 financial year).

Privacy (Please specify which question response require redaction prior to publication)

Does this submission contain sensitive information

No