

28 March 2024

s9(2)(a)

Tēnā koe s9(2)(a)

Thank you for your request, received on 25 January 2024, and clarified on 31 January 2024, for the following information under the Official Information Act 1982 (the OIA):

- *“A list of external meetings, including names, roles, dates and times Anna Kominik has had as EA Chair since her appointment.*
- *A list of external meetings, including names, roles, dates and times that Sarah Gillies has had since August 2023.*
- *All updates/briefings/correspondence in relation to discussions the EA has had with the Commerce Commission and MBIE in relation to the s36 complaints from independent retailers (including Electric Kiwi’s complaint), as well as any internal EA briefing reports on the matter.”*

On 29 February 2024, we wrote to you to inform you of our decision regarding the first two sections of your request under the OIA and informing you that we needed to extend the deadline for our response to the third part of your request by 20 working days, until 28 March 2024. This letter is to inform you of our decision regarding the third part of your request.

The third section of your request is centred on non-integrated retailers’ section 36 complaints to the Commission. We have therefore focussed our response on documents relating to those complaints and the Commission’s assessment of those complaints, and have not, for example, included documents recording Authority/MBIE/Commission communications relating only to the Authority’s risk management review. We have also only included external communications and internal briefing reports, in line with the wording of your request. Please let us know if you consider that this interpretation does not reflect what you intended.

The Authority has identified 44 documents within the scope of your request, a list of which is included in Appendix A.

Some documents being released have sections redacted under:

- a. Section 9(2)(a) of the OIA to protect the privacy of natural persons.
- b. Section 9(2)(b)(ii) of the OIA to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.
- c. Section 9(2)(ba)(i) of the OIA to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same

source, and it is in the public interest that such information should continue to be supplied.

- d. Section 9(2)(g)(i) of the OIA to maintain the effective conduct of public affairs through the free and frank expression of opinions.
- e. Section 18(d) of the OIA on the basis that the information is publicly available or will be available soon.

The Authority is withholding 3 documents in their entirety under section 9(2)(b)(ii) and section 9(2)(ba)(i) of the OIA, 2 documents in their entirety under section 9(2)(b)(ii) of the OIA, and 1 document in its entirety under section 18(d) of the OIA as it will be publicly available soon.

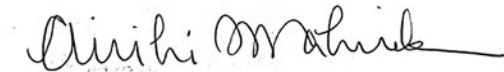
I am satisfied, in terms of section 9(1) of the Act, that the need to withhold the information referred to above is not outweighed by other considerations that render it desirable, in the public interest, to make the information available.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note that it is our policy to proactively release our responses to official information requests (with personal information removed) where possible. If there are other parts of this response that you would like redacted, please let us now as soon as possible and we can consider your request.

If you wish to discuss this decision with us, please feel free to contact us by emailing oia@ea.govt.nz.

Nāku noa, nā,



Airihi Mahuika
GM Legal, Monitoring and Compliance

Date	Title	Category	Description	Redactions/withholding grounds
13 March 2023	RE_ Competition query	Email	Email exchange between Ritchie Hutton and Sarah Gillies about where to direct a s36 complaint to	Redactions: s9(2)(a)
23 Mar 2023	Letter from [] to Commerce Commission cc: Electricity Authority	Letter	Letter from [] to Commerce Commission cc: Electricity Authority (includes 3 x spreadsheets as separate files)	Redactions: S9(2)(a) s9(2)(b)(ii), S9(2)(ba)(i)
Attachment to letter dated 23 March 2023	Gentailer_new_customer_pricing.xlsx	Spreadsheet attachment to email	Attachment to letter	Withhold completely: s9(2)(b)(ii) S9(2)(ba)(i)
Attachment to letter dated 23 March 2023	Gross_Margin_workings.xlsx	Spreadsheet attachment to email	Attachment to letter	Withhold completely: s9(2)(b)(ii) S9(2)(ba)(i)
Attachment to letter dated 23 March 2023	ITP_analysis.xlsx	Spreadsheet attachment to email	Attachment to letter	Withhold completely: s9(2)(b)(ii) S9(2)(ba)(i)
26 March 2023	FYI Electricity Authority key messages (back pocket support for Downstream)	Email	Email from CE to Board with talking points for Downstream	Redactions: s9(2)(a)
Attachment to Email dated 26 March 2023	Downstream 2023 Talking Points(1390886.1) (002)	PDF (originally Word)	Attachment to email, with talking points for downstream	Redactions: Out of scope
31 March 2023	FW: Concerns of anti-competitive pricing behaviour in the electricity market	Email	Email from [] to Sarah resending the letter from 23rd and including the attachments missed off the previous email (3 x spreadsheets)	Redactions: s9(2)(b)(ii), S9(2)(ba)(i), s9(2)(a)
18 April 2023	RE_ Concerns of anti-competitive pricing behaviour in the electricity market	Email	Email exchange between Ritchie Hutton and Sarah Gillies arranging meeting to discuss the complaints	Redactions: s9(2)(a) s9(2)(b)(ii) & s9(2)(ba)(i)

