MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
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Consultation paper

Compliance Framework: Electricity

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The Ministry of Business, Innovation and Employment (MBIE) seeks written submissions on the issues raised in this document by 5pm on **Friday 23 April 2021**.

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  Ministry of Business, Innovation & Employment
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1 Introduction

1. The Electricity Price Review (EPR) recommended in 2019 that the Government update the Electricity Authority's (the Authority's) compliance framework.

2. The EPR noted that the framework dates back more than 20 years and is based on contracts between industry participants that were incorporated into the regulatory framework when self-regulation ended in 2003. The EPR suggested that a review is long overdue.

Overview of the compliance framework

3. The compliance framework (the framework) within which the Authority operates consists of the regulatory arrangements to monitor, investigate and enforce the rules of the New Zealand electricity market. These rules are set out in:

   3.1. ***The Electricity Industry Act 2010 (the Act),***

   3.2. ***The Electricity Industry (Enforcement) Regulations 2010 (the Regulations),***

   3.3. ***The Electricity Industry Participation Code 2010 (the Code).***

4. The Act provides the Authority with delegated law-making power to create obligations on electricity industry participants (industry participants) through the Code. The Act sets out jurisdictional limitations on the Authority's Code-making powers and specifies procedural requirements that must be followed to develop new Code provisions.

5. The Code imposes obligations on all industry participants, including Transpower New Zealand Ltd, other distributors, generators, and retailers. These obligations are intended to maintain the security and reliability of New Zealand's electricity supply, and to promote competition and efficiency.

6. The Authority is charged with investigating breaches of the Code. Industry participants are obliged to self-report certain Code breaches, and to notify the Authority if they believe that other industry participants have breached the Code. Any other person may also complain to the Authority about a potential Code breach.

7. The Act and the Regulations set out the process to apply when an industry participant is alleged to have breached the Code. The Regulations specify how the Authority is to investigate an alleged breach of the Code. Following an investigation, the Regulations provide that the Authority may lay a formal complaint with an independent specialist decision making body, the Rulings Panel (the Panel). Industry participants may also refer certain matters to the Panel.

8. The Panel determines whether there has been a breach of the Code. Among other remedies, the Act specifies that the Panel may require participants to take remedial action, pay compensation to those who have suffered loss or pay penalties to the Crown.

9. The Regulations set out limits on the liability of various participants in the electricity market to orders made by the Panel under the Act, including pecuniary penalty orders. Limiting liability increases competitiveness in the electricity market by reducing barriers to entry, while still providing a good balance between the incentive for providers of services to secure electricity supply and the freedom to take on risks that promote the long term efficiency of the industry.

History of the regime

10. The structures governing the electricity industry have changed multiple times in recent decades, but the enforcement framework has been largely unchanged in key respects.

11. Around the year 2000, the electricity industry was based around multilateral contracts between participants in the electricity market. The model was one of self-governance. In the early 2000s, market participants came together to merge the various contracts into a single 'draft rulebook'.

12. In 2003, the Electricity Commission (the forerunner to the Authority) was established. This marked a move away from self-governance. However, the new pieces of legislation (the Electricity Governance Regulations 2003 and the Electricity Governance Rules 2003) were based primarily on the draft rulebook created by industry participants.

13. In 2010, the Act and Regulations came into force. These rolled over the 2003 legislation with few changes. The Act and Regulations therefore have inherited features of the multilateral contracts that originally regulated the industry.

Review of the framework

14. This discussion document has been prepared taking into account the findings of the EPR and submissions made to that Review, discussions with the Authority and the Panel, and consideration of other jurisdictions such as the gas and telecommunications industries.

2 Institutional structure

What is the issue?

15. In submissions to the EPR, some parties questioned whether it was appropriate for the Authority to be both the rule-maker and the rule-enforcer responsible for rule investigation, early resolution, settlements and/or prosecution. They suggested separation was appropriate because of the risk of a blurring of the roles.

16. The EPR considered whether the Authority's rule-making function should be separated from its monitoring and enforcement functions. It concluded that the case for doing so was not clear, but warranted further evaluation.

17. The Authority also funds the Panel and must agree on its budget and performance objectives. If the Panel hears a case in which the Authority is a party, it may appear less than independent. The EPR suggested that alternative administration arrangements for the Panel should be considered (such as moving the administration to another agency), in order to avoid potential conflicts of interest.

