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Kimberley Foo
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By email: eacomcomjointproject@comcom.govt.nz

Dear Kimberley,

RE: Spotlight on emerging contestable services

The Independent Electricity Generators Association Incorporated (IEGA) welcomes the opportunity to provide feedback on the proposed terms of reference for a joint project by the Electricity Authority and Commerce Commission placing a spotlight on emerging contestable services.¹

The IEGA has an interest in this study from the perspective of the services distributed generation can provide distribution companies which compete with distribution infrastructure assets as well as competing for connection to networks with distributor-owned generation assets.

Scope of this project

The IEGA suggests that this review may be premature. Many of the drivers for new and emerging technology are going to be policy driven, for example to achieve net zero emissions or the 100% renewables target. Given the current policy environment is evolving the joint review of new and emerging technologies seems premature.

If a review is undertaken, we recommend the focus of the joint review should instead be on / about:

- contestability between new emerging technologies and network investments
- any impact on contestability in the energy market
- monopoly vs contestable services and the arms'-length rules

¹ The Committee has signed off this submission on behalf of members.

The IEGA also queries how this project links with the Electricity Authority's recently published research on facilitating access to multiple electricity services for consumers.²

Framework for the review

The fact that this has to be a joint project by the Electricity Authority and the Commerce Commission, with associated inefficiencies and/or duplication of effort, supports our long-held view that one regulator – the Commerce Commission – should be wholly responsible for regulating monopoly distribution businesses. If an anti-competitive issue is discovered, the Commission is the agency responsible for investigating this.

Further, we know that if changes are required to the Code or Part 4 of the Commerce Act the approach by each agency to calculating the cost benefit of these changes will be different. The treatment of wealth transfers will be different, and there may be other differences in the cost benefit methodologies that we are unaware of.

The terms of reference focuses on whether “participation of distributors in contestable electricity services is likely to be **harmful** to consumers in the long term” (emphasis added to extract from paragraph 3). The IEGA queries whether focusing on ‘harm’ to consumers is the same as focusing on the ‘benefits’ to consumers in the long term? Harm has negative connotations (what you shouldn't do) while benefit has positive connotations (what you might do). We query whether

- focusing on the potential negative impacts will limit the analysis and the scope/mandate to take into account innovation (which is generally viewed to be positive)?
- does ‘harm’ have the same value in a cost benefit analysis as ‘benefit’?

The terms of reference states this work is expected to be completed by Q3 2019 (a maximum of five and a half months). This timeframe seems very tight, especially when it includes two rounds of consultation of say 4 weeks each. Will there be the opportunity for cross submissions – which is the standard process by the Commerce Commission?

We would welcome the opportunity to discuss this submission with you.

Yours sincerely



Warren McNabb
Chair

² <https://www.ea.govt.nz/development/work-programme/evolving-tech-business/acces/development/acces-project-update/>