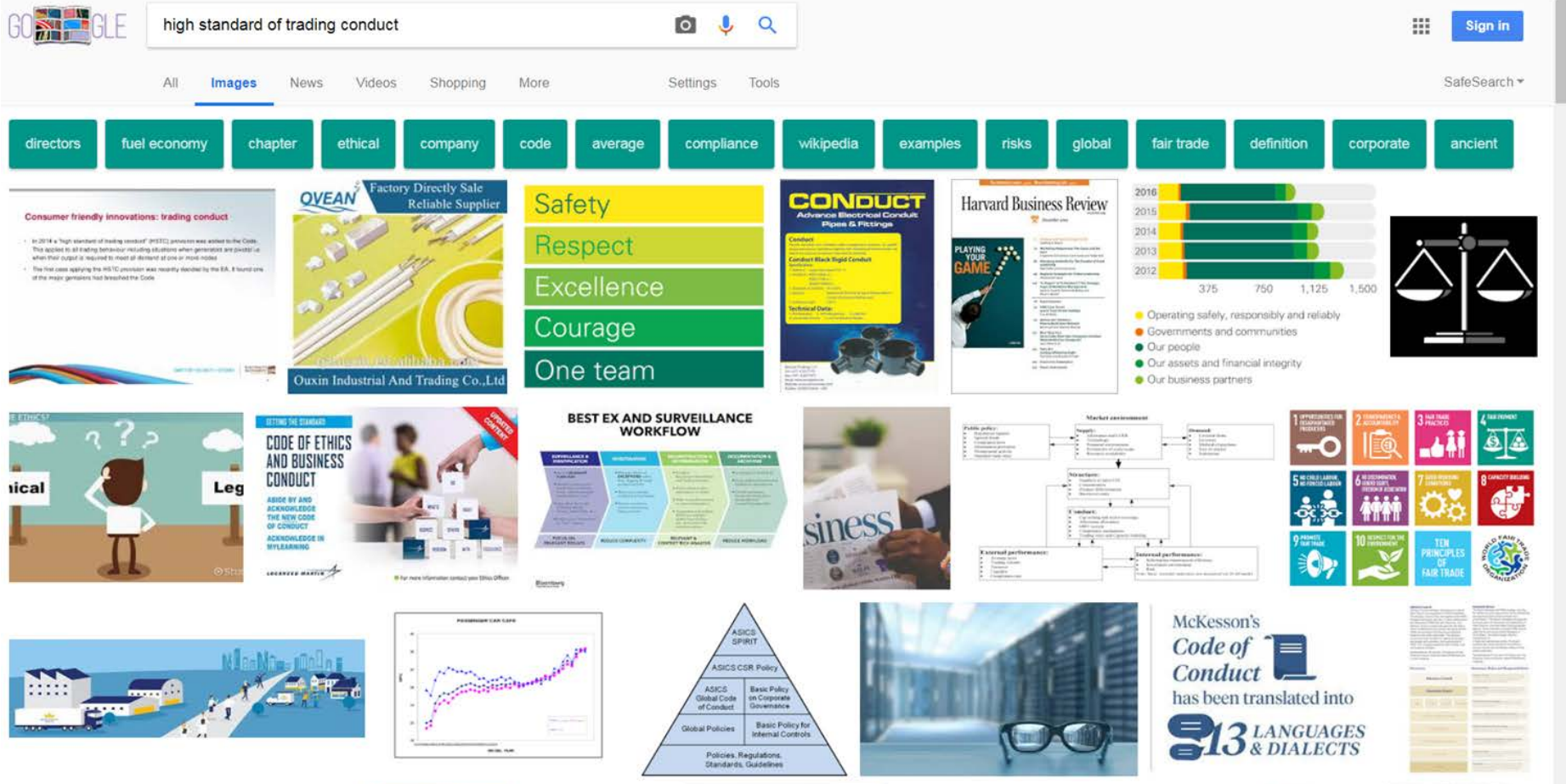


MDAG review of spot market trading conduct provisions



15 March 2018



- Code prohibits conduct inconsistent with a 'high standard of trading conduct' (HSOTC)
- Safe harbours provide one way to comply
- But non-compliance with the safe harbours is not on its own a breach of a HSOTC (13.5B(2))
- So what is?

Concise Oxford Dictionary, 7th edition, 1987

high a., n., & adv. **1.** a. of great or (*pred.*) specified upward extent (*high heels; a high hill; one inch high...*)

standard n. ... **3.** degree of excellence etc. required for particular purpose (*does not come up to (the) standard;...*)

trading n. In vbl senses;...[f. TRADE + -ING]

trade n. & v. ... **2.** exchange of commodities for money or other commodities, commerce;...

conduct n. ... **2.** manner of conducting (business etc.);...

- HSOTC means (too) many different things to different people
- The words 'HSOTC' are too vague
- Guidelines (see project scope item (c))
 - can be used to explain how the Code will be applied to specific facts
 - can't be used to supply meaning that is missing from Code itself
- Rulings Panel needs to rule on Code (rather than Authority express views)
- The Authority should amend the Code to clarify the HSOTC rule by both:
 - defining what is a HSOTC
 - clarifying how safe harbours apply to frequently pivotal generators

- Trading conduct provisions should promote outcomes consistent with workable competition
 - Workably competitive market benchmark must be assessed:
 - in a NZ-wide wholesale market
 - over time and in terms of whether average prices are sustained above long run marginal cost (*22 May 2017 HoustonKemp report*)
 - On 2 June 2016 prices were \$4,300 in TP 36, \$188 in TP 37 and \$2,800 in TP 38; between 1 May 2016 and 30 June 2016 average daily prices were \$205 on 2 June and otherwise ranged between \$13.74 (11 June) and \$69.09 (4 May)
 - Incentives to increase transmission capacity – making full use of existing HVDC?
- Attachments:
 - Chronology
 - Meridian's suggested rule