29 July 2025

Electricity Authority
By email: policyconsult@ea.govt.nz

Evolving multiple retailing and switching

Meridian appreciates the opportunity to provide comments on the Electricity Authority's consultation paper on evolving multiple retailing and switching.

Meridian supports initiatives that will promote competition, reliability, and efficiency in the industry for the long-term benefit of consumers. However, we consider the potential costs of Code changes to enable multiple trading relationships (MTR) likely to far exceed any potential consumer benefits. In Meridian's opinion:

- most consumers value simplicity rather than additional complexity;
- trials of MTR have indicated minimal consumer appetite for such arrangements, and that consumer appetite is conditional on there being demonstrable benefits;
- consumer benefits (if any) are highly unlikely to exceed:
    - the costs that will arise through the doubling of retail cost to serve (if there are two retailers); plus
    - any additional metering cost to serve multiple traders; plus
    - the costs of system changes for the Authority, MEPs, and traders; and
- to the extent any individual consumer does want to engage multiple traders, there are simple technological solutions already available.

A more informed cost benefit analysis is required, with quantification of the costs and benefits of the proposals, before any Code amendments should proceed.

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Meridian broadly supports the proposals relating to retailer switching processes.

We offer more detailed feedback on these points below. Appendix A also addresses the consultation questions relevant to MTR. Given our broad support for the proposed switching enhancements, we have not provided responses to those questions.

Multiple trading relationships

Consumer insights

The consultation offers no evidence to show that consumers want MTR. There have been several trials of MTR, both in New Zealand and offshore.[1] In general, trials have shown that demand is limited and would only come from the most motivated of consumers and provided that there is a clearly demonstrated benefit to them (we discuss below Meridian's doubts that consumers will benefit from MTR). Meridian also notes that to the extent that there may be demand for such a complex and niche service arrangement, it is likely to come from customers who have installed distributed energy resources such as solar and batteries. These customers are likely to be a cohort that is wealthier and better resourced than average households. Given that there are likely to be substantial costs to implement MTR, we are concerned that this may have a regressive impact whereby any benefits of MTR would only accrue to this small number of high-wealth consumers, while the costs are likely to be worn by a wider group.

Meridian also notes that barriers to setting up MTR have not been established in the consultation. Although the consultation focused on splitting out retail services relating to consumption and generation at a single ICP, MTR can take several other forms, including:

- commercial arrangements between multiple service providers at an ICP;
- the provision of financial or energy management services; or
- the establishment of a second ICP and meter.

These types of MTR can and do already occur. It is difficult to imagine a service that requires multiple traders to carry out market functions at an ICP in order for it to be provided. The Australian Energy Markets Commission asked KPMG to provide advice on the type of services, which could be enabled, or better facilitated, through multiple trading relationships.[2]

[1] See for example a trial in the UK: Exploring the secondary supplier model - Energy Systems Catapult
[2] KPMG Report to the AEMC on New Energy Services and Multiple Trading Relationships available at https://www.aemc.gov.au/sites/default/files/content/0299bffe-193c-4c82-b8d3- 36930f578fc6/Report-to-AEMC-KPMG-New-Energy-Services.PDF

KPMG identified only two products that might require multiple traders at an ICP to participate in market functions (although we think that even in those two cases there are other ways to provide the service[3]).

This therefore begs the question of why complex and costly Code changes are required, when there are already simple solutions available to the niche of customers who may be interested in MTR.

Competitive retail markets place incentives on retailers

New Zealand has a highly competitive retail electricity market, with around 40 retailers[4] operating. In a competitive retail environment, retailers face incentives to innovate and evolve their service offerings to retain and grow their market share. We therefore argue that if MTR is not widespread in the current market, it is highly likely that consumers are not demanding these services, at least not in significant volumes. Meridian has previously covered this point in detail in our submission from 2018 on the same topic.[5]

Bundling is an efficient outcome in competitive markets

The Authority seems to implicitly assume that forcibly breaking up the current bundle of retail services and increasing competition for sub-bundles would have a pro-competitive effect. However, as detailed in the CEG report appended to our 2018 submission (and appended again to this submission), most industries involve some level of bundling and this reflects competitive outcomes that are indicative of cost minimization and consumer preferences.[6] For example cars are sold as a bundle and not their constituent parts and in the telecommunications industry there is no demand for mobile operators to unbundle sim cards to allow consumers to engage with multiple retailers – one for voice, one for peak data, one for off-peak data, one for data from a particular application.[7] Bundling is an efficient way of promoting consumer welfare because it:

[3] The two products identified were (1) a complete charging package for electric vehicles for employers covering charging costs irrespective of location and (2) a demand side aggregation service. In both instances there are ways that these services could be provided under current industry rules in New Zealand if the different service providers entered into contractual arrangements with retailers or retailers delivered the services themselves directly. Alternatively, behind the meter technology and the internet of things could enable competition for control of devices remotely. Competition in future may not be limited to ICPs and it may be short-sighted to consider high-cost regulatory changes that assume that is how retailers and aggregators will compete in future.
[4] Electricity Authority - EMI (market statistics and tools) – Market share snapshot
[5] Meridian_-_Multiple_trading_relationships_submission_2018.PDF
[6] CEG Economic case for intervention to promote MTRs, section 3.2
[7] Although consumers can have multiple sim cards, which is the equivalent of multiple ICPs.

- reduces the total costs of supply;
- improves the overall design of the product (firms can ensure all of the elements of the bundle fit together in an efficient manner);
- reduces transaction costs (for example by requiring consumers to self-assemble a range of products or services); and therefore
- facilitates a more competitive market where customers are better able to judge the price and quality of different suppliers' offers.

Separating out services may increase costs to consumers

The Authority's analysis of the component costs of an average household electricity bill puts the costs for retail service as being 11% of the total bill.[8] Meridian's view is that this cost would be duplicated in large part if consumption and generation trading were to be split out for households. It is hard to see how there would be any service efficiencies from having these as two separate services, and in fact the opposite is more likely to be true, with the retailer cost to serve duplicated. Cost to serve could also be expected to grow due to increased customer inquiries to manage the complexities associated with MTR.

The 4.5% of the total bill attributable to metering costs may also grow as MEPs would need to reflect in their pricing the additional incremental cost to service two retailers. MEPs will be better placed to comment on the materiality of this added cost. In paragraph 3.14(c)(viii) the consultation paper seems to acknowledge this additional cost but also misleadingly states that "the total cost to the consumer for a multiple trader ICP should not exceed what it would be if the property had a single trader". That would only be possible if MEPs cross-subsidised multiple trader ICPs from prices charged for other ICPs to ensure equal price outcomes. This would not reflect actual costs and would lead to inefficient outcomes.

We expect that distributors would also incur costs to implement cost allocation methodologies for ICPs with multiple traders. Distributors will be better placed to comment on the materiality of this change. Any allocation of distribution prices amongst traders would need to reflect the underlying drivers of costs to the distributor and should avoid one trader effectively cross subsidising the other.

The Authority assumes that unbundled services would result in traders offering lower pricing to customers. Meridian's view is that this is not at all certain, and in fact MTR is likely to result

[8] Your power bill | Electricity Authority

in higher prices due to inefficient duplication of retail cost to serve. It is not clear to Meridian whether the Authority's assumption of lower prices is based on a false expectation that consumers will be able to cherry pick consumption and injection rates currently in the market. If MTR is implemented, we would expect to see retailers either amend their terms and conditions to clarify when certain pricing is exclusively available for bundles, or reprice bundled offers, to avoid or anticipate the loss of one part of the bundle.

The costs to participants are likely to be significant

The costs for participants to implement MTRs will also be significant and in the long term are likely to be passed on to consumers.

Meridian is currently migrating to a new retail technology partner. As such, it is difficult for us to estimate the cost of the system changes that would be required to split consumption and generation retailing. However, our initial estimates are that costs would include:

- Around two additional FTEs to provide services in an MTR environment for example to manage:
    - increased customer interactions;
    - increased meter reconciliation issues; and
    - increased interactions with other traders to manage physical work and disconnections.
- Several hundred thousand dollars in initial system changes.
- Additionally, we expect that implementing MTR (including the Authroity's preferred Option 1) would necessitate the renegotiation of metering agreements to enable cost allocation and provide for operational complexities for ICPs with multiple traders. Customer terms and conditions would also need to be reviewed to confirm the rights and obligations of parties when a consumer chooses to split a bundled retail offering. Meridian estimates significant resources would be required including, but not limited to, legal costs of ~$300,000 based on previous re-drafting of similar agreements.