Options and impacts

18. We considered splitting the rule-making and enforcing functions currently undertaken by the Authority. As noted in the EPR's final report, there may be a loss of cohesion and communication if the functions are split between different institutions. Our view is that this would impose additional administrative costs without clear benefits in terms of increasing the integrity of the overall framework.

19. We also considered the model of the gas industry which disperses some functional roles over a greater number of players:

    19.1. The role of administering and receiving breach notices is undertaken by the Gas Industry Company.

    19.2. Investigations of alleged breaches are undertaken by an independent third party appointed on a case by case basis, with any early solution or settlement arrangements having to be approved by the Panel.

    19.3. In addition to approving or rejecting settlements proposed by the Investigator, the Panel also determines breach allegations that are unable to be settled, or in respect of which a settlement has not been approved.

20. While this model does not deal to the split between rule making and enforcement, it could provide some additional checks and balances in the compliance framework. However, we do not consider that this would add significant value to the current system, in which the Panel already acts as an independent adjudicator, with the powers to impose remedies.

21. We acknowledge that, until recently the Panel has seldom been utilised given that most breaches are settled. However, we consider that attempting settlements is the best approach in the first instance. While this could be seen as a legacy of the original self-governance model, we consider that settlements are a relatively low cost way to resolve breach allegations. Approval of settlements by the same body (the Authority) that undertakes the investigation does not appear to have been at the heart of the concerns raised during the EPR.

22. A robust compliance process would not only resolve the immediate dispute but provide clear guidance to the market and influence behaviour. We have considered whether, given the prevalence of settlements, there is sufficient guidance for industry participants beyond the parties to the approved settlements. At this stage we consider that the current requirements to publicise the Authority's decisions and approved settlements provide adequate guidance, but we seek your feedback on whether these measures could be enhanced or improved.[1]

23. We considered whether alternative administrative arrangements for the Panel would be desirable. While there is a theoretical case for moving the administration of the Panel to a different agency, we are not aware of any specific examples where concerns have been expressed about the Panel's lack of independence. We consider that such a change would be hard to justify in the absence of a stronger case, particularly as a number of legislative amendments would be necessary to give effect to the change.

1	Should the rule making and enforcement functions of the Authority be split? Are there any examples of problematic 'blurring of functions' by the Authority in its decision making? Is there a case for a separate agency approving and publicising settlements?
2	Do the Regulations provide sufficient transparency and definitive guidance for industry through the requirements to publicise approved settlements and decisions by the Authority? If not, what additional measures would you suggest and why?
3	Should the Authority continue to be responsible for administrative arrangements for the Panel?

[1] The Authority also publishes a *Compliance Update* that includes information on the Committee's decisions, an overview of the matters considered by the Committee and updates on any initiatives or developments regarding the Authority's compliance functions.

3 Amendments to the Act

What is the issue?

Adequacy of maximum penalty

24. It is important in any regulatory regime that penalties are material enough to incentivise compliance and deter non-compliance.

25. The Code regulates anti-competitive trading behaviour by participants who find themselves in a position of significant market power. The Code also regulates to ensure the quality and security of the electricity system.

26. On determining that an industry participant has breached the Code, the Panel may make a pecuniary penalty order (under s.54 of the Act) not exceeding $200,000. Each separate breach attracts a separate penalty, so the overall penalty could be higher than $200,000 (where there are multiple breaches). However, there can be ambiguity around when a breach starts and finishes, and whether it is a single breach event or multiple breach events. A single, high impact breach may also not be deterred effectively.

27. Panel decisions in relation to breaches of the Code have been uncommon, with only four substantive decisions since 2010. However, the Authority has been involved in investigating allegations that breaches extracted excess revenue in the tens of millions. A $200,000 penalty may not be a meaningful deterrent to a breach which extracts revenue many times the value of the penalty. We note that the Authority is undertaking a review of the High Standard of Trading Conduct provisions to better capture the kind of trading behaviour intended to be covered by the existing provisions.

28. A breach of Code provisions relating to common quality and security could cause serious consequences including damage to assets and widespread loss of supply. While participants may be motivated to comply with the Code for reasons other than the threat of a meaningful penalty, such penalties are a critical element of the compliance framework. The cost of the potential harm in cases of this type could far exceed the amount that the Panel could impose as a penalty.

29. The cost of proceeding to a complex Panel hearing may be significant in some cases. This could create a perverse incentive to settle which conflicts with principled enforcement.

