

11 July 2020

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By email to regulation.branch@comcom.govt.nz

Re: Feedback re DPP3 reset process

Dear Dane

We welcome the opportunity to provide the Commission with feedback on the DPP3 reset of non-exempt EDB revenues and associated performance standards. This reset was effective from 1 April 2020.

ENA members have provided us with balanced responses regarding the DPP3 process and their views are contained in this feedback note. Many will provide you with direct feedback as well.

Overall comments would be that there were aspects of the process that were very good but there is some frustration that opportunities to improve the application of Part 4 regulation of lines businesses were missed. It is not clear whether this was because of time and/or resource constraints.

We are, however, very keen to keep the improvement process alive for both the IM review due in 2023 and for DPP4 in 2025. The environment that these businesses operate in has changed permanently and it seems will likely continue to do so. It is in our collective interests to make sure that regulations are adapted to suit. Our comments are mainly to do with ways the process, models and our engagement can be improved to better suit a changing future.

Our feedback on the process

- Early engagement – the early engagement by the Commission with the publication of the Issues Paper in November 2018 was most helpful, as was the early engagement with the ENA

Quality of Service work group. These are helpful for developing an in-depth understanding of the most critical issues for setting the DPP. Our impression is that as the DPP3 process progressed from that time the level of direct Commission engagement reduced. There appears to have been a missed opportunity to develop a collective understanding on how to progress regulatory changes to deal with the problems identified by that original Issues Paper. We would record our appreciation of the Commission meeting our Regulatory Working Group to explain the Draft Decision and reasons.

- Workshops – the timing and structure of the workshops were variable in our view in terms of structure, content and the input expected from stakeholders. The Quality workshop towards the end of the process was probably one of the better ones – it got into some good detail but on reflection it seemed to have little connection with the significant decisions the Commission ultimately made on DPP3 quality parameters. We have some specific comments below on this topic. We encourage the Commission to use workshops as a useful tool to test conclusions with stakeholders and where needed with experts. Workshops provide a unique opportunity for all parties to express their views in a single forum which illuminate the full range of information around a single topic.
- Consulting with EDBs – while we appreciate the effort that the Commission put into communications and consultation, a few decisions appear to have been made on material DPP3 matters without industry input. By way of example, we believe that the new ‘SAIDI N’ regime would have ended up with a more practical design had the Commission undertaken consultation with EDBs. Another example would be the lack of recognition of Major Event Days in the framework. EDBs now run the risk of despatching field crews to continue planned works on, say, very windy days, or incur SAIDI penalties. This example is a DPP change that would have benefitted from a workshop. An in-depth discussion would have highlighted the impact the proposed changes have on field-crew deployment and work scheduling.
- Evidence-based decisions – the Commission appears to have taken a data-driven approach to some aspects of its decision making, which we support. We would like to see the data-driven evidence-based decision making further developed through the ID regime so that the next IM review and DPP reset can benefit. This approach does not seem to have been applied to all important decisions. One example would be the annual compliance framework, which did not appear to have the same level of supporting evidence, and decisions seem to have been overlaid with value judgements and limited supporting evidence. Another example would be the policies of capping SAIDI/SAIFI across DPPs and then moving to an annual compliance framework that should have been indicative of the expected SAIDI/SAIFI limits, but was not so. The industry expects a consistency of rigour with all decisions – our concerns here are that the decision ‘bar’ for change seems to vary, and this undermines the certainty intended for the Part 4 framework.
- A related example is where EDBs have provided data to evidence a particular decision point, it is not unreasonable for them to expect that it be used as such. This was sometimes not the case. By way of example we are aware that Vector disclosed to the Commission that its third party damage SAIDI/SAIFI was not reflected in the draft DPP3 capped limit, but it seems that

Vector's evidence was not incorporated into the policy change of moving to capped limits and annual compliance.

