

21 February 2018

Submission to the Electricity Authority on Multiple Trading Relationships

It is pleasing the Electricity Authority recognises there are problems with incumbent retailers being able to restrict or lesson competition. This is an issue Entrust has long held concerns about and is wider than the specific problems identified in the Multiple Trading Relationships (MTRs) paper.

Entrust supports the Electricity Authority looking at problems that could be created or made worse by its existing market rules. The Electricity Authority needs to ensure its rules and regulations aren't, or don't become, a barrier to competition. It is important to ensure regulation and policy do not obstruct the sector's natural evolution and ability to innovate and embrace new technology.

We agree, subject to further analysis including quantified cost benefit analysis, the proposals to enable MTRs warrant further consideration. We would like the Electricity Authority to also consider relevant international precedent. We understand, for example, Smart Meter Texas (SMT) provides a web portal that enables consumers to authorise market participants to access their consumption data and in-house devices. This would seem relevant to the issues the Electricity Authority has raised in the MTRs paper.¹

We also agree consumption data access is an important component of unlocking greater competition and market participation. This is something the Electricity Authority should prioritise and could potentially be unbundled from the broader MTR initiative.

While the Electricity Pricing Review may not get into issues with how the existing market rules are written, it could be useful for the Electricity Authority to discuss its work programme with MBIE to make sure there won't be any duplication.

Entrust wants stronger competition and broader market participation

Entrust wants to ensure electricity is supplied in an efficient and affordable way to all consumers, including the over 327,000 households and businesses in Auckland, Manukau and parts of Papakura and eastern Franklin that are beneficiaries of Entrust.

This requires stronger and more rigorous competition in the wholesale and retail markets, and the electricity sector generally. This can come from all parts of the supply chain. The likes of Airbnb demonstrate market participation can be broadened outside the traditional supply chain. We anticipate a lot of new competition won't simply come from more new entrant retailers or generators, but will also come from lines companies, and third-party operators, providing new services such as solar PV and in-home batteries.

¹ <https://www.smartmetertexas.com/CAP/public/index.html>

Positive that the Electricity Authority recognises incumbent retailers are part of the problem

Entrust agrees incumbent retailers have both incentives and the ability to impose barriers to competition. The Electricity Authority has been clear “some participants have the ability and incentives to create constraints to inhibit consumers establishing relationships with multiple service providers at an ICP”.²

Entrust also agrees with the Electricity Authority that the problem arises “because an incumbent retailer may lose revenue and profits from assisting its customer to obtain competing services on a contemporaneous basis from another provider”.³

This limits consumers’ choice and ability to take control of how and by whom they receive electricity services. Large incumbent retailers are limiting consumers’ “energy freedom”.

One of the examples the Electricity Authority has provided, backed by the experience of emhTrade, is that “Despite the obligations placed on retailers to share consumption data, barriers still exist to consumers or their agents from accessing this data in a timely manner”.⁴

The examples the Electricity Authority provide are in stark contrast to ERANZ’ claim, made subsequent to the release of the consultation paper, that “Electricity customers in New Zealand can already easily get their electricity consumption and connection data from their electricity retailer at any time, or to authorise someone else to do so on their behalf”.⁵ If ERANZ, and its members, aren’t willing to acknowledge the problem then it won’t be resolved through voluntary mechanisms or self-regulation.

ERANZ’ submissions support the Electricity Authority changing regulation and market rules

The Electricity Authority should have regard to ERANZ’ views on the implications of having incentives and ability to limit or lesson competition or, in their own words, “means and motive”. While Entrust doesn’t agree with ERANZ, their submissions clearly promote a low threshold for regulation of their members’ businesses, which the Electricity Authority has already met.

ERANZ has been unequivocal that if a regulator can demonstrate suppliers have incentives and ability to inhibit competition or harm consumers then regulatory change is justified:⁶

“... hav[ing] both the means and the motive to cause harm to consumers ... should be a sufficient basis ... to take remedial action if the rules are not effective.”

ERANZ believes the incentive to inhibit competition or harm consumers exists if suppliers can increase their profitability:⁷

² Electricity Authority, Multiple Trading Relationships, 28 November 2017, paragraph 5.2.

³ Electricity Authority, Multiple Trading Relationships, 28 November 2017, paragraph 3.45.

⁴ Electricity Authority, Multiple Trading Relationships, 28 November 2017, paragraph 3.35.

⁵ Jenny Cameron, ERANZ, Providing more transparency around how customer electricity data is used and shared, 11 January 2018: <https://www.linkedin.com/pulse/providing-more-transparency-around-how-customer-data-used-cameron>

⁶ ERANZ, ERANZ Submission to the Commerce Commission on the Input Methodologies Review draft decision on Related Party Transactions, 27 September 2017, page 17.

⁷ ERANZ, ERANZ Submission to the Commerce Commission on the Input Methodologies Review draft decision on Related Party Transactions, 27 September 2017, page 17.

"... the fiduciary duty owed by the directors of ... suppliers to the shareholders of those businesses must mean that commercial motives, such as profitability and protecting/increasing shareholder value, are of primary significance".

ERANZ is also very clear it believes actual evidence of a problem isn't needed to justify regulatory change:⁸

"Whether the potential behaviours identified in the ... problem definition are occurring is actually not the key issue. Rather, the critical question ... is: are the extant rules are [sic] 'fit for purpose' in controlling ... such activity? It is surely the [regulator]'s core role to identify where ... suppliers may have the means to cause harm to consumers and, based on its assessment of the risk, to ensure the regulatory arrangements are adequate to mitigate that risk."