30. The maximum penalties of $20,000 under ss 57 and 60 for failure to comply with compliance or suspension and termination orders also appear low. These remedies would be undermined if failure to comply with the orders had minimal consequences.

Ambiguity around continuing and recurrent breaches

31. The lack of clarity around the application of the Act and Regulations to a continuing and recurring breach of the Code means that parties are not sufficiently incentivised to correct a breach. While the behaviour continues there is the potential for a material negative impact on the parties suffering loss or a material windfall for parties benefiting.

32. As noted above, there can be ambiguity around:

    - when a breach starts and finishes,
    - whether it is a single breach event or multiple breach events, and
    - whether related events are subject to multiple penalties as recurring breaches or a single penalty as an ongoing breach.

33. The treatment of breaches which arise from a similar cause but which manifest as different events is unclear. The Regulations seem to contemplate that a remedial order for a breach of the Code could apply to a series of closely related events arising from the same cause or circumstance. Some Regulations refer to "any one event or series of closely related events", and treat both in the same way for the purposes of limiting liability in relation to orders made by the Panel for breaches of the Code.

34. To be consistent with this approach for enforcement purposes, a series of closely related events arising from the same cause or circumstance should be dealt with in a similar way to a discrete event, and only attract one penalty. Because the penalty would address the underlying cause or circumstance, this appears an appropriate deterrent (subject to the reservation below). It also offers a principled way to establish whether behaviour should be characterised as a single breach or multiple breaches, depending on whether events are closely related or not. However, it is not explicitly provided for in the Act.

35. Clarifying this ambiguity may not deal with poor incentives for compliance. If multiple, related events are treated as a single breach, then there are few incentives to stop the relevant behaviour continuing, where:

    - the penalty is low relative to the reward, and
    - there are no specific additional penalties which apply to continuing the behaviour.

36. The treatment of an ongoing breach which can be described as a single event is clearer – a single penalty would apply – but may still be inappropriate. For example, there could be a breach that continues for years, but would only attract a single penalty.

37. The Panel must have regard to the length of time the breach remained unresolved when considering making a pecuniary penalty order and the amount of the order. However, if a party has breached the Code, it may take the risk of breaching for an extended, uninterrupted period, given the maximum penalty may only be $200,000.

38. The ability for the Authority to reset final market prices in some limited instances or for the Panel to order compensation may reduce the loss or windfall caused by breaches. However, those options simply restore parties to the position they should have been in had the breach not occurred. Compensation alone does not have a deterrent penalty effect.

Options and impacts

39. As the penalty the Panel may impose under s 56 is low compared to the potential market impact from breaching the Code, and as the penalty may be the same, regardless of the duration or recurrence of a breach, it is unlikely to be an effective deterrent.

40. We propose a combination of a higher penalty and clearer rules around continuing breaches to provide more effective deterrence. We propose that:

    40.1. the maximum penalty should increase to $2 million (which would align more closely with levels in the limits on liability[2] in the Regulations);

    40.2. the Act should provide that for every day or part day that a breach continues an additional fine of up to $10,000 may be imposed

41. Any change in the maximum penalty needs to be considered in combination with the treatment of ongoing and recurring breaches and the liability limits to understand the total deterrent effect.

Further penalties for a continuing breach

42. Specifying further penalties for a continuing breach would be consistent with other penalty regimes such as those set out in the Telecommunications Act 2001 and Resource Management Act 1991, which both acknowledge the need to deter continuing breaches.

43. Section 156M of the Telecommunications Act 2001 provides that for every day or part day that a specified breach continues an additional fine of between $10,000 and $500,000 may be imposed. Section 339(1A) of the Resource Management Act 1991 provides that for every day or part day a breach continues an additional fine of up to $10,000 may be imposed or for lesser offences under s 339(2) a recurring fine of up to $1000 per day or part day.

44. The use of continuing penalties can make it unclear as to how much a person could be liable for, and be disproportionately severe. However, further penalties for a continuing breach of the Code appear to be a desirable deterrent given continuing breaches have a potentially far greater impact than short term breaches.

[2] See paragraph 9 for a description of the liability limits.

Treatment of closely related events

45. We considered whether the treatment of a "series of closely related events" should be clarified for the purposes of pecuniary penalty orders. If these are to be treated as a single breach, then the argument for a higher penalty is strengthened. If they are to be treated as separate breaches, then there is less of a concern about continuing breaches, or about the size of the penalty for a single breach.