Renegotiation of metering agreements would also involve costs to MEPs. We also anticipate costs to distributors to develop cost allocation and pricing methods for ICPs with multiple traders.

Meridian's view is that robust analysis should be undertaken to quantify the expected costs and any expected benefits to consumers. The consultation paper asserts significant benefits including:

- reducing barriers to entry for new participants leading to increased competition;
- increased value to consumers for their distributed generation; and
- laying the foundation for future stages of MTR.

In Meridian's opinion, there is no evidence to support these assertions. The additional complexity and costs to implement MTR is more likely to raise the barrier to entry for new participants. Distributed generation is highly valued by existing offers in market[9] and there is no evidence that separate distributed generation traders will be able to offer a more efficient service than existing participants (especially since any benefit will need to exceed the cost to serve of two retailers rather than one). Laying the foundation for future stages of MTR is not a benefit to consumers and assumes baselessly that future stages will also have benefits. It would be troubling if the Authority was prepared to regulate and impose significant costs based on such limited analysis.

Additional complexities that have not been addressed

The Authority does not appear to have grappled with the complexities of implementing MTR. For example:

- As noted above, the Authority has not addressed the complexities of renegotiating metering agreements and how MEPs should allocate costs between retailers in a cost reflective way (including increased incremental costs to service more than one retailer). We note that the Kāinga Ora trial in Wellington has not dealt with apportionment of costs (including metering) across the consumption and generation traders. Instead, the consumption trader has continued to pay these costs, which would not be reasonable if this model were to be implemented. In addition, although this trial may provide some insights into the technical feasibility of this model of MTR, it has not shown that there is consumer demand for this type of split service or that any net benefits to consumers could be expected in the long term.
- Similarly, the Authority has not addressed the complexities of required distribution pricing changes to develop methods to allocate costs amongst multiple traders at an ICP. If done poorly, this could lead to inefficiencies and market distortions.
- It is not clear whether or how the Consumer Care Obligations will apply in the context of MTR. Currently the obligations apply to every retailer who sells electricity to residential consumers. However, there may be good policy reasons to extend the obligations to traders purchasing generation from residential consumers. This should

[9] For example, Meridian currently offers a generous solar buy back rate of around 17c/kWh fixed for three years plus a $300 credit. Over the past five years, generation weighted wholesale prices have averaged $153/MWh (i.e. 15.3c/kWh).

be considered before the proposal goes any further and may require additional consultation for associated Code amendments.

Switching process improvements

The consultation paper also includes many proposed Code changes that are intended to improve the switching process for customers. Meridian generally supports improving these processes and clarifying roles and responsibilities, especially where it drives greater accuracy and efficiency.

Meridian would support a reasonable lead-time for the Code changes, to enable us to make the necessary system and process changes. We note the proposed effective date of 18 months after the amendments are published in the Gazette. Our view is that this would be suitable. Meridian does not support the switching changes taking effect earlier (under the potential staged implementation raised in the consultation paper).

Concluding remarks

This submission is not confidential and can be released in full. I can be contacted to discuss any of the points made.

Nāku noa, nā

Evealyn Whittington
Senior Regulatory Specialist

Appendix A: Responses to consultation questions

#	Question	Response
Questions on the Authority's vision		
1	Do you agree that multiple trading relationships and improved switching are key components of consumer mobility? If not, what would you change and why?	Meridian agrees that efficient switching processes will enhance consumer mobility. For the reasons provided in the body of this submission, we do not consider MTR to be a key component of consumer mobility.
2	Do you have any comments regarding future stages of multiple trading, whether the proposal provides optionality for the potential future stages, and the options the Authority should consider?	The initial stage is not likely to deliver net benefits to consumers in the long term. Future stages are likely to further increase costs to consumers. Meridian is concerned that the proposal sets the Authority on a path from which it may struggle to depart and rather than preserve optionality could pre-determine future steps ahead of robust analysis of the costs and benefits to consumers.
Questions on multiple trading relationships		
3	Do you agree with the proposed solutions? If not, what would you change and why?	No. For the reasons set out in the body of this submission, the MTR proposal should not progress.
4	Do you agree with the benefits anticipated from the proposed solutions? Are there other benefits you can anticipate or improvements to operational effectiveness and efficiency? Can you quantify these benefits?	No. As detailed in the body of this submission, Meridian fundamentally disagrees that MTR will deliver benefits to consumers.
5	Do you anticipate the proposed solutions will introduce cost into your organisation, and if so, can you quantify this cost and/or provide a high-level description of the changes that need to be made?	Yes. We anticipate significant costs to participants and ultimately consumers under the MTR proposal. These costs are discussed further in the body of our submission.
6	Do you agree with the advantages and disadvantages of options 2 and 3? If not, why not or how would you overcome the disadvantages?	Option 2 would be preferable as participants would be able to more easily avoid the costs associated with providing an option that we do not expect consumers will demand.

7	Do you agree that option 1 is the preferred option over options 2 and 3 and the reasons for preferring option 1? If not, why not?	Meridian's preference is for MTR to not proceed. If it does proceed, Option 2 is preferrable to reduce costs.
Questions on implementation		
20	Would you prefer a single implementation or a staged implementation? Please give reasons for your preference.	Meridian would prefer MTR is not implemented. However, to the extent both proposals proceed, a single implementation would be preferable for simplicity.
21	Do you agree with the suggested implementation timeframes? If not, please state your preferred timeframes and give reasons for your preference.	A minimum of 18 months from publication in the Gazette should be allowed before any changes take effect. Meridian is undergoing significant technology change for its retail platform. Longer implementation timeframes would help to make implementation more feasible and lower costs.
Questions on the regulatory statement		
22	Do you agree with the objectives of the proposed MTR amendment s? If not, why not?	Meridian agrees with the objectives of promoting consumer choice, enhancing competition and innovation, improving efficiency and consumer participation. However, the framing of the objectives in the consultation paper presupposes that MTR delivers on these objectives. Meridian agrees with the objective to minimise the impact on consumers that do not want to participate in a multiple trading arrangement. Meridian disagrees that ensuring future flexibility and scalability to accommodate future stages of MTR should be an objective since it has not been established that any future stages of MTR would benefit consumers. The statutory objective to promote the long-term benefit of consumers should be paramount. In Meridian's opinion, MTR would result in net costs to consumers.
23	Do you agree with the objectives of the proposed amendments to the switching process? If not, why not?	Yes.
24	Do you agree the benefits of the proposed amendment outweigh its costs?	No. Meridian strongly disagrees that the benefits of the MTR proposal outweigh the cost and is concerned by the complete lack of cost benefit analysis by the Authority. Meridian's view is that robust analysis should be undertaken to quantify the expected costs and any expected benefits to

		consumers. The consultation paper asserts significant benefits including: • reducing barriers to entry for new participants leading to increased competition; • increased value to consumers for their distributed generation; and • laying the foundation for future stages of MTR. In Meridian's opinion, there is no evidence to support these assertions. The additional complexity and costs to implement MTR is more likely to raise the barrier to entry for new participants. Distributed generation is highly valued by existing offers in market and there is no evidence that separate distributed generation traders will be able to offer a more efficient service than existing participants (especially since any benefit will need to exceed the cost to serve of two retailers rather than one). Laying the foundation for future stages of MTR is not a benefit to consumers and assumes baselessly that future stages will also have benefits. It would be troubling if the Authority was prepared to regulate and impose significant costs based on such limited analysis.
25	Do have any comments on the preferred and alternative options discussed in the 2019 Issues paper?	Not at this stage. Given the time available we have not had the opportunity to thoroughly review options discussed in the 2019 Issues paper.
26	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.	In respect of MTR, Meridian disagrees that the preferred option is preferable to the status quo. Our reasons are set out in the body of this submission.
27	Do you agree the Authority's proposed amendment complies with section 32(1) of the Act?	No. The proposed MTR amendment is not necessary or desirable to promote competition in, and efficient operation of, the electricity industry. It is therefore inconsistent with section 32(1) of the Act. As discussed in the body of this submission, Meridian considers the MTR proposal will result in consumer detriment. We agree the proposed switching changes are likely compliant with section 32(1) of the Act.

