



MAJOR ELECTRICITY USERS' GROUP

19 July 2013

Dr John Hamill
General Manager, Regulation
Commerce Commission

By email to regulation.branch@comcom.govt.nz

Dear John

Commerce Act Part 4 Funding Review

1. This is a submission by the Major Electricity Users' Group (MEUG) on the Commerce Commission discussion document¹ "Commerce Act Part 4 Funding Review" dated 11th June 2013. Members of MEUG have been consulted in the preparation of this submission. This submission is not confidential.
2. A well resourced Commission is essential to mitigate the harm Part 4 regulated monopolies could exercise on customers if left unchecked. In the MEUG letter to Ministers "Improving productivity in the electricity sector" of 17th June 2013 we explained the resource asymmetry and barriers to effective participation for consumers. We noted²:

"A well resourced, independent and innovative regulator is necessary to balance the interests of customers with the interests advocated by the well resourced and highly motivated monopolies."

3. Responses to questions in the discussion document follow:

Question	MEUG response
1. How important is it that the Commission continues to develop its approach to setting price quality paths? Indicate which of the following areas you think the Commission should prioritise:	The Commission <u>must</u> continuously improve the DPP, CPP and IPP options along with underlying measures of and reporting of price-quality trade-offs in an ever improving Information Disclosure (ID) regime. We emphasise:

¹ <http://www.comcom.govt.nz/assets/Pan-Industry/Commerce-Act-Part-4-funding-review-discussion-document-11-June-2013.pdf> found at <http://www.comcom.govt.nz/part-4-baseline-review/>

² Document URL <http://www.meug.co.nz/includes/download.aspx?ID=128750> , p9

Question	MEUG response
<ul style="list-style-type: none"> • Developing incentive schemes to promote the long term benefits of consumers. For example, incentive scheme to promote operating efficiency, demand side management, energy efficiency and/or network losses. • Developing improved approaches to forecasting e.g. capital expenditure, operating expenditure, demand, and CPI. • Developing improved approaches to setting quality standards for gas pipelines and/or electricity lines businesses. 	<ul style="list-style-type: none"> • This is a <u>must do</u> action rather than an option if the Commission is to effectively contribute to the Government's economic growth objectives; and • ID must also be improved because not all electricity distributors are subject to DPP/PPP regulation <p>We have not undertaken any analysis to prioritise which of the three areas should be a priority; rather that should be a task for the Commission to decide using empirical data and analysis. Having said that MEUG note:</p> <ul style="list-style-type: none"> • We are sceptical of calls by some lines companies to have incentives for energy efficiency and minimising line losses – those are more likely to be new business opportunities for lines companies rather than adding value to consumers; and • The driver for improvements must be based on the trade-off between price and quality that end customers' desire. The standard OECD regulatory approach assumes end customer needs are indivisible on an integrated network and therefore suppliers are left to decide on behalf of customers the average price/quality trade-offs. This could be an area where New Zealand could get ahead of other OECD countries. Lines companies that innovate and excel in being pioneers in uncovering the true utility function of customers should be rewarded.
<p>2. How important is ongoing work amending information disclosure and input methodologies requirements to correct errors, or help suppliers manage compliance risk?</p>	<p>Essential otherwise the foundation for assessing the effectiveness of the regime will be compromised.</p>
<p>3. How important is it that we review information disclosure requirements for airports in the light of what we have learnt from the review of airports information disclosure?</p>	<p>No comment.</p>

Question	MEUG response
<p>4. What approach should the Commission take to the required review of input methodologies? Should reviews for the different methodologies be staggered? Should the Commission continue to take a cross industry approach or separate by sectors? Are there input methodologies that should be given higher priority within the review?</p>	<p>Ahead of the next comprehensive review changes to Input Methodologies to address errors or gaps or Court directed changes should be implemented on an ad hoc basis.</p> <p>The first comprehensive review needs to be undertaken to meet both the statutory objectives including consistency across sectors and be undertaken efficiently. This probably means undertaking the reviews simultaneously and on a cross-industry basis.</p>
<p>5. How important do you think the following activities are in providing assistance to suppliers to comply with the Part 4 requirements?</p> <ul style="list-style-type: none"> • Education programmes and workshops. • Written guidance and clarification. • Compliance advice from Commission staff. • Compliance assessments. • Investigations of breaches to decide the most appropriate response. • Non-court remedies (e.g. refunds to consumers of over-recovery). • Enforcement action. 	<p>Compliance with the statutory and regulatory requirements comes second to meeting customer needs at an efficient price. Therefore to this list we would add independently surveyed responses by end customers on the suppliers' service. This is mentioned in the top of page 25 under Option (iii) High cost – accelerated development “Customer surveys on demand for price and quality”.</p>
<p>6. What is the most effective way of promoting an improved understanding of the performance of electricity lines businesses, gas pipeline businesses and/or airports?</p>	<p>For consumers every Commerce Commission consultation paper and decision and every consultation by a line monopoly should summarise what the impact of the alternative options will be on quality and price for an average household, SME, large TOU consumer and grid connected consumer. Given this information customers will have timely flags to get engaged in decision making processes.</p>

Question	MEUG response
<p>7. How important is it that the Commission be resourced to provide advice to and share knowledge with Ministers, officials and other regulators?</p>	<p>It is essential, rather than a discretionary option, that the Commission have the resources to provide advice and share knowledge with policy decision makers and other regulators. It would, for example, be a disaster if the Commission could not effectively liaise with the Electricity Authority to ensure effective, consistent and mutually reinforcing regulatory regimes over the entire electricity supply chain.</p>
<p>8. What is your view of the options for improving funding structures to increase predictability for levy payers and promote flexible deployment of Commission resources? (para 96)</p>	<p>No views at this stage.</p>
<p>9. Should the periodic reviews of input methodologies be funded as:</p> <ul style="list-style-type: none"> • A specific funding stream in its own right and recovered by a levy apportioned across all regulated suppliers based on the respective value of their regulated asset base (i.e. the status quo); or • Part of the sector specific funding streams with the Commission using internal cost allocations to apportion joint or shared costs between the sectors? 	<p>Probably specific funding because we don't believe the Input Methodologies will be stable given our experience with the merit review.</p>

4. We look forward to viewing the submissions of other parties and we will be following the report back by the Ministry of Business Innovation and Employment to Ministers due before 31st October 2013.

Yours sincerely



Ralph Matthes
Executive Director