46. However, we considered that introducing a higher penalty and further penalties with a clear application to a continuing breach (as described above) may be sufficient to deal with the issue. In terms of deterrent properties, less would turn on how the events are characterised. They would either be dealt with as separate breaches with separate penalties, or otherwise as a single breach, but now with an appropriate penalty, and further penalties applying while the breach continued. However, there still may be value in clarifying the approach to related events, and we have asked for your feedback below.

Role of the Rulings Panel

47. We also considered whether the Panel would still be the appropriate body to apply a penalty of this magnitude, or whether it would be more appropriate for a Court to do so. However, given the complex and technical nature of issues that are likely to be brought before any body with this function, we consider that an expert body like the Panel would remain the best option. In any case the Panel's decisions can be appealed to the High Court.

48. We note that the Electricity Industry Bill 2009 as introduced, would have increased the maximum pecuniary penalty the Panel could impose from $20,000 to $2 million. Following submissions that the increase "may discourage market participants from providing certain services and encourage undue risk aversion," the Ministry of Economic Development recommended in its departmental report that the maximum penalty be reduced to $200,000. While these remain important considerations, they should not override the importance of penalties being sufficient to deter the conduct that the Act seeks to prohibit. The limits on liability in relation to penalty orders in the Regulations also address these risks.

Limits on liability

49. We have considered whether increases may be necessary to some of the limits on liability to align with any increase in the maximum penalty under the Act. Any increase in the limits to reflect an increase in penalties should not offset the positive incentives that these limits provide.

50. Our view is that the limits should remain at their current level. This would still give scope for the increased penalties and clearer treatment of recurring breaches to 'bite' for relevant industry participants, but would preserve the incentives created by the limits.

51. We also considered whether changes would be needed to limits on liability set out in the Regulations that apply to all "related events" to make sense in the context of additional penalties

for a continuing breach. Instead of a reference to "a series of closely related events", the Regulations could limit liabilities from a single breach or a continuing breach. The Act could clarify that such a series would be treated as a single breach, but be subject to additional fines for continuing breaches.

52. We considered whether the penalty under s 54 of the Act should be removed entirely and the quantum left to the Regulations to cap under the provisions covering limits on liability. These cap total liability for specified participants including penalties and compensation. However, we considered that enforcement obligations of this magnitude should be explicitly embedded in penalty provisions.

4	Should the maximum penalty set out in s 54 of the Act be increased, or are current penalty levels adequate to deter harmful behaviour? Should additional penalties for a continuing breach be introduced? Are there alternative approaches to penalties which you would recommend?
5	If either or both of the above changes are introduced, should any changes be made to the limits to liability set out in the Regulations?
6	How should closely related events be dealt with for breach and penalty purposes? Should the Act clarify that "a series of closely related events" would be treated as a single breach?

Awarding of costs

53. In its recent decision on a complaint made of breaches of Clause 13.2A of the Code by Genesis Energy Limited, the Panel recommended that the Minister consider an amendment to s 54 of the Act to allow the Panel greater discretion to award costs. The Panel may only award costs if it finds that there has been a breach of the Code. When the Authority is the party laying a complaint that may be appropriate. It may not be appropriate where it is one industry participant alleging a breach by another participant. Responding to an allegation which is found not to be a breach may impose significant costs on the responding participant, and it should be able to recover them from the party laying the complaint.

54. We therefore propose to amend s 54 of the Act to allow greater discretion for the Panel.

7	Should s 54 of the Act be amended to allow the Panel greater discretion to award costs?

4 Amendments to the Regulations

What are the issues?

Laying a complaint directly to the Rulings Panel

55. Under the Regulations, an industry participant can only lay a complaint with the Panel if the Authority has investigated the alleged breach and decided not to lay a complaint with the Panel. If the Authority, after making preliminary inquiries, decides not to investigate the alleged breach, the participant cannot then complain directly to the Panel.

56. In the past, the Panel has agreed to hear a complaint even though no investigation was undertaken by the Authority. However, it was found on appeal that the Panel had no jurisdiction to hear a complaint that the Authority had chosen not to investigate.[3]

57. This 'gatekeeper' role for the Authority may not always be appropriate. While it is reasonable for the Authority to dismiss complaints that have no basis or are vexatious, participants who dispute these conclusions have no opportunity to pursue them with the Panel.