Appendix B: CEG Report - Economic case for intervention to promote MTR

COMPETITION ECONOMISTS GROUP

Economic case for intervention to promote MTRs

February 2018

COMPETITION ECONOMISTS GROUP

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1 Introduction

1. We have been engaged by Meridian Energy to review the New Zealand Electricity Authority's (EA) Consultation Paper on multiple trading relationships (MTR).[1]

2. This report presents a summary and analysis of the Consultation Paper, and sets out our views regarding the EA's position concerning the barriers that limit consumers' ability to use electricity or electricity services provided by more than one party at the same time, at the same location.

3. It is helpful to think of the current service provided by an electricity retailer as a bundle of services, such that establishing MTRs will involve an element of unbundling or separating out said bundle of services. In our view, such bundling of goods and services is a common occurrence in competitive markets, and the lack of unbundling is not indicative of artificial barriers to MTRs. Given the EA's findings from its most recent market performance review that the electricity retail industry is a competitive one,[2] the choice of whether or not to offer unbundled services in the form of MTRs would be most efficiently left to the market. To the extent that no or few unbundled offers are observed in the market, this most likely means that consumers do not place enough value on unbundling to justify the high costs associated with making such offers available to them.

4. The remainder of this report is set out as follows:

   - **Section 2** provides a summary of the issues laid out in the EA's consultation paper;
   - **Section 3** sets out our analysis of the issues in the consultation paper;
     - **Section 3.1** discusses the EA's view that there are artificial barriers to MTRs, and demonstrates that if the electricity retail sector is competitive then there is no case for intervention to promote MTRs;
     - **Section 3.2** discusses the fact that competitive industries often involve suppliers competing to supply a bundle of services, which suggests that MTRs are not a prerequisite for delivering competition or innovation;

[1] Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017.

[2] Electricity Authority, Electricity Market Performance: 2015 Year in Review.

In this document, the EA found that "retail market competition remains intense" [p. 3], and that "New Zealanders continue to enjoy a highly competitive retail electricity market" [p. 12]. It is likely that competition in the retail market has increased even further since then, as a result of new retailers entering the market.

- **Section 3.3** evaluates the cost-benefit framework set out by the EA; and
- **Section 3.4** describes the risk that demand for MTRs arises from artificial arbitrage opportunities.

2 Summary of consultation paper

5. The EA consultation paper ('the Paper') discusses the following four issues:

   - Changes to the electricity industry due to innovation in technology and business;
   - The current framework of electricity systems and processes in relation to multiple trading relationships;
   - Benefits of enabling multiple trading relationships; and
   - Costs of making changes to remove or reduce barriers to establishing multiple trading relationships.

6. The Paper defines a multiple trading relationship (MTR) as follows:[3]

> *A multiple trading relationship means a consumer uses multiple electricity service providers at the same time at the same location. Electricity service providers supply services that help consumers to optimise their electricity use and participation in the electricity market.*[4]
>
> *4 It is important to note that what a consumer considers optimal will depend on the importance they place on a range of factors, such as the environment, cost, social justice, the local economy, service reliability and demand flexibility.*

2.1 Changes to the electricity industry

7. The Paper identifies that there have been a number of technological changes to the electricity industry in recent years, such that there is now a great deal of scope for consumers to behave differently than they did in the past. For example, the Paper notes that the costs of key technologies such as batteries and solar panels have fallen significantly, which enables greater consumer participation within the electricity sector through selling electricity back to the grid.

8. The paper also cites technological developments such as the internet-of-things and the growth of whiteware goods with remote control capability as providing consumers with more choice and control in electricity use, as well as allowing scope for third party involvement in managing various aspects of a consumer's electricity use.

9. Coupled with the now widespread use of smart meters, the paper states that these changes have brought about several benefits, such as price-responsive electricity consumption on the part of consumers, and innovative pricing structures by retailers.

3 Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, p. iii.

2.2 Current framework of electricity systems and processes

10. The Paper sets out the EA's concern that the existing framework of rules and processes within the electricity industry could "artificially limit innovation and consumer choice".[4] This, the EA reasons, arises because the current framework was designed with a one-to-one relationship (between a consumer and a retailer) in mind.

11. The EA identified two barriers that prevent consumers from establishing multiple trading relationships:

    - **Hard constraints** due to industry rules and processes that prevent consumers from having more than one retailer at the same location; and
    - **Soft constraints** in the form of barriers that increase transaction costs as a result of retailers other than a consumer's retailer having difficulty accessing the consumer's data.

12. In particular, the Paper notes that the current framework allocates responsibility for a consumer to the retailer that is recorded in the registry. Only one retailer is placed in charge of each consumer, who is responsible for:[5]

    a. managing information held by the registry;

    b. managing the switching process;

    c. choosing an MEP to provide the metering service and data; and

    d. providing data to the reconciliation manager and distributors for invoice calculation.

13. Previous submissions have noted that retailers have the ability to negotiate commercial arrangements with other retailers in an "out of market" transaction that technically (though not officially) allows additional retailers to operate at the ICP. No such arrangement has actually been observed in practice, however, which the Paper attributes to the soft constraint due to retailers having the incentive and ability to delay the sharing of data.[6]

14. Retailers also have the ability to decide the type of meter to be installed at an installation control point (ICP), as well as the type of data that would be collected, which could prevent other providers from bringing to market certain services that

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4 Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, p. 15.

5 Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, p. 16.

6 The paper says retailers have twenty business days to verify that the information request is legitimate, and a further five business days to fulfil the request. We understand this may not be correct and that retailers may only have five business days in total.

require access to customer consumption data in less time than it takes to obtain such data from the retailer.

15. The consultation paper concludes its discussion of the current framework by pointing out that the degree of change that needs to be made to industry rules and processes will depend on how the two constraints set out above are addressed.

2.3 Benefits of enabling MTR

16. The benefits of removing barriers to MTR are stated as follows:[7]

> *Making it easier for consumers to have multiple trading relationships will have benefits and costs. The benefits are likely to come from more choices for consumers, greater competition from innovation in business models and services, a more reliable supply and a more efficient electricity industry.*

17. The consultation paper argues that the increase in choices for consumers will induce greater economic efficiency, since it induces additional rivalry among businesses that seek to provide the goods and services that consumers want. It is claimed that this encourages innovation to meet the needs of consumers, while discouraging products and services that fail to meet such needs.

18. It is envisioned that facilitating MTR can improve:[8]

    a. **allocative efficiency**: facilitating more opportunities for businesses to deliver the price, quality and other relevant product and service aspects that consumers want as businesses compete to attract consumers' choices. This would result in more efficient component services and more efficient services that aggregate the component services

    b. **productive efficiency**: providing stronger incentives for businesses to offer electricity services at lower costs

    c. **dynamic efficiency**: facilitating more opportunities for businesses to innovative in products and services at the lowest possible cost to attract consumer's choices as what consumers want and value changes over time.

19. In addition, the consultation paper also foresees the following additional benefits from enabling MTR:

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7 Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, p. 23.

8 Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, pp. 23-24.

- Creating opportunities for competition to establish relationships that potentially improve the reliability of supply, such as the management of consumption during instances where prices are high, or when there is a risk of power outage; and
- Improving market operations and reducing costs through consumption management arrangements that could:[9]
  - Reduce the need to expand the network or construct new peaking generation plants;
  - Reduce the need to run existing generation plants; and/or
  - Inducing more efficient consumer investment and electricity use.

2.4 Costs of making changes to establish MTR

20. The Paper acknowledges that costs will be incurred when implementing changes to rules and processed in order to enable MTR:[10]

> *These changes could impose costs on the Authority (via market operation service providers), market participants and possibly other stakeholders. In particular, we would need to amend the Code to make it easier for consumers to choose multiple trading relationships. Flow-on changes could also be needed to market processes and market operation service provider systems, and some participants may need to update their systems and operating practices.*

21. The EA's position with regard to these costs is that they should be allocated on a service-based and cost-reflective basis:[11]

> *In principle, the Authority considers that any cost allocation should be done on a service-based and cost-reflective basis. We are interested in understanding stakeholder views on how costs of the distribution service to the consumer's premises should be shared between multiple retailers (such as in the example from the previous paragraph) and if so, how those costs should be shared.*

22. The changes that need to be made as well as the relevant cost issues identified in the consultation paper include:

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9 Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, p. 25.

10 Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, p. 27.

11 Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, p. 31.

- Costs incurred as a result of increases in data collection and exchange of data in the electricity sector, noting that responsibilities may need to be allocated across multiple participants as opposed to the current system where only single participants are responsible;
- Changes to back office market operations systems and processes to ensure that parties get paid at the right time;
- Network management costs associated with consumption management, particularly what type of information should be recorded, how it should be recorded, and for whom;
- The need to amend metering equipment provider (MEP) systems in order to enable them to send different data sets to different parties at differing intervals; and
- Changes in the management of various consumer-related responsibilities in the context of MTR, such as:[12]
  - Medically dependent and vulnerable consumers;
  - Customer Compensation Scheme;
  - Trader default; and
  - LFC Regulations.

