

17 June 2017

Keston Ruxton
Manager, Regulation Development
Regulation Branch
Commerce Commission
Wellington

Submitted by email: regulation.branch@comcom.govt.nz

Submission

Input Methodologies Review – Related Party Transactions Invitation to contribute to problem definition / Initial Findings

Asplundh welcomes the opportunity to provide our feedback on the Commerce Commission's ("the Commission") initial findings outlined in the document *Related Party Transactions - Invitation to contribute to problem definition* (released 12 April 2017).

Our submission specifically relates to how Electricity Distribution Businesses ("EDBs") procure and deliver cost effective network vegetation management services to end consumers.

Summary

Asplundh supports the Commission's initial findings and the proposed potential solutions. We believe the Commission's proposed potential solutions will further support the delivery of the policy intent (for Related Party Transactions). Our view is that the proposed solutions support greater visibility, transparency and verification that EDB procurement processes deliver cost efficient network vegetation management services (through either in-house or external services providers).

Note - We acknowledge that the regulatory framework for EDBs in NZ is complex, and we do not purport to be subject matter experts in the Input Methodologies or Information Disclosure. Our submission is made based on our experience of being an external network vegetation management service provider.

Submission

We agree with, and support, the Commission's proposed potential solutions as detailed in your consultation document under *Table 5.1 "Potential Solutions to problems with the current related party transactions regime"*.

Key aspects that we'd like to highlight include the below extracts from Table 5.1:

Consideration of imperfect local markets in contracting services

- "Consideration of further disclosure requirements to provide increased transparency about procurement policies"

Transparency of our methodology and the valuation of transactions

- "This review may be an opportunity for us to order the disclosure methodologies in preference order. We have a preference for methodologies which demonstrate contestable processes using a tendering or benchmarking process, which increases the likelihood that the transactions will be akin to arm's-length;"

Compliance and disclosure requirements

- *“We are considering more targeted disclosure requirements on the contestability and transparency of procurement processes in achieving the purpose of information disclosure.”*
- *“The quality of such procurement processes should be cited and tested by the auditor in providing assurance of the reasonableness of the transaction. Clear and transparent transactional relationships between the related party and the EDB should be visible in this disclosure.”*

Our view is that the proposed solutions support greater visibility, transparency and verification that EDB procurement processes deliver cost efficient network vegetation management services.

Whilst a perfect competitive market would see all network vegetation management services (utility arboriculture) open to contestable processes, we recognise that any solution(s) implemented by the Commission need to be workable, cost beneficial and supported by defined thresholds/tests for undertaking competitive market procurement processes.

Our view is that the proposed solutions are workable and beneficial (at face value from reading the consultation document) where any procurement process (and verification) implemented are aligned with cycles/review periods that are appropriate for the value of those services. *For example*, where the value of a service exceeds the financial threshold, these services are obtained through contestable term-based service contracts (eg 3-5 year service contracts).

Increasing transparency of contestable market opportunities also assists service providers to develop business cases with cost structures and associated service pricing that leverage their existing operations. This can allow service providers to gain cost efficiencies in operational overheads, costs, utilisation of specialised equipment and required qualified personnel. These efficiencies can then be integrated within the competitive service pricing provided to EDBs.

This can be particularly relevant where these services are also provided to other local customers (including local Councils) or in adjacent regions / nationally.

Contestable procurement processes can also support the development of local markets for providing these same services to the community. Where the opportunity exists for service providers to contest for EDB service contracts, this supports the development (or establishment) of operations that can also service the wider community in that region. This is particularly relevant to network vegetation management services, where end consumers have obligations to maintain their trees away from powerlines under the “second cuts” requirements in the Electricity (Hazards from Trees) Regulations 2003.

Conclusion

Thank you for the opportunity to make this submission. We support the Commission’s proposed solutions and next steps, and are happy to provide further input during the remainder of this development process.

If you have any questions please contact me.



Kevin Burt
Managing Director
e: kevinb@asplundh.co.nz m: 029 770 0851