In summary, Entrust considers that ERANZ has been very clear its view is that if a supplier has incentives (increased profitability) and ability to harm consumers, and/or limit competition, then regulatory change is justified.

While ERANZ made these statements in relation to related party transactions, Entrust does not consider there to be anything in the statements that makes them specific to that particular consultation or which diminishes the relevance to circumstances, such as those identified by the Electricity Authority, where incumbent retailers have incentives and ability to harm consumers or lesson competition.

The Electricity Authority needs to ensure it doesn't obstruct innovation and technological evolution

Entrust considers that a policy or regulatory strategy based only on one view of the future is unlikely to survive. The Electricity Authority has demonstrated this with the example of MTRs. It may not have been an issue in the past, but it is now.

It is important to ensure regulation and policy do not obstruct the sector's natural evolution and ability to innovate and embrace new technology. Regulatory arrangements which impede full and open competition need to be changed.

We agree "Innovation requires a flexible and resilient regulatory framework".⁹

All innovation opportunities with the potential to lower prices must be welcomed.

This includes the types of arrangements the Electricity Authority has in mind in its multiple trading relationships consultation. It also includes lines companies being able to embrace and use new technologies to offer consumers greater choice and drive prices down.¹⁰

The best regulators can sometimes do, when faced with uncertainty and change, is to 'get out of the way' and make sure they don't impede innovation and diversity.

⁸ ERANZ, ERANZ Submission to the Commerce Commission on the Input Methodologies Review draft decision on Related Party Transactions, 27 September 2017, page 15.

⁹ Electricity Authority, Multiple Trading Relationships, 28 November 2017, paragraph 3.4.

¹⁰ Consistent with our view, the respective Labour and Green Parties' energy policies recognise "Lines companies can have a positive role to play in local energy solutions. Such solutions would enable them to better manage traffic across their network especially at peak times, and to avoid costly and avoidable upgrades" and that lines companies should be encouraged to "use new technology to save their customers money".

The Electricity Authority's latest views on technological change mirror Vector's business strategy

Entrust agrees "The electricity industry is changing fundamentally" and "technological developments are ... providing consumers with the ability to take a more active role in how and when they use electricity".¹¹

Entrust also agrees the changes are driving greater choice and control for consumers:¹²

"These changes mean consumers are more capable of choosing when and how they use electricity. Consumers can use solar panels and batteries to participate directly in the market as sellers of electricity and related services."

Consistent with the Electricity Authority's latest thinking, Vector has pointed out:¹³

"Until now, the energy generation/retail model has been based on getting power from elsewhere and consumers paying for this in a largely fixed way. Solar and battery systems rewrite that. ... they will ... let households and businesses become generators and, through peer-to-peer trading, one day to buy and sell solar energy on their own terms. Households will be able to generate clean electricity on-site, to store it for use at any time and/or as a backup for uninterrupted power, and to convert any surplus from waste to revenue by trading locally."

The Electricity Authority has observed "suppliers are offering innovative products and services that realise the benefits of technologies like batteries and solar panels and take advantage of the improvements in information and communication technologies".¹⁴ This fits with Vector's desire to meet the future needs of Auckland by shifting from continuing to invest in bigger traditional assets, to being agents of change and facilitators of integration.¹⁵

Vector's focus on embracing new technology and providing consumers with greater choice is supported by Entrust. We are encouraged the Electricity Authority's latest thinking mirrors our philosophy as majority shareholder of Vector.

The Electricity Authority can do more to ensure good practice project management

Entrust raised issues about the Electricity Authority's project management in our submission on 2018/19 Appropriations. Given the importance of competition and innovation we would not like the delays and problems that have been common with the Electricity Authority's work programme to arise with the MTRs project.

It would be helpful if the Electricity Authority provided full details of:

- The workplan, including key milestones, consultation steps and project completion date;
- The projected budget for the project, broken down by internal and external (including consultants and legal advice) resourcing;
- The budget appropriation for 2018/19; and

¹¹ Electricity Authority, Multiple Trading Relationships, 28 November 2017, page ii.

¹² Electricity Authority, Multiple Trading Relationships, 28 November 2017, page ii.

¹³ Vector, AR 2017, page 23.

¹⁴ Electricity Authority, Multiple Trading Relationships, 28 November 2017, page ii.

¹⁵ Vector, AR 2017, page 18.

- Periodic updates about how the project is progressing against the workplan and budget.

Absent this information there is little to show what level of priority the Electricity Authority intends to give this project. Entrust is of the view it would be good practice for this type of information to be provided for all future projects.

Closing remarks

The focus of Entrust's comments are unabashedly beneficiary and consumer focussed.

The Electricity Authority's analogy that "Preventing an electricity consumer from choosing multiple trading relationships at a single location is like making consumers buy all their telecommunications services from a single provider"¹⁶ unfortunately is apt.

We don't want to see large incumbent retailers continue to be able to stifle competition, and limit consumer choice, simply to increase or maintain their high profit levels. We want to see stronger and more rigorous competition with removal of barriers to entry and competition.

As the Electricity Authority is aware, our view is that problems with competition in the electricity sector haven't been given the attention they merit. Looking at MTRs is a positive step, but we would like surety it will be expedited in a timely manner. Entrust wishes to avoid long drawn out gaps between consultations, or extensions to the (as yet unannounced) timeline for completion of the project.

For further information, contact:

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Kind Regards



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¹⁶ Electricity Authority, Multiple Trading Relationships, 28 November 2017, paragraph 4.2.