2.5 Comparison against AEMC assessment

23. The EA devoted one section of the Paper to reviewing a related project that the Australian Energy Market Commission (AEMC) had carried out in Australia.

24. This review was carried out in response to a rule change request whereby the Australian Energy Market Operator (AEMO) proposed modifying the existing framework to facilitate customer engagement with multiple retailers, with particular focus enabling a customer to engage with additional retailers for specific portions of its load without setting up additional ICPs.

25. As described in the consultation paper, the AEMC ultimately found that "the proposed solution was unlikely to deliver material benefits for most consumers", and that the proposal would increase costs while offering similar benefits to the existing regime.[13]

[12] Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, pp. 33-34.

[13] Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, p. 21.

26. However, the consultation paper drew two distinctions between the AEMC's project and the EA's:

    - The AEMC's project was limited to considering a rule change regarding allowing consumers to engage with multiple retailers, whereas the EA's project is wider in scope since it includes consideration of the barriers to consumers attempting to establish relationships with other electricity service providers;
    - The AEMO's proposal was designed to support both smart meters and analogue meters, which the consultation paper argues had the effect of reducing the benefits (since analogue meters have limited ability to support multiple retailers) and increasing the costs (since it may be necessary to incur costs to replace analogue meters with smart meters in order to facilitate engagement with multiple retailers). It is argued that this is less of a problem in New Zealand, where almost 80% of ICPs have smart meters installed.

3 Analysis

3.1 Are there artificial barriers to MTRs?

27. The EA consultation paper proceeds on a critical assumption that we do not believe is justified. Namely, the EA discussion paper proceeds on the assumptions that:

    a. The existing regulatory arrangements provide scope for an 'incumbent' retailer to create barriers for competitors, such as delays in providing consumption data, seeking to establish an MTR with the incumbent retailer's customers;

    b. Incumbent retailers have the incentive to create those barriers in order to protect their sales to their incumbent customer; and

    c. This provides an explanation for why few MTR relationships have been established.

28. Assumption a) may well be correct in the sense that the Electricity Industry Participation Code 2010 (the Code) and other regulations may not require an 'incumbent' retailer to always act in the way that would be most convenient for another retailer interested in establishing an MTR with the incumbent retailer's customer.

29. However, the consultation paper's assumption that incumbent retailers have an incentive to create barriers for MTRs is not well explained, and, in our view, is not correct. The following quote illustrates what we regard as problematic logical strand that runs through the consultation paper [emphasis added]:[14]

> *Where the request comes from a competing firm, retailers may have incentives to use the full timeframe available to them to satisfy the request.* ***Arguably, retailers have an obligation to their shareholders to do so if fulfilling the request faster places greater competitive pressure on the retailer.*** *Should this occur, providers offering a service that relies on accessing their customer's consumption data in twenty four days or less would be unable to bring the service to market.*

30. Implicitly, the consultation paper appears to be attributing zero agency to the end customer. If the end customer places a value on establishing an MTR and the incumbent retailer creates a barrier to that occurring then the end customer is worse off. In a competitive market, firms succeed by making their customers better off. Therefore, we would restate the highlighted passage of the above quote as follows:

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[14] Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, p. 19.

Arguably, retailers have an obligation to their shareholders to facilitate MTRs if their customers would be made better off as a result.

31. If the incumbent retailer has a monopoly over its relationship with the end customer then the incumbent retailer might be expected to ignore the end customers' desires. That is, with a secure monopoly over its position as the supplier of bundled services then the incumbent retailer may have an incentive to create artificial barriers between its customer and potential providers of unbundled elements of the bundled service.[15]

32. However, the 'incumbent' retailer does not have a monopoly over the provision of the bundled service. Consequently, the 'incumbent' retailer cannot be assumed to have an incentive to create barriers for its customers pursuing MTRs. If customers place a positive value on pursuing MTRs and their bundled retailer takes actions to prevent this (or raise the costs of doing so) then the customer will place a lower value on the service from their bundled retailer. That is, customers who perceive value from MTRs will be:

    - more likely to switch to another bundled retailer who is willing to facilitate MTRs (or, indeed, to a package provided by 2 or more unbundled suppliers); and/or
    - willing to pay a lower margin to the bundled retailer than they would be if the bundled retailer facilitated an MTR.

33. If the first outcome occurs the intransigent bundled retailer loses 100% of their sales to that customer instead of just some fraction of their sales. Moreover, as noted in the second dot point, the bundled retailer foregoes the ability to capture any of the value of the MTR by virtue of charging a higher margin on the subset of services that would have been supplied under the MTR scenario. These competitive market dynamics provide existing bundled retailers strong incentives to accommodate MTRs where their customers place a material value on those MTRs.

34. A number of analogies are potentially useful to illustrate the competitive process and also other economic issues associated with the provision of bundling that we will refer to in later sections. First, consider the case of restaurants. The standard economic model for restaurants is for each restaurant to provide a full bundle of dining services. Specifically, entrée, main course, desert and drinks are all supplied by the one restaurant on the one menu. Some restaurants allow limited external provision of some aspects of the dining experience (e.g., BYO alcohol and self-provided cakes for birthday bookings) and there are situations, such as food courts and food trucks, which are designed to allow a more comprehensive ability to engage with multiple providers at the same meal.

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[15] Even this seemingly intuitive conclusion can be problematic when one factors in the 'one monopoly profit' critique. Namely, if the incumbent has a secure monopoly over one specific service then its most profitable strategy is to allow the free market to deliver the most valuable combination of other services and to extract the value so created via a higher charge for the service in which they have the secure monopoly.

35. There are sound economic reasons for bundling to have evolved as the dominant restaurant model and these will be discussed in more detail in section 3.2 below. However, for a moment consider a situation where customers of a particular restaurant (Restaurant A) were known to place a high value on sourcing their entrées from the takeaway restaurant next door – such that the customers' economic surplus of dining at Restaurant A would increase by $10 relative to a scenario where Restaurant A has a policy that its customers must purchase their entrée directly from Restaurant A's menu.

36. Clearly, given the assumptions about customers' preferences for externally sourced entrées, it is not profit maximising for Restaurant A to deny customers the ability to source entrées from a competing restaurant. Restaurant A would be no worse off allowing customers to source their entrées elsewhere and placing a 'cover charge' on doing so that is equal to the lost margin on entrées. Indeed, Restaurant A would be better off given that the customer would now have a $10 higher valuation of dining at Restaurant A which means that Restaurant A can benefit from higher repeat custom and/or by raising the cover charge to capture some (or all) of the $10 value created by their more flexible policy.

37. This example serves to illustrate that when, a bundled supplier operates in a competitive market, it has strong incentives to accommodate its customers' demands. If some of its actual or potential customer base place value of sourcing some part of the wider bundle from another supplier then the bundled supplier has strong incentives to accommodate this. If they do not then they risk both:

    - losing the customers in total to another supplier/suppliers because they fail to give customers what they value; and/or
    - having lower per customer margins (e.g., losing the ability to apply a profitable 'cover charge').

38. This analogy to the restaurant business may seem like it is somewhat removed from electricity retailing. Indeed, as with all analogies, it is imperfect in that there are clearly differences between the restaurant industry and the electricity retailing industry. However, this and other analogies provide a very useful way of validating/cross-checking any conclusions one might be tempted to draw about electricity retailing. For example, by asking if the same conclusions apply to the restaurant industry and, if not, why not?

39. In particular, we come back to the consultation paper chain of logic which we summarise as:

    a. The existing regulatory arrangements provide scope for an 'incumbent' retailer to create barriers for competitors;

    b. Incumbent retailers have the incentive to create those barriers in order to protect their sales to their incumbent customer; and

c. This provides an explanation for why few MTR relationships have been established.

40. When we attempt to apply the same logic to the restaurant industry we conclude:

a. The existing regulatory arrangements allow 'incumbent' restaurants to place a 'blanket ban' on MTRs (e.g., sourcing entrées from other restaurants);

b. Competition between restaurants gives them an incentive to allow MTRs if doing so would improve customer surplus (i.e., if the benefits to customers exceeded the costs); and

c. This provides a basis for believing that the observed level of MTRs in the restaurant market is efficient and reflects the circumstances in which customers truly do value MTRs at greater than the cost of facilitating them.

