



**TRANSPOWER**

Transpower House  
96 The Terrace  
PO Box 1021, Wellington  
New Zealand  
[www.transpower.co.nz](http://www.transpower.co.nz)  
[micky.cave@transpower.co.nz](mailto:micky.cave@transpower.co.nz)  
04 590 7309 / 021 2425293

10 April 2018

Innovation and Participation Advisory Group  
c/o Arik Mordoh  
Senior Adviser Retail and Network Markets  
Electricity Authority  
By email: [submissions@ea.govt.nz](mailto:submissions@ea.govt.nz)

To IPAG

## Views sought on equal access project

We welcome the opportunity to provide input to the Innovation and Participation Advisory Group's (IPAG) review of access arrangements, as invited through the Authority's Market Brief 13 March 2018.

Our input covers the need to:

- clarify the project parameters of problem definition, scope, and objectives, and
- account for Part 4 and Code statutory mandates.

## Clarity on problem definition and project scope

We consider the broad scope risks a confusing overlap with other Authority projects such as the Default Distributor Agreement, and with Commerce Commission responsibilities for networks economic regulation.

## Determining whether there is a problem

The Authority's statement that it has "*detected a lack of confidence in the existing open or equal access arrangements*" may provide a *prima facie* basis there could be a problem, but it is not evidence of a problem. We support the Authority's request for IPAG to consider and report on the operation of the existing framework for using transmission and distribution networks...<sup>1</sup> to be clear on whether a problem exists, and if so, the extent of detriment to efficient operation, competition and reliability.

## Establishing definitions for open access and equal access

The Authority's decision paper<sup>2</sup> refers to "open or equal access" as potentially interchangeable objectives, without explaining whether there is any distinction between the two terms. We consider the definitions for both "open" access and "equal" access warrant closer attention for the review.

---

<sup>1</sup> [Enabling mass participation decision paper](#) section 3.3

<sup>2</sup> Ibid page iii

The Authority has presented to IPAG that Equal Access means “*network users have equal opportunities and are treated equally*.”<sup>3</sup> However the term “equal” access is not a commonly used term for network access.

On the other hand, the Telecommunications Act, which regulates network access for telecommunications, makes repeated reference to “open access”, including open access obligations. Accordingly, use of the term “open access” creates precedent for network access settings.

The Telecommunications Act also includes non-discrimination requirements. For example, the Act<sup>4</sup> requires that the Commerce Commission set a “geographically averaged price” (or postage stamp) for both Chorus’s unbundled bitstream access service and unbundled copper local loop network service. The approach for this telecommunications service seems consistent with treating network users equally, but we are not sure if that is what the Authority intends.

We suggest that for IPAG to be clear about the objectives of its review, it relies on commonly used and understood wording and precedent for network access: **open access** and **non-discrimination**. Otherwise, we consider the IPAG would need to consult on a new definition for “equal access.”

## Account for Commerce and Electricity Acts’ statutory mandates

We encourage the Authority’s intent to involve the Commerce Commission (Commission) in its consideration of network support services and efficient network investment and regulation.<sup>5</sup> To ensure that policy development under the Code does not conflict with Part Four economic network regulation, the IPAG needs to be well advised on the existing regulatory framework. For example:

- the decisions under the Commission’s recent review of the input methodologies<sup>6</sup>
- statutory direction that input methodologies “*must not unduly deter investment by a supplier of regulated goods or services in the provision of other goods or services*”<sup>7</sup> and
- statutory direction for the Commission to... “*promote incentives, and must avoid imposing disincentives, for suppliers of electricity lines services to invest in energy efficiency and demand side management, and to reduce energy losses*...”<sup>8</sup>

Finally, since the Code may not regulate anything that the Commerce Commission is authorised or required to do under Part 4<sup>9</sup> we consider the Equal Access project should not seek to relitigate issues raised in the input methodologies review.

Please contact me if you have any questions about our input.

Yours sincerely



Micky Cave  
Senior Regulatory Analyst

---

<sup>3</sup> EA presentation to IPAG [Introduction to Equal access framework project](#) slide four

<sup>4</sup> Subpart 1, of Part 1 of Schedule 1

<sup>5</sup> [Enabling mass participation decision paper](#) section 4.7

<sup>6</sup> [Input methodologies review](#)

<sup>7</sup> Commerce Act 1986 section 52T (3)

<sup>8</sup> Commerce Act 1986 section 54Q

<sup>9</sup> Electricity Industry Act Section 32 2 b)