

## Appendix C Format for submissions

<b>Submitter</b>	Toast Electric – Sustainability Trust
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Questions	Comments
<b>Problem definition</b>	
Q1. Do you have any comments on our additional analysis of data to inform the problem definition? Do you have any new evidence to add to any of the elements of the problem definition?	<p><b>Thanks for the opportunity submit on the Level Playing Field Measures. We did not submit in the earlier consultation. Toast has a couple of main concerns about unintended consequences of the proposals and have summarised them against some of the Question headings in this submission.</b></p> <p><b>Our Summary of Recommendations include:</b></p> <ol style="list-style-type: none"> <li>1. <b>Explicit carve-out</b> for social hedges in the Code or guidance.</li> <li>2. <b>Recognition of social purpose</b> as an objectively justifiable reason for differential pricing.</li> <li>3. Ensure RPCA and NDO frameworks do not unintentionally eliminate socially beneficial arrangements.</li> </ol>
<b>Level Playing Field options (options 1-4)</b>	
Q2. Do you have any new evidence that is relevant to the choice of level playing field interventions to address the identified competition issues?	Toast Electric strongly supports the principle of a competitive and transparent electricity market. However, we are concerned that the proposed non-discrimination obligations (NDOs) and related measures could have unintended consequences such as preventing arrangements that deliver significant social benefits, such as social hedges provided by gentailers to enable low-income consumers to access affordable electricity.
<b>Approach to applying non-discrimination obligations</b>	
Q3. Do you have any feedback on our proposed approach to implementing principles-based	We support principles-based regulation but request explicit recognition that social purpose arrangements—such as hedges designed to serve

<p>non-discrimination requirements, as set out in Chapter 5? If you disagree with elements, how would you improve them?</p>	<p>vulnerable consumers—are an “objectively justifiable” reason for differential pricing. Without this, the proposals risk eliminating innovative solutions that address energy hardship.</p>
<p>Q4. Do you agree that substituting an RPCA test for a requirement to develop an internal hedge portfolio will be more effective at ensuring non-discriminatory pricing than the proposals in the LPF Options paper? Why or why not?</p>	<p>While RPCA may improve transparency, it should not override the ability to offer social hedges. We recommend adding a carve-out or guidance stating that RPCA compliance does not preclude social-purpose pricing where it demonstrably benefits consumers in hardship – especially low-income households who are assisted by NFP retailers specifically constituted to relieve energy hardship.</p>
<p>Q5. Is our proposal around “uncommitted capacity” workable? What suggestions do you have for improving it?</p>	
<p>Q6. Do you have any further evidence, particularly relating to costs or incentives, about the impact of applying NDOs to all risk management contracts rather than just super-peak hedges?</p>	<p>Applying NDOs broadly could capture social hedges and make them non-compliant. We propose an exemption for contracts that meet defined social benefit criteria (e.g., targeted affordability programs, partnerships with community energy initiatives, social retailers, Not-for-profit retailers).</p>
<p>Q7. Should large users be included as buyers under the NDOs? If so, is a carve out needed for risk management contracts approved under the MLC regime?</p>	
<p>Q8. Should the OTC Electricity Market Working Group be reconvened to assess whether any amendments might be made to the voluntary OTC Code of Conduct to reflect the proposed non-discrimination regime?</p>	
<p>Q9. Should investment in new flexible generation assets be carved out from the proposed NDOs? Why or why not? If you think new investment should be ringfenced, please provide details</p>	

<p>of how you suggest any carve outs be implemented.</p>	
<p>Q10. What impact do you think the revised NDOs will have on retail prices and/or incentives to invest in generation? How does this compare to the impacts you posited in response to the LPF Options paper? Can you share any evidence that supports your view?</p>	<p>If social hedges are prohibited, vulnerable consumers will face higher costs, undermining the Electricity Authority's statutory objective to promote the long-term benefit of consumers. Evidence from our experience shows these arrangements materially reduce energy hardship by enabling retailers like Toast to offer lower pricing and wrap-around support.</p>
<p><b>Retail price consistency assessment</b></p>	
<p>Q11. Do you agree that by providing transparency on margins, the RPCA would materially improve stakeholders' confidence that retailers compete on a LPF for the long-term benefit of consumers? If not, why? Can you share any evidence that supports your view? How could we adjust the test to further improve confidence?</p>	
<p>Q12. What impact do you think the RPCA will have on retail prices and incentives to invest in generation? How does this compare to the impacts you posited in response in the LPF Options paper? Can you share any evidence that supports your view?</p>	
<p>Q13. How could the proposed approach to the RPCA be improved?</p>	
<p>Q14. How often should gentailers make and disclose their assessment – should it be more or less frequent than every six months, and why?</p>	

<p>Q15. Would it be sufficient for the Authority to provide gentailers with guidance on the methodology for the RPCA or should it be prescribed in the Code, and why?</p>	
<p>Q16. If you do not support the RPCA approach, what would you propose instead to demonstrate compliance with non-discrimination principles?</p>	

#### **Implementation pathway**

<p>Q17. Is the proposed implementation timeline achievable?</p>	
<p>Q18. Should the Authority consider adding or removing any particular steps, or providing more or less time at any point?</p>	
<p>Q19. Does the proposed approach to implementation provide the right balance between certainty, transparency and flexibility to allow gentailers to demonstrate their compliance with the non-discrimination obligations, and to provide an appropriate basis for enforcement action if they do not?</p>	

#### **Escalation pathway**

<p>Q20. Do you support the revised approach of incrementally creating more specification for NDOs or the RPCA as required? Why or why not?</p>	
<p>Q21. What are your views on the proposed approach to the escalation pathway?</p>	

#### **Power Purchase Agreements**

Q22. Do you have any feedback, including suggestions for improvement, on the way that the NDOs will affect buyers seeking firming for PPAs?	
Q23. Would it be useful to convene a co-design group to consider a range of flexibility products that suit the needs of independent power generators?	

#### **Internal Transfer Price disclosure requirements**

Q24. Do you support the proposal to revoke the ITP requirements for gentailers? What are your views on retaining the RGM reporting requirements for independent retailers?	
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#### **Regulatory Statement for the proposed amendment**

Q25. Do you agree with the objectives of the proposed amendment? If not, why not?	
Q26. Do you agree the benefits of the proposed amendment outweigh its costs?	
Q27. 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.	
Q28. Do you agree the Authority's proposed amendment complies with section 32(1) of the Act?	
Q29. Do you have any comments on the regulatory statement?	

#### **Appendix A – Proposed Code amendments**

**Proposed Code amendments**

Q30. Do you have any comments on the drafting of the proposed Code amendments?

**Draft guidance to support Code amendments**

Q31. Do you have any comments on the draft guidance?

Q32. Is any further guidance needed to help clarify what constitutes an “objectively justifiable” reason for discrimination under the NDOs? Please explain.

We strongly recommend including social purpose as an example of objectively justifiable discrimination.

Suggested wording:

“Differential pricing may be objectively justifiable where it is made available to retailers with a demonstrated social mission and demonstrably advances social objectives such as reducing energy hardship or supporting vulnerable consumers.”