41. In our view, this should also be the default interpretation of the electricity retail market. Specifically, provided it is accepted that there is effective competition between retailers providing bundled services then each 'incumbent' retailer does not have a monopoly over its customer base. Each incumbent retailer, therefore, has an incentive to accommodate MTRs where those MTRs provide net value to customers. This is because it will allow the retailer to both:

- win/retain more customers (by virtue of offering customers a higher surplus product); and/or
- capture some of that surplus directly via the equivalent of a 'cover margin'/'cover charge' in the restaurant industry.

42. We contrast this to the consultation paper's default assumption that bundled electricity retailers have an automatic incentive to artificially create barriers to MTRs. This assumption is presumed rather than explained in the consultation paper and, for the reasons described above, we do not consider that it is consistent with the existence of a competitive electricity retail market.

3.1.1 If efficient incentives exist, there is no case to restrict retailers' freedom

43. The consultation paper states: [16]

> *Retailers' ability to impose these barriers is a result of industry rules and processes. Accordingly, it is likely that industry rules and processes will need to change if we are to remove or diminish retailers' ability to do this.*

[16] Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, p. v.

44. As a factual statement this is not obviously wrong. However, it is clearly wrong to the extent that the implication is that the EA *should* remove retailers' ability to impose 'barriers' on MTRs. This is because some barriers for MTRs will be efficient.

45. We explain in section 3.4 that electricity retailers must be free to place barriers in the way of MTRs. For example, a retailer providing a full bundle of services to a customer must have the ability to alter its price structure if a customer ceases to buy the full bundle. In order to see why, one need go no further than to imagine a customer buying a bundled service at a flat c/kWh rate and then that same customer seeking to purchase their off-peak energy from a different service provider at a lower rate. Clearly, the bundled suppliers' flat rate must be based on serving both peak and off-peak. They must have the ability to either deny a requested MTR providing only off-peak services and/or the ability to raise their price for peak services in response a customer accessing such an MTR relationship.

46. Consider again the analogy to the restaurant industry. Restaurants do rationally place a blanket restriction on customers sourcing entrées from other restaurants. Such policies are 'a barrier' to MTRs in the restaurant industry. However, it is far from obvious that this is inefficient. Rather, it is likely an efficient policy when one factors in the costs of managing an MTR that allowed customers to externally source, for example, entrées. This avoids the business having to define and police what constitutes an entrée vs a main meal? Would customers outsourcing entrées be required to buy mains? How would delivery of the entrée be managed to minimise disruption etc?

47. A regulator with the same powers over the restaurant industry as the EA has over the electricity retail industry may be tempted to bemoan the ability of restaurants to 'place barriers' in the way of such MTRs and may seek to outlaw such barriers (remove the ability of restaurants to restrict MTRs). This would, however, be a regulatory and economic misadventure. The restaurant industry is competitive and if restaurants put barriers in the way of MTRs it is almost certainly because doing so is pro-competitive and efficient. The primary effect of taking away the ability of restaurants to put limits on MTRs would be to promote inefficient attempts at what amount to 'regulatory arbitrage' by some customers/MTR providers (see also the discussion in section 3.4 below).

3.1.2 What if customers are unaware of the benefits of MTRs?

48. The previous analysis proceeded on the basis that customers were well informed about the value that MTRs could provide to them. In that case, they would demand MTRs where the value was greater than the cost and the competitive market would deliver MTRs in these circumstances. However, it is possible that the consultation paper is implicitly assuming that customers are ignorant of the benefits of MTRs and, therefore, some form of regulatory promotion of MTRs may be optimal.

49. For the reasons set out in section 3.2 and 3.3 we are sceptical of the idea that wider take up of MTRs would deliver any efficiency benefits to customers. In our view, the current low take-up of MTRs is consistent with customers being well informed about the value to be generated by MTRs. Moreover, we consider that it would be a dangerous precedent for the EA to design policy on the basis that it believed customers had made a mistake in the valuation of MTRs.

50. However, for the purpose of this section we assume both: a) MTRs would deliver value to customers; and b) customers are unaware of this. Even if this were currently the case, provided some parties 'knew the truth', the ordinary operation of market forces would solve this problem of misinformation (should it exist).

51. For example, imagine that the least cost way of retailing electricity to customers is to have different sellers of energy delivered to a customer as opposed to purchasers of energy generated by that customer. Let us assume that the former is the 'bread and butter' of currently bundled retailers and that these retailers would have the lowest cost of supplying this unbundled service. By contrast, let the purchase of electricity generated on customers' premises be provided at lower cost by a specialised 'aggregator' of distributed generation.

52. If this is the case,[17] then any retailer (incumbent or new entrant) who specialised in supplying only one service would have lower costs than its bundled competitors. This means that there is money to be made from doing so. If necessary, specialised 'standard' retailers would team up with 'aggregators' in marketing a combined package at a lower cost than bundled retailers.

53. In this regard we note that examples of partnering between 'standard' retailers and more specialised suppliers already exist. Pulse and solarcity are currently partnering to deliver SolarZero where it seems Pulse acts as the retailer but partners with solarcity fee to service and pay down the capital for the solar panels under a shared brand.[18]

54. If such combinations/business structures are truly lower cost (including when factoring in customer transaction costs if dealing with multiple retailers) then they will eventually come to dominate the electricity retail sector. That is, competition and market forces will eventually force businesses to reveal and align to the lowest cost (highest value) business structures.

55. There is no obvious role for the EA in attempting to second guess market forces in identifying what the lowest cost/highest value business structure is.

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17 Exactly why this would lower costs is unclear but for the purpose of the discussion we assume that it is the case.

18 Pulse Energy, Welcome to solarZero®. Available at: https://www.pulseenergy.co.nz/solarzero, accessed on 16 February 2018.

3.1.3 What if MTRs are of limited value now but this will change in the future?

56. The consultation paper is, to some extent, focussed on a future world where the advantages of MTRs are greater than they currently are [emphasis added]:[19]

> *The opportunities for consumers to adopt multiple trading relationships **are just beginning to emerge.** However, they could be prevented from doing so under the current arrangements because retailers have the ability and incentives to impair or prevent other parties from forming a contemporaneous relationship with a consumer at the installation control point (ICP).*

57. For the reasons set out in sections 3.2 and 3.3, we are sceptical about the value of MTRs even with the advent of greater penetration of distributed generation, electric cars, and other forms of battery storage. In summary, competition for a bundled service is the standard way competitive markets work and there is no obvious reason to believe that bundling of the full range of electricity retail services will not remain the most efficient way in which services are provided.

58. However, we admit that this assessment may well be wrong and technological changes may mean that future customers may find value in purchasing unbundled elements of services from different suppliers. However, there is no value in the EA attempting to anticipate/get ahead of such developments. If this is the case then competition in the electricity market will, in the natural course of events, give rise to successful unbundled businesses.

3.2 Bundling is the standard outcome in competitive markets

59. In various sections of the consultation paper, the EA implicitly assumes that breaking up larger bundles and increasing competition for sub-bundles would have a pro-competitive effect.

60. For example, the consultation paper claims that more consumers are looking to engage in MTRs:[20]

> *Most households buy electricity from a single electricity retailer. But technological innovation means more consumers are looking and able to establish relationships with other electricity service providers. We are*

[19] Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, p. iv.

[20] Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, p. 7.

> *investigating ways to reduce inefficient barriers to these multiple trading relationships.*

61. The consultation paper then asserts that MTRs are about increasing choices for consumers:[21]

> *Multiple trading relationships are about choice. They are about making it easier for consumers to make choices about the electricity or the electricity services they use. Multiple trading relationships are also about making it easier for suppliers to offer these services to consumers, thereby promoting competition. It could also improve reliability and the efficient operation of the electricity industry.*

62. Finally, the consultation paper states that there is a parallel between consumer preferences for the electricity industry compared to other utility industries:[22]

> *Electricity consumers now have a growing expectation of choice in the goods and services they buy, brought about by experiences in other utility industries, especially telecommunications.*
>
> *We are concerned that the current electricity industry rules and processes artificially limit innovation and consumer choice in the electricity industry.*

63. As discussed in section 3.1, however, the consultation paper's assertion that requiring bundles to be broken up will have pro-competitive effects is by no means certain. Instead, bundling will typically reflect competitive outcomes that are indicative of cost minimisation and consumer preferences. As a general rule, it would be economically inefficient for a regulator to promote the break up of such bundles.