Date	Title	Category	Description	Redactions/withholding grounds
28 April 2023	RE_ Retail gross margin and ITP Confidential	Email	Email from Doug Watt to Luke Archer with information about RGM and ITP	Redactions: s9(2)(a)
28 April 2023	Attachment to email dated 28 April	Powerpoint presentation	Powerpoint titled Economics of Retailing prepared by Doug	Redactions: S9(2)(b)(ii) S9(2)(g)(i)
28 April 2023	Attachment to email dated 28 April	Excel	The spreadsheet is data from the RGM disclosures	Redactions: S9(2)(b)(ii)
28 April 2023	Attachment to email dated 28 April	Word document	The Word document is a draft version of the news article the Authority published on 12 May 2023 (New Zealand's electricity retail market: retail gross margins Electricity Authority)	Release draft
6 May 2023	05 FW_ Concerns of anti-competitive pricing behaviour in the electricity market	Email	Update email from [] to Sarah advising that they are meeting with Commission to discuss the complaint.	Redactions: s9(2)(a), s9(2)(b)(ii) & s9(2)(ba)(i)
18 July 2023	Commerce Commission – [] complaint under s36 Commerce Act	Email	Email from Commission telling Doug Watt they aren't going to investigate [] complaint and attaching a copy of letter to []	Redactions: s9(2)(b)(ii), S9(2)(ba)(i), s9(2)(a)
Attachment to email dated 18 July 2023	Commerce Act 1986 complaint in respect of alleged misuse of market power (letter from Commerce Commission to [] dated 18 July 2023)	Letter	Attachment to email from Luke to Doug. This is the letter the Commission sent to [] advising that they weren't going to investigate.	Redactions: s9(2)(b)(ii), S9(2)(ba)(i), s9(2)(a)
19 July 2023	Minister meeting - talking points	Email	Email from Sarah attaching Briefing to CE for Minister's meeting (also referred to as talking points) for meeting with Minister	Redactions: s9(2)(a)
Attachment to email dated 19 July 2023	CE briefing for Minister quarterly meeting - July 2023(1400296.1) SA additions	PDF (originally Word)	Briefing to CE for the Minister's meeting in July 2023	Redactions: Out of scope s9(2)(b)(ii), S9(2)(ba)(i), s9(2)(g)(i)
6 Sep 2023	Meeting with independent retailers – briefing Sep 23	Briefing	Briefing for the Chair in advance of meeting with independent retailers on 6 September 2023	Redactions:

Date	Title	Category	Description	Redactions/withholding grounds
				s9(2)(b)(ii), S9(2)(ba)(i), s9(2)(a) and Out of scope
11 Sep 2023	CE Report	Briefing	CE Report for the September Board meeting	Redactions: out of scope
Sept 2023	Briefing for meeting with Meridian Energy	Briefing	Briefing for CE in advance of meeting with Meridian	Redactions: Out of scope
Attachment 3 October 2023	Copy of Agenda - ComCom_EA -Meeting 5 October(1406893.1)	Meeting agenda	Meeting agenda	No redactions
5 Oct 2023	Joint briefing for Commerce Commission and Electricity Authority six-weekly meeting	Briefing	Joint briefing by Commission and Authority staff ahead of the six-weekly Board/Commission meeting	Redactions: out of scope
10 Oct 2023	RE: Catch-up on electricity retail market competition	Email	Email exchange between Andrew and Luke setting up time to discuss RMR	Redactions: s9(2)(a)
17 Oct 2023	CE Report	Briefing	CE's report for the October Board meeting	Redactions: Out of scope
6 Nov 2023	RE Wholesale market competition IN-CONFIDENCE (1)	Email	Email from Paul responding to John McCabe (MBIE) email dated 6 November 2023.	Redactions: s9(2)(a)
21 Nov 2023	Review of risk management in retail electricity – presentation to EA Board 21 Nov 2023 (Final)	Board presentation	Presentation to Board on the RMR generally	Redactions: S18(d)
21 Nov 2023	Legal, Monitoring and Compliance Report	EA Board paper	GM LMC report for November Board meeting	Redactions: Out of scope
23 Nov 2023	RE Wholesale market competition IN-CONFIDENCE (2)	Email	Email from Julia to MBIE with responses to their questions (MBIE dated 6 Nov 2023)	Redactions: s9(2)(a)
Attachment to email 23 Nov 2023	Questions for EA re competition workstreams - Doug Watt comments	Draft doc	Email from Doug to MBIE with responses to their questions (emails from MBIE dated 6 Nov 2023)	Redactions: s9(2)(g)(i), s9(2)(b)(ii) & s9(2)(ba)(i)
18 Dec 2023	Legal, Monitoring and Compliance Report	EA Board paper	GM LMC report to December Board meeting	Redactions: Out of scope
Attachment 18 Dec 2023	Copy of Weekly report week ending Friday 15	Report	Weekly report to Chair	Redactions: Out of scope

Date	Title	Category	Description	Redactions/withholding grounds
	Dec 2023(1412970.1) (002)			
19 December 2023	Commerce Commission - complaints regarding electricity gentailers - outcome _CCNZ-IMANAGE_FID371436_	Email	Email from Luke Archer advising that they will not investigate Electric Kiwi complaint.	Redactions: s9(2)(a)
Attachment to email 19 Dec 2023	Copy of letter from ComCom to Electric Kiwi on s 36 complaint dated 19 December 2023	Letter	Letter to Electric Kiwi	No need to send attachment as not in scope because it was a letter to the requestor
22 Dec 2023	Re_ Quick EA_ComCom catch up tomorrow [CCNZ-IMANAGE.FID371436]	Email	Email exchange between Doug and Luke to catch up	Redactions: s9(2)(a)
22 December 2023	RE_ notes from meeting with EK _CCNZ-IMANAGE_FID371436_	Email	Email from Luke to Julia providing file note of meeting with EK. Further down chain Julia provides file notes of her meeting with EK.	Redactions: s9(2)(a)
22 December 2023	File note - meeting with Electric Kiwi (20 December 2023)	Attachment	Attachment to email from Commission on 22 December with file note of meeting.	No redactions required
17 Jan 2024	Stuff to check	Email	Email from Julia Hall to Luke Archer	Redactions: s9(2)(a)
17 Jan 2024	Copies of two remaining complaints under s36 of the Commerce Act	Email	Email from Luke attaching two other complaints.	Redactions: s9(2)(a) s9(2)(b)(ii) & s9(2)(ba)(i)
Attachment to 17 Jan 2024 letter from Luke Archer	Copy of letter from Octopus to Commerce Commission – Complaint	Letter dated 28 July 2023	Octopus Complaint letter	Redactions: s9(2)(a)
Attachment to 17 Jan 2024 letter from Luke Archer	Copy of letter from Octopus to Commerce Commission – presentation (undated)	Presentation	Attachment to Octopus complaint letter.	Withhold s9(2)(b)(ii)
Attachment to 17 Jan 2024 letter from Luke Archer	Copy of letter from Octopus to Commerce Commission – additional information (undated)	Presentation	Attachment to Octopus complaint letter.	Withhold s9(2)(b)(ii)

Date	Title	Category	Description	Redactions/withholding grounds
Attachment to email from Luke Archer dated 17 Jan 2024	Letter from [] to ComCom – section 36 complaint (dated 19 Sept 2023)	Letter	[] complaint letter.	Redactions: s9(2)(a) s9(2)(b)(ii)
Attachment 23 Jan 2024	3 - NZL 2024 Revamping Competition Policy Mission - EA Copy	Report	Draft OECD Economic Survey of NZ	Withhold on basis of s18(d)