Specific matters

- Aspects of the final decisions on the revenue path could have been better justified in our view and the re-use of some models that were previously questioned as being fit for purpose was an opportunity lost. Our primary frustration here was the lack of a response from the Commission to the heavy investment that ENA put into an expert report on improvements to opex models and the productivity factor. To be blunt, we felt that the expert report received only cursory attention, and that the Commission went looking for justifications for its draft decision to set the productivity factor at 0%.
- The Commission did not seem to seriously engage with the issue that the Commission's opex model does not address changes in non-scale related operating expenditure. Another example for improvements would be to modelling that the Commission published for its operating lease IM changes. Some of our members struggled to understand the complicated changes the Commission made in relation to the operating lease IM issue. As you know, we engaged PwC to 'decode' the lease models. For the record, we did receive good feedback regarding the Commission's other financial models.
- The consultation on changes to the IMs to address operating leases probably should have occurred prior to the DPP consultation and prior to businesses adopting the new standard. The timing created additional pressure on the consultation process, including a late s53ZD notice. The s53ZD information request and the discussion papers included some ambiguities which complicated the consultation process, and left EDBs with a less-than-adequate understanding of the implications of the proposals on revenue allowances and IRIS. As discussed above, the early circulation of modelling for these changes would have improved feedback on the topic.
- The Quality of Service Working Group reporting, and our joint discussions on network quality, highlighted the importance of enforcement guidelines to ensure there is a complete framework for Quality of Service. We have raised this issue several times with the Commission, but we cannot understate its importance. The ENA has previously raised concerns that changing Network Quality requirements, to address perceived shortcomings, is providing suppliers with only a partial view of how to manage network performance. Without enforcement guidelines, some EDBs find it problematic to understand obligations which affect their decisions.
- Again, we were appreciative of the quality workshop late in the process and the opportunity to assist the Commission with improvements to its draft decision. As a general comment we felt that the modelling supporting the consultation on quality standards was not as available to everyone as was needed, and the commentary on the proposals was hard to understand. It seemed to lack a precision. The changes introduced in the final decision were not consulted on (for example, the problematic addition of customer interruption minutes to the extreme event standard). Some ENA members have concerns with this part of the final determination. Despite these comments the final decision had some much-welcomed

improvements to the quality regime, including more granular normalisation, an improved framework for planned outage compliance, and the removal of SAIFI from incentive scheme.

- An aspect of the final decision that we noted at the time was the communication of the impact on consumer prices. Some of the stakeholder and media reaction to consumer price impacts material in the decision could have been avoided had we (EDBs and the Commission) jointly consulted on the material that the Commission intended to publish ahead of its release. We recently wrote to the Electricity Authority on this same issue after it released price impacts of TPM that were misleading.

IM review and DPP4

Continuing the theme of 'improvements', ENA members are keen that the opportunities for improvement that were possibly lost in the DPP3 outcomes are not likewise missed in either the IM review in 2023 or the DPP4. We are interested in setting up workgroups and governance arrangements to manage the process. We encourage the Commission to be a part of and support greater input from stakeholders to assist with managing the many issues we see as needing review.

For us a topic that will get early attention is the need to collect data in DPP3 to evidence the IM/DPP4 changes. Work on this needs to start now or very soon and we look forward to the Commission starting the ID review that is scheduled for 2020. Other topics that we have marked as needing attention include:

- The Commission and ENA need to work together during this period on further improvements to the Quality of Service regime. We are in the process of reconvening the Quality of Supply working group to continue its constructive analysis and outputs during DPP3 development. We are determined that another opportunity is not lost and to assist with the progress of the Commission's Enforcement Guideline Drafting.
- The use of CPI in the IMs and the DPP process needs urgent attention. Because of the significant fall in CPI forecasts, EDBs are likely to face a lower MAR track with revenue that is less than forecast. We consider this topic, at the very least, a material issue for IM review (in principle, we consider that EDBs should apply for a CPP if the RBNZ CPI forecasts drop further).
- In a similar vein, the impact of negative real interest rates for future WACC needs urgent attention, simply because we are of the view that it does not make sense that investors in a risk-free instrument would choose to invest in an asset yielding a negative real return.
- The overall Part 4 regime may need adjusting because of the changing environment. There is likely to be a significant widespread impact causing changes to the operating environment that DPP3, and the IM regime, is not geared to respond to. EDBs are having to make a significant adjustment to their operations (and have not prepared their AMPs) on the basis of extraordinary public health and economic impacts.
- We have a suggestion to improve process and timing. Prior to the formal DPP processes the Commission should have a good idea of whether it wants to make material changes to the current framework and, if it does, it should convene an industry workgroup (either formal or

informal) to start work on the key issues at that time. This will allow ENA members, and the Commission, to work through issues in a more considered manner, meaning that we collectively are further down the road (or at the end of the road) on the issues before the draft decision is published.

We trust you will find these comments useful and we are happy to discuss any of them with you.

Once again thank you for the opportunity to comment.

Kind regards

A handwritten signature in grey ink, appearing to be 'd. boer', written in a cursive style.

David de Boer
Principal Advisor, Regulation and Pricing

Electricity Networks Association