64. In fact, in a modern economy it is difficult to conceive of a single good or service that is not bundled. For example, consider a tomato sold at a local grocer. This good can be thought of as consisting of a tomato grown on a farm bundled with transport of that tomato to a more convenient location (the grocer) bundled with storage services (including refrigeration and the costs of spoilage) of the tomato until a convenient for the ultimate consumer to purchase it. In fact, one can even further disaggregate the production bundle for the tomato to separate the supply of the seed and the cultivation services etc.

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[21] Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, p. 8.

[22] Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, p. 15.

65. Fortune magazine recently reported on an attempt to make a sandwich from scratch using only raw materials.[23] The whole process ended up taking 6 months and costing $1,500:

> *I spent 6 months and $1500 to completely make a sandwich from scratch. Including growing my own vegetables, making my own salt from ocean water, milking a cow to make cheese, grinding my own flour from wheat, collecting my own honey, and killing a chicken myself.*

66. The above example, while humorous, underscores the role that bundling plays in promoting specialisation, achieving scale economies and lowering costs. Supply chains across most industries involve some level of bundling for various reasons, such as economies of scope and reducing transaction costs.

67. In contrast to the flavour of some of the commentary in the consultation paper, bundling of services is the norm, not an aberration, in competitive markets. Cars are sold as a bundle and not their constituent parts because, amongst other reasons:

- Manufacturers can make sure all of the elements of the bundle 'fit together' in an efficient manner; and
- Customers can avoid the significant transaction costs associated with self-assembly.

68. Electricity retailing is, in principle, no different. Electricity retailers offer a bundle of services that could conceivably be unbundled in an infinite number of ways. For example, one could imagine dividing up the current bundled service on the basis of:

- the device using the electricity;
- the time of day/year at which the electricity is used;
- the market price at the time the electricity is used;
- the maximum/minimum temperature in the nearest capital city on the day in which the electricity was used;
- whether the electricity was imported or exported; or
- any number of combinations of the above or other criteria.

69. However, the fact that such unbundling could, in theory, occur is no basis for believing that it should occur – any more than the current practice of selling a working whole car should be abandoned so that customers can 'mix and match' parts

[23] See: Fortune, This man discovered the real cost of a single meal, September 2015. Available at: http://fortune.com/2015/09/23/1500-sandwich-from-scratch/, accessed on 21 February 2018.

Original video: "How to Make a $1500 Sandwich in Only 6 Months, https://www.youtube.com/watch?v=URvWSsAgtJE

from different manufacturers. Just as is the case with car sales, there are good reasons to believe that:

- bundling reduces the total costs of supply;
- bundling improves the overall design of the product;
- bundling reduces transaction costs; and
- bundling facilitates a more competitive market where customers are better able to judge the price/quality offering of different suppliers.

70. When one recognises that bundling is pervasive in competitive industries it is obvious that the act of bundling remains consistent with consumer preferences, in that consumers do not place enough value or care on the unbundled goods and services to justify the costs of enabling such an option.

71. Furthermore, as was discussed in section 3.1, to the extent that the consumers of a certain industry decide that they have a significant preference for unbundled goods and services, then competitors and potential new entrants into said industry would have a strong incentive to capture significant market share by offering such a choice as a differentiating factor, provided that the cost of doing so would not exceed the benefit to them. In the event that no such choice is observed in the industry, then it is likely that this occurs due to consumer preferences as opposed to competitive barriers.

72. This observation can also be made from the examples above. In the case of restaurants, BYO arrangements can be used as a differentiating factor that targets certain segments of customers, with restaurants that target different customer groups having different BYO policies. This reflects diverse consumer preferences that attribute different value to the unbundling of entrees and beverages, as well as the relatively low cost of implementing such policies.

73. In contrast, car manufacturers that allow customers to select an assortment of parts across different manufacturers are rarely seen, and this also reflects consumer preferences that do not place sufficient value on the unbundling of individual parts to justify affording consumers with such an option. It is important to note here that the lack of options for unbundled car parts in no way suggests that the car manufacturing industry is not competitive, otherwise one could be misled into believing that imposing costs on car manufacturers to promote unbundled products would have pro-competitive effect, when its likely result would be to raise costs significantly with little benefit.

74. It is equally important to note that the discussion above does not suggest that unbundling is inherently inefficient. This is because exceptions do exist in industries with natural monopoly structures that cannot achieve efficient outcomes when left to market forces. Instead, the key argument being made here is that if the industry is competitive, then the choice to bundle or not to bundle should be determined by the

market, whereby individual competitors in the industry would undertake their own cost-benefit analysis of providing consumers with the option to unbundle, thus allowing market forces to attain the efficient outcome.

3.2.1 MTRs are not needed to deliver competition or innovation

75. We note that the consultation paper suggests that promoting competition through MTRs can generate long-term benefits to consumers as a result of economic efficiency:[24]

> *Overall, promoting competition through multiple trading relationships can provide significant long-term benefits to consumers. Specifically, facilitating multiple trading relationships can improve:*
>
> *(a) allocative efficiency: facilitating more opportunities for businesses to deliver the price, quality and other relevant product and service aspects that consumers want as businesses compete to attract consumers' choices. This would result in more efficient component services and more efficient services that aggregate the component services*
>
> *(b) productive efficiency: providing stronger incentives for businesses to offer electricity services at lower costs*
>
> *(c) dynamic efficiency: facilitating more opportunities for businesses to innovative in products and services at the lowest possible cost to attract consumer's choices as what consumers want and value changes over time.*

76. In our view, this is a misapplication of economic theory, given that the EA accepts that the supply of bundled electricity retail products is competitive.[25] As explained in the discussion above, economic efficiency would, in fact, be achieved by allowing the market to determine whether the benefits of unbundling through MTRs exceed the associated costs.

77. It is relevant to note that the EA observes that multi-retailer support is already possible under the current framework but no such arrangement currently exists. The

[24] Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, p. 23-24.

[25] See: Electricity Authority, Electricity Market Performance: 2015 Year in Review. In this document, the EA found that "retail market competition remains intense" [p. 3], and that "New Zealanders continue to enjoy a highly competitive retail electricity market" [p. 12]. It is likely that competition in the retail market has increased even further since then, as a result of new retailers entering the market.

EA attributes this observation to a misalignment of incentives on the part of retailers [emphasis added]:[26]

> *Although the hard constraint is created by the market rules, retailers can negotiate a commercial arrangement with a second retailer that technically (although not officially) allows the second retailer to operate at the ICP. This arrangement would have to be facilitated by the incumbent retailer and would be an 'out of market' transaction.*
>
> *emhTrade discussed this in its submission on the Enabling mass participation in the electricity market consultation paper when it said that '(m)ulti-retailer support is a feature that is feasible under the current regulatory framework and is one that we have discussed with other retailers'.*
>
> ***However, despite such arrangements being feasible and investigated, we are not aware of such an arrangement being agreed in regard to services to residential consumers. Presumably, this is because retailers face few incentives to enter into arrangements that are likely to reduce their revenue or profits.***
>
> *The soft constraint exists because the retailers have some incentives and ability to delay sharing the data. They have the incentives to do so where prompt access to data will mean they face more competition for their customers. Retailers have the ability to take up to twenty business days to satisfy itself that fulfilling the request would meet its obligations under the Privacy Act. Once the retailer has satisfied itself that the request is legitimate, it has a further 5 business days to fulfil the request. This gives retailers up to 25 business days to fulfil a request.*

78. The EA's presumption does not accord with its finding in the 2015 Electricity Market Performance Review that considered the New Zealand retail market to be competitive.[27] In a competitive electricity retail market, competitors and potential new entrants have an incentive to enter into MTR arrangements as a differentiating factor that would enable them to increase their market share by targeting the segment of consumers that do value such arrangements. If these arrangements do not exist in a market that is competitive, then the most likely explanation is that consumers do not value such an option sufficiently to be willing to pay for the costs associated with providing such an option.

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[26] Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, p. 20.

[27] Electricity Authority, Electricity Market Performance: 2015 Year in Review.

79. In this regard, we note the EA's own observation that a consumer's "optimal" electricity use is influenced by a range of factors:[28]

> *A multiple trading relationship means a consumer uses multiple electricity service providers at the same time at the same location. Electricity service providers supply services that help consumers to optimise their electricity use and participation in the electricity market.*[4]
>
> *4 It is important to note that what a consumer considers optimal will depend on the importance they place on a range of factors, such as the environment, cost, social justice, the local economy, service reliability and demand flexibility.*

80. The EA should therefore be cautious about assuming that the lack of MTRs is indicative of the existence of artificial barriers, and should instead be aware of the more likely possibility that consumers themselves may not consider MTRs to be "optimal" for their electricity use.