The settlement process in the Regulations

Settlement is a mandatory step for investigators

58. Regulation 22 provides that an investigator must attempt to reach a settlement between parties where there is an alleged breach of the Code. There are many circumstances in which this is inappropriate. For example, attempting to settle a breach of the high standard of trading conduct provisions may be difficult to reconcile with competition law requirements.

59. In some circumstances, it is clear that parties will not settle and mandatory attempts to settle delay the process and create needless administrative burden and cost, and on-going uncertainty for the market more broadly.

Enforcement of a breach of a settlement

60. Once a settlement has been accepted, the Authority lacks oversight and control over enforcement of the settlement. Where it is evident that a party is not complying with a settlement, the Authority is powerless to ensure compliance with the settlement unless a new

[3] See *Unison Networks Limited v Solar City New Zealand Limited* [2017] HZHC 1343. See also *Intellihub Limited v Genesis Energy Limited* [2020] NZHC 3076 at [89], where the High Court held the Authority is entitled to conduct preliminary inquiries before deciding whether to exercise its jurisdiction to decide not to take further action.

breach were to arise. In addition, where a settlement agreement is between a large well-funded participant and a small, less well-funded participant, the latter is unlikely to have the financial means to enforce the agreement through the Court.

Obligation to endeavour to reach a settlement within 30 working days

61. Regulation 22(2) requires the investigator to endeavour to reach a settlement within 30 working days (or a longer period agreed in writing by the investigator). This "reasonable endeavours" obligation is effectively meaningless and in practice settlements are very rarely achieved within 30 days. The timeline for reaching settlement between third parties is beyond the Authority's control. This requirement causes unnecessary administrative burdens for the Authority with no identifiable benefit to the Authority or other parties.

Reporting a breach under the Regulations

62. The Authority takes the view that it can report a breach under the Regulations. This is a necessary part of the Authority's work and essential to its monitoring and compliance functions. It is the policy intent that the Authority can report an alleged breach. However, the Regulations are unclear on this point and create confusion for both participants and the Authority.

Treatment of information under the Regulations

63. The Regulations include obligations on the Authority to keep certain information confidential (under Regulations 10 and 15) and to publish other information (under Regulations 28 and 30(3)). In both instances, the Authority has limited discretion to publish or not publish information.

64. The key benefit of expressly allowing publication of non-confidential information under Regulations 10 and 15, would be the increased opportunity for the Authority to undertake proactive education of participants in relation to previously occurring breaches or allegations of breaches.

65. We understand that the Authority has taken the view that sensitive commercial or otherwise confidential information provided by parties during an investigation can be redacted from an investigator's report that is published under Regulation 28 or 30(3). However, it would be useful if the Regulations expressly provided for this, to avoid confusion.

66. The key benefit of expressly allowing discretion to withhold confidential information under Regulation 28 and 30(3) would be to ensure investigators can be frank in their reporting. Without such discretion, sensitive information may either be unhelpfully excluded from their reports or at risk of being published.

67. In addition, participants who receive confidential information during an investigation or Panel process are not currently obliged to keep such information confidential or to use it only for the purposes provided.

68. It is typical for parties in litigation to be subject to an obligation to keep confidential any confidential information received during an investigation or enforcement process and the same public policy justifications equally apply here.

Enforcement of mandatory reporting obligations

69. Regulation 7 provides for mandatory reporting of certain breaches which relate to the common quality and security provisions of the Code and Regulation 8 provides for mandatory reporting of all other breaches of the Code. The obligation and, for Regulation 7, the relevant penalty for failure to report, are set out in the Regulations and require Court action to enforce.

70. The nature of the breach is similar to a breach of the Code and the applicable penalty is relatively low ($20,000). The deterrent effect would be enhanced if a breach of the mandatory reporting obligations was treated as if a breach of the Code, triggering the Authority's more efficient ordinary compliance process (and the Panel's, where appropriate).

Options and impacts

71. We propose that, in the event of the Authority declining to investigate a breach of the Code, the affected participant should be able to lay a complaint directly with the Panel.

72. We propose that a breach of a settlement is treated as though it were a breach of the Code. This would allow the Authority's compliance process to apply and bring it within the jurisdiction of the Panel. This provides for a much more cost effective and accessible enforcement option than is available through the Court under present arrangements. It also makes use of the Panel's technical and special expertise in relation to the Code.