3.3 Cost benefit framework

81. The EA is seeking information in relation to the benefits and costs of regulatory changes aimed at promoting MTR. The discussion paper identifies benefits ranging from increased competition and innovation in services, improved system reliability and a general improvement in the efficiency of the electricity industry. In terms of costs, the EA identifies both direct and flow on costs from Code changes to allow for multiple trading relationship in the electricity market. The EA is seeking further information on both benefits and costs.

3.3.1 No evidence of latent demand

82. In section 3.2 we identified why intervening to promote MTRs is not a necessary prerequisite to deliver the benefits identified by the EA. We consider that:

- competition between energy retailers offering bundled services should be sufficient to deliver the types of services and the benefits that the EA envisages; and
- where/if this is not the case then competitive forces will lead to MTRs being commercially negotiated without the need for the EA to specifically attempt to promote them.

83. Consequently, the absence of material take up of MTRs today is not evidence of latent demand for these MTRs. In our view, there is little evidence of that there is significant unmet demand for these MTRs.

[28] Electricity Authority, Multiple Trading Relationships: How can consumers choose multiple electricity service providers?, Consultation Paper, November 2017, p. iii.

84. We observe that in Australia, the slow rate of expected adoption MTRs was the primary reason rule changes aimed at promoting MTRs failed a cost benefit analysis. In 2014, the Australian Energy Market Operator (AEMO) engaged Jacobs SKM to prepare a cost benefit analysis of rule changes to allow for multiple trading relationships in the NEM.[29] Jacobs SKM concluded that:

> *The analysis indicates quantifiable net economic benefits are negative for MTR … proposed rule change under most plausible futures around electricity demand, uptake rates and system costs. This is* ***largely a function of the assumed slow rate of adoption of MTR*** *and the high cost of implementation of this measure. [emphasis added]*

85. We also observe that in the Jacobs SKM study the initial interest in MTRs was forecast to come primarily from residential customers seeking to sell electricity generated from rooftop PV systems. This is illustrated in the following figure. It is notable that rooftop solar has significantly higher penetration levels in Australia than in New Zealand. Solar PV accounts for around 0.12% of electricity generation in New Zealand[30], whereas in Australia that figure is over 3%[31].

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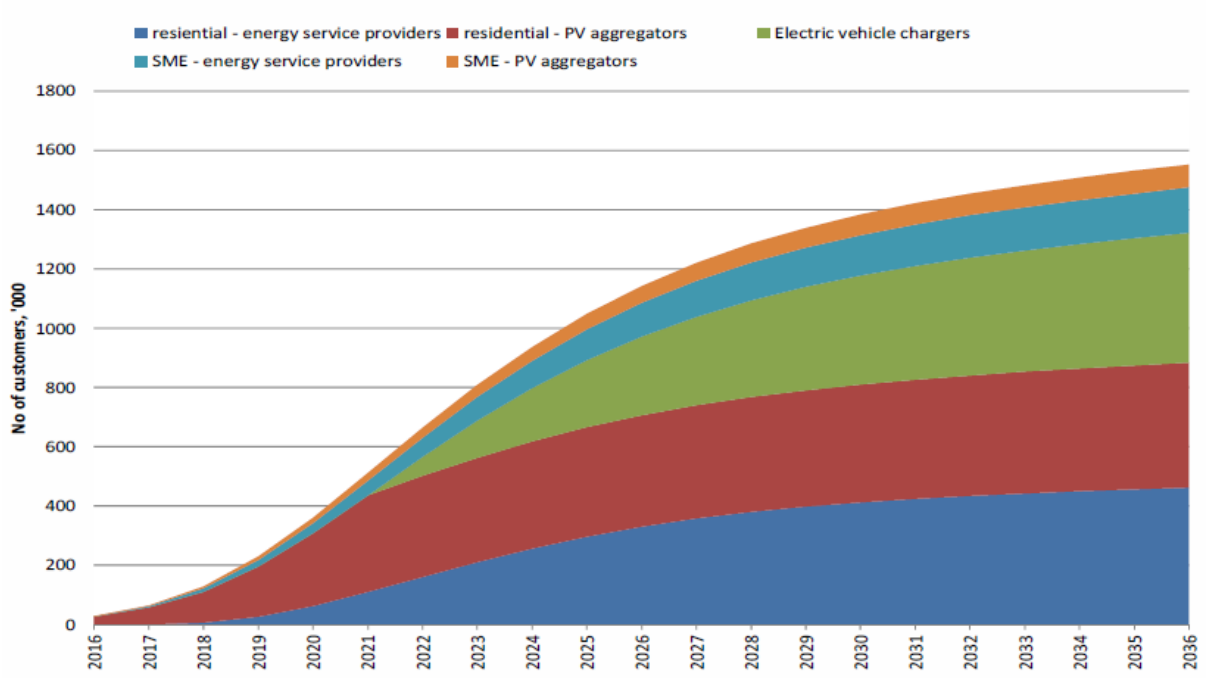
29 Jacobs SKM, Benefits and Costs of Multiple Trading Arrangements and Embedded Networks, May 2014, p. 6.

30 See: MBIE, Electricity graph and data tables. Available at: http://www.mbie.govt.nz/info-services/sectors-industries/energy/energy-data-modelling/statistics/electricity; Accessed on 16 February 2018.

Table 6 shows that in 2016, solar PV accounted for 52 GWh out of 42,590 GWh total electricity generation (0.122%).

31 AER, State of the Energy Market, May 2017, May 2017, p. 22. Available at: https://www.aer.gov.au/system/files/AER%20State%20of%20the%20energy%20market%202017%20-%20A4.pdf

Figure 3-1: Expected drivers of uptake in MTRs



Source: Jacobs SKM, Benefits and Costs of Multiple Trading Arrangements and Embedded Networks, AEMO Report, May 2014, page 5.

86. In more recent work undertaken for the Australian Energy Market Commission (AEMC), KPMG identified only a small number of services that might be facilitated by MTRs. KPMG identify a number of reasons why the uptake of MTRs are likely to be limited. These are broadly summarised as follows:

87. **Customer engagement** – the retail energy market is typically considered to have a low level of customer engagement. This may well simply reflect the fact that customers perceive, potentially correctly, that there is not currently material value to be created by virtue of researching and exploring MTRs. It is conceivable that new technologies and new entrants may increase the level of engagement around MTRs, but if this does occur then it is likely that the market will deliver MTRs without regulatory intervention.

88. In practice, many consumers value simplicity and do not want to manage multiple complex contractual arrangements with electricity service providers. Many hypothetical MTR relationships would require active customers that are able and willing to actively use technology and platforms (many of which that do not yet exist).

89. In our view it is correct that the electricity industry, like any other industry, would operate more efficiently in an idealised scenario where customers were more actively engaged; such that they would more efficiently manage their electricity usage. In such a world, there would be a larger take-up of innovative controlled demand and

distributed generation/storage services. These would certainly be supplied by bundled retailers and may also be supplied via MTRs if this was more efficient.

90. However, it is a mistake to observe a slower than idealised take-up of innovative services and conclude that this is due to 'artificial barriers' being placed in the way of consumers taking these services up via MTRs. If there was material demand, existing bundled retailers would have strong incentives to supply these services without MTRs (and, if MTRs were more efficient, via accommodating MTRs).

91. The obvious explanation for a slower than idealised take-up of innovative services is the fact that actual customers' interests and preferences are different to the 'idealised customer' from the perspective of maximising the efficient operation of the electricity sector.

92. That is not to say that actual customers are, in any sense, acting inefficiently or irrationally. The 'idealised customer' is not a realistic, or even efficient, objective/benchmark. Actual customers have to spread their scarce time and attention across all facets of their commercial and social interactions. With a limited 'number of hours in the day' the rational response by customers is to be less informed/engaged than would an hypothetical 'idealised' customer whose sole focus was to maximise the efficient operation of their energy usage/production. This conclusion is not specific to the energy industry. The same is true for all customers commercial (and social) decision making.[32]

93. **Government subsidies and financial support** – many of the potential MTR related services have to date been reliant on government subsidies and other financial incentives that if they are not maintained or enhanced, will not support future uptake. For example, distributed solar energy adoption has been significantly subsidised in many jurisdictions – including Australia via artificially high 'feed in' tariffs (which, in part, explains its materially higher take up than in New Zealand). However, the ongoing provision of these subsidies is always 'at risk' and, indeed, they have been substantially reduced in Australia.[33]

94. **Proactive bundled retailers** – KPMG also recognise the points that we make in sections 3.1 and 3.2. Namely, that competition between bundled retailers will likely substantially serve demand for innovative new services. That is, even if demand for these services grows much faster than expected there is no reason to believe that demand for these services via MTRs will also grow faster than expected.

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[32] It is far from obvious that customers would be better off spending more time researching their energy usage/production and less time, say, researching what restaurant to eat at/movie to see/clothes to buy etc.

[33] SA solar customers first to lose out as states wind up subsidy deal, NSW and Victoria to follow, abc.net.au, 3 Oct 2016, accessed on 23 February 2018 at: http://www.abc.net.au/news/2016-10-03/sa-solar-customers-lose-subsidy-scheme/7897276

95. In the absence of evidence that there is material latent demand for MTRs it is difficult to justify incurring fixed costs of promoting MTR. This is especially true if the means of promoting MTRs is likely to distort competition in the market – such as would be the case if rules were introduced that denied bundled retailers the ability to place legitimate restrictions on customers entering into MTRs that were inconsistent with the terms on which the bundled offering was made (see sections 3.1 and 3.4)

3.3.2 Relevance of smart meters to the benefits of MTRs

96. The EA refers to the greater penetration of smart meters in NZ as a distinguishing factor to Australia. Implicitly the EA appears to be suggesting that this could swing the benefit cost ratio for introducing MTR more in favour of introducing MTR in New Zealand, relative to Australia.

97. The greater penetration of smart meters in New Zealand means that MTRs might be established for some services (i.e., those not requiring loads to be separately metered) without additional meter installation costs. This would tend to lower the cost of introducing MTRs as the services that customers would seek with MTRs would generally require at least one smart meter. Having MTRs would, however, still require that meter to send data to different retailers which is a feature not likely to be currently built into the IT systems of retailers.

98. Moreover, the current high penetration of smart meters in New Zealand would also lower the benefits of regulatory changes promoting MTRs. The current high penetration of smart meters allows a single retailer to deliver many of the services that the EA perceive would be encouraged by promoting MTRs. For example, smart meters will allow existing bundled retailers to compete in providing better feed in tariffs, more attractive peak and off-peak differentials and facilitated peer-to-peer trading.

99. The high penetration of smart meters also means that existing retailers can voluntarily allow customers to enter into MTRs. As noted in section 3.1, existing retailers will have an incentive to facilitate MTRs where it allows them to offer greater value to consumers and make them more effective competitors with other existing retailers (and potential new entrants).

100. In summary, the current penetration of smart meters in New Zealand means much of the perceived benefits of promoting MTRs in Australia are already likely to materialise in New Zealand through competition between existing retailers utilising smart meter capability and by existing retailers facilitating MTRs when they add value.

3.3.3 Delay is valuable (option value)

101. One might imagine a future world where there will be a high level of demand for MTRs. However, even if this demand were *guaranteed* to develop in the future, it would likely be efficient to wait until that time before incurring the fixed costs of implementing the policy changes aimed at promoting such MTRs. This follows from the fact that there is:

- a time value of money in delaying expenditure (colloquially, costs delayed are costs saved); and
- a benefit from greater accumulation of information so that any intervention can be most efficiently targeted (i.e., mistakes avoided).

102. The benefit of delaying expenditure is reflected in the return that those expenditures could earn in the meantime. This is sometimes referred to as the opportunity cost of funds. The opportunity costs of funds will be different for different market participants.

103. In addition, there will be an option value in delay because this allows policy makers to benefit from new information and use this to design the optimal way to implement reform and, indeed, whether any reform is required. This would include:

- learning whether the imagined future demand actually materialises;
- whether MTRs evolve without regulatory intervention or whether the existing bundled retailers deliver the relevant services without MTRs; or
- whether alternative (lower cost) policy solutions to MTRs are developed.

104. We note that there is likely to be a benefit in delay even in the scenario where an expected net benefit is considered to exist today. This would be the case if there is uncertainty around the future benefits and costs of implementing reforms aimed at promoting MTRs.

3.3.4 The size and distribution of cost is a relevant consideration

105. The AEMC points out that there could be distributional asymmetries in the benefits and costs of the framework that it considered:[34]

> *Implementation of the proposed framework would require retailers and distributors to modify a number of IT systems and operational processes. These changes are significant, and the implementation costs would be passed on to all customers through increased electricity prices. As a result, while only a small subset of customers may receive a direct benefit from the*

[34] AEMC, National Energy Retail Amendment (Multiple Trading Relationships) Rule 2016, Final Rule Determination, February 2016, pp. ii-iii.

changes, all other electricity customers would likely face increased retail electricity prices.

106. Under the framework put to the AEMC, those that perceive zero value from MTRs will likely be disproportionately lower income customers (i.e., customers that are neither home owners nor investors in solar panels) but these customers will still bear the costs.

107. The EA is correct to identify significant issues with cost allocations (para 5.35). There is a risk that such allocations will not be completely cost reflective and hence will favour one type of retail offering over another. There are other problematic practical issues that would arise if the EA was making decisions rather than leaving them to commercial negotiation. For example, who has the right to disconnect for non-payment and the associated credit management implications of different options or costs to metering providers to build the ability to disconnect individual services?

3.4 MTRs could be inefficiently promoted due to 'artificial arbitrage' opportunities

108. One potentially reliable source of demand for MTRs is demand that grows as a result of regulation creating artificial arbitrage opportunities. As we have already described in section 3.1, bundled retailers need to be able to respond to a customer seeking to unbundle some part of their services. We provide the example of a bundled supplier having the right to prevent a customer seeking to access off-peak services via a third party (and/or the ability to raise their price for the residual (more heavily peak) services in response a customer accessing off-peak services via such an MTR relationship).

109. This highlights a general issue. By definition a bundled supplier must recover its costs across the bundle of services supplied. It is important to note that a common service supplied by a bundled retailer is typically "simplicity". For example, simplicity in the form of a tariff that does not perfectly match the costs of each element of the service(s) provided. This is because to do so would result in complex prices that are difficult to communicate to the end customer. Similarly, fixed costs and overheads are often recovered via variable charges because customers feel more comfortable with that price structure.

110. Given this, there will inevitably be opportunities where a third party could provide some subset of the services at a lower cost than the end customer perceives on their final bundled bill. In the above example, this would be the costs of off-peak supply where the final customer's bundled offer is based on a single price that covers both peak and off-peak supply. However, the third party is not actually lower cost at delivering off-peak electricity. Rather, they are simply playing an artificial 'game of arbitrage' trying to cherry-pick averaged pricing by the bundled supplier.

111. A bundled supplier must have the ability to prevent (place barriers before) such 'arbitrage unbundling' – either by disallowing it or responding to it with a different price structure/level for the remaining services supplied. Any regulatory intervention aimed at removing the ability of retailers to put such 'barriers' to unbundling in place would have the effect of artificially promoting inefficient 'arbitrage unbundling'.

112. Here the analogy with the restaurant industry is relevant again. Most restaurants in New Zealand do not have a specific fixed charge to cover the restaurant's fixed overheads (e.g., lease costs, fixed waiting staff costs, restaurant fit out etc). This is true even though these costs are a very significant proportion of total costs. Instead, these costs tend to be covered by charging a margin on the variable costs of the items ordered from the menu.

113. This is one reason why restaurants typically either do not allow unbundling or put in place charges (e.g., 'cover charge' or 'corkage') when customers bring their own food or beverages to the restaurant. If they were not allowed to do so then they would be put in the position of either:

- having to change their pricing structure to recover radically more from fixed per diner charges (and in so doing losing material efficiencies from the current price structures); or
- accepting customers who effectively use their restaurant as a free picnic spot – self supplying food and beverages with limited ordering from the menu.

114. This is, in our view, an important issue for the EA to grapple with. The consultation paper can sometimes be interpreted as wanting to deny retailers the ability to prevent a customer unbundling. However, this is a perfectly legitimate (and pro-competitive) goal of a retailer where the customer is seeking to unbundle in order to arbitrage the price structure the retailer has set.

115. It is not clear how any rules could distinguish between 'legitimate' and 'illegitimate' actions to prevent 'good' and 'bad' unbundling. Fortunately, and for the reasons explained in sections 3.1 and 3.2, there is no need for the EA to draft such rules because the competitive market will reward the former and punish the latter.