73. The alternative to the Authority investigating a settlement breach is for the Authority to refer the matter directly to the Rulings Panel for determination. When an alleged breach is resolved by settlement, the Panel would be the appropriate escalation point to resolve any breach of a settlement.

74. We propose that the Regulations are amended to provide that an investigator "may", rather than "must", attempt to effect a settlement as part of the enforcement process.

75. We propose that the requirement to endeavour to reach a settlement within 30 working days (or longer period agreed in writing by the investigator) in Regulation 22(2) should be removed. Regulation 23(1) should provide that if parties do not enter into a settlement or do not do so within a timeframe advised by the investigator (or any revised timeline agreed by the investigator) then the investigator must take the steps set out in Regulation 23(1)(a) and (b).

76. We propose that the Regulations should expressly provide that the Authority can report a breach under Regulation 9.

77. We propose introducing a more balanced approach to the treatment of information by:

77.1. amending the 'must keep confidential' obligations in Regulations 10 and 15 to expressly provide that information which is not confidential in nature may be published;

77.2. amending the 'must publish' obligations in Regulations 28 and 30(3) to expressly provide that where appropriate confidential information can be redacted from published reports

78. We propose introducing an obligation on parties who receive confidential information during the investigation of a complaint or Panel process to hold that information in confidence.

79. We propose that the Regulations should be amended to allow enforcement of the mandatory reporting obligations as though it were a breach of the Code.

80. This amendment would allow more ready enforcement of the mandatory reporting obligations through the Authority's compliance process and Panel rather than through costly and time-consuming Court action. At present no breach of Regulation 7 (mandatory reporting of a breach of common quality or security standards for which there is a $20,000 penalty) has been enforced.

81. This is not because allegations of breaches have not been made. It would be hard to justify Court action on the basis of a breach of this Regulation alone, given the maximum possible penalty is $20,000 and that typically Panel action is simultaneously being taken on the relevant breach of the Code itself.

82. Regulation 7 currently includes a cap on the penalty of $20,000 which would continue to apply, unless the Act is amended to enable this cap to be increased.

83. Taken together, these changes will result in a clearer and more efficient enforcement process. They should be low impact, in terms of additional compliance costs.

8	Should participants be able to lay complaints directly with the Panel if the Authority, after making preliminary inquiries, decides not to investigate an alleged breach?
9	Do mandatory attempts to settle create needless administrative burden and cost, and on-going uncertainty? Should the Regulations provide that an investigator "may", rather than "must", attempt to effect a settlement as part of the enforcement process?
10	Does the Authority need more oversight and control of the enforcement of settlements? Should a breach of a settlement be enforceable as though it were a breach of the Code?

11	Does the requirement for the investigator to endeavour to reach a settlement within 30 working days (or longer period agreed in writing by the investigator) create incentives for efficient process, given that it is rarely completed within this time? Should the requirement to endeavour to reach a settlement within 30 working days (or longer period agreed in writing by the investigator) in Regulations 22(2) and 23(1) be removed?
12	Are there circumstances where mandatory settlement is inappropriate? Should the Regulations be amended to provide that an investigator "may", rather than "must", attempt to effect a settlement as part of the enforcement process?
13	Should the Regulations expressly provide that the Authority can report a breach under Regulation 9?
14	Are the Authority's obligations in relation to the treatment of information sufficiently balanced? Should the 'must keep confidential' obligations in Regulations 10 and 15 expressly provide that information which is not confidential in nature may be published? Should the 'must publish' obligations in Regulations 28 and 30(3) expressly provide that where appropriate confidential information can be redacted from published reports?
15	Should there be an express obligation on parties who receive confidential information during the investigation of a complaint or Panel process to hold that information in confidence?
16	Is it inappropriate that enforcement of the mandatory reporting obligations in the Regulations are undertaken by the Courts? Should the Regulations be amended to allow enforcement by the Panel of the mandatory reporting obligations as though it were a breach of the Code?
17	Have we correctly characterised the impact of the changes, in terms of additional compliance costs?

5 Any other issues

84. In reviewing this framework, we need to look ahead, taking into account changing technology, new business models and the net zero carbon emissions target. Please feel free to raise any

other issues related to the framework that you consider need further scrutiny in light of these or other future developments.

18	Are there any other issues that we need to consider in relation to the compliance framework for the electricity industry?