

Proposed Code amendment - Saves and early win-backs

Consultation Paper

Submissions close: 5:00pm 5 August 2014

24 June 2014

Executive summary

In the retail electricity market, a *save* occurs when a losing retailer convinces a customer to cancel an incomplete switch to a gaining retailer. A *win-back* occurs when the customer completes the switch, but the defending retailer later persuades the customer to return.

Both *saves* and *win-backs* have the potential to have a negative effect on retail competition. However, the negative effect of *saves* and *win-backs* that occur very shortly after a switch are greater than later *win-backs*.

In order to mitigate the adverse effects of *saves* and early *win-backs* on retail competition, the Electricity Authority (Authority) is proposing an amendment to the Electricity Industry Participation Code 2010 (Code) to allow gaining retailers who are "traders" as defined in the Code to choose to be protected from *saves* by losing retailers.¹ The purpose of this paper is to consult with affected parties.

What is the current problem?

In most sectors, the incumbent supplier does not receive advance notice that a customer intends to change supplier. That information remains confidential to the customer and acquiring supplier until the switch is completed.

By contrast, in the retail electricity market, the incumbent retailer is notified that a customer intends to switch before the process is completed. The incumbent may use this information to seek to 'save' the customer.

The competitiveness of the retail market is driven in large part by acquisition activity and the threat of acquisition activity. *Saves* make acquisition activity less rewarding, because a proportion of customers cancel their switch before it is complete. Further, *saves* have a disproportionate effect on the *profitability* of acquisition activity, because they reduce benefits without reducing campaign costs. The same issue arises in relation to early *win-backs*.

For small and new entrant retailers, *saves* and early *win-backs* present a barrier to entry and expansion. The effect on profitability is greater for such retailers as the costs of an acquisition campaign have to be spread across a smaller (or non-existent) customer base.

In some other sectors where retailers receive advance notice of impending customer switch decisions (such as New Zealand telephone landlines), *saves* are disallowed.

¹ In this paper, for readability, the term "retailer" is used instead of "trader" (the defined term in the Code)

What amendment does the Authority propose making to the Code?

The Authority proposes to amend the Code to allow retailers that are traders under Part 11 of the Code to choose to be protected from saves by losing retailers. The Code amendment would not apply to "type 2" retailers. Type 2 retailers buy electricity from a purchaser who has bought electricity from the clearing manager. Type 2 retailers invoice consumers but do not interface with the market systems, and are not "traders" under the Code. This means that type 2 retailers are not identified on the registry in relation to an ICP.

If a consumer is in the process of switching to a save-protected retailer, the losing retailer would be prohibited from contacting the customer to persuade them to cancel the incomplete switch, or to win them back within a short period after the switch.

For instance, if retailer A chose to be protected from saves, and proceeded to win a customer C from another retailer B, then the proposed Code amendment would prohibit B from contacting C to persuade them to cancel the incomplete switch.

Retailers would still be able to:

- contact customers under normal circumstances (i.e. outside the switch process) to offer them a better deal
- offer a customer a better deal, if the customer approached them to let them know that they were considering switching, but had not yet begun the switch
- contact the customer to attempt to reacquire them (a win-back), from ten business days after the switch was completed.

Losing retailers would also still be able to contact switching customers to advise them of any termination fees that they were required to pay.

Save protection² would be reciprocal – a retailer that chose to be save protected would be unable to engage in any save or early win-back activity of its own. It could not even save its own customers from non-save-protected retailers. Each retailer could determine whether the value of save protection was sufficient to justify forgoing the ability to carry out saves themselves.

What costs and benefits does the Authority consider would result from the proposed Code amendment?

The Authority considers that the proposal is for the long-term benefit of consumers. While some consumers would no longer be able to receive save offers, this effect would be outweighed by broader competitive effects including:

- increased marketing activity by acquiring retailers, making it more likely that a customer would receive an improved offer from another retailer

² "Save protection" is used in this paper to describe protection from both saves and early win-backs.

- increased retention activity prior to any switch being initiated, making it more likely that a customer would receive an improved offer from their current retailer
- lowering of barriers to entry and expansion for smaller/new entrant retailers, which will have an important role in driving competition and innovation.

The Authority expects that the proposed amendment will facilitate retail competition for the long-term benefit of consumers.

What other actions does the Authority propose to take?

The Authority also proposes to improve monitoring of the reasons for switch withdrawals. To this end, the Authority proposes to add several new “switch withdrawal advisory codes” to the Registry. This paper lists the new codes and seeks feedback.

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1. What you need to know to make a submission

1.1 What this consultation paper is about

- 1.1.1 The Authority seeks to address the effects on retail competition of ‘saves’ and early win-backs (i.e. an electricity retailer persuading a customer to cancel an incomplete switch to another retailer or switch back within a short period of time) by:
 - (a) amending the Code to allow retailers to choose whether or not their acquisitions can be protected from saves and early win-backs (but requiring a retailer that chooses save protection to cease all save/early win-back activity itself)
 - (b) increased monitoring of switching behaviour, supported by improvements to data collection.
- 1.1.2 The proposed Code amendment is set out as Appendix A.
- 1.1.3 The purpose of this paper is to consult with participants and persons that the Authority thinks are representative of the interests of those likely to be affected by the proposed Code amendment.
- 1.1.4 Section 39(1)(c) of the Electricity Industry Act 2010 (Act) requires the Authority to consult on any proposed amendment to the Code and corresponding regulatory statement. Section 39(2) of the Act provides that the regulatory statement must include a statement of the objectives of the proposed amendment, an evaluation of the costs and benefits of the proposed amendment, and an evaluation of alternative means of achieving the objectives of the proposed amendment. The regulatory statement is set out in Section 5 of this paper.
- 1.1.5 The Authority invites you to make a submission on the regulatory statement and the proposed amendment.

1.2 How to make a submission

- 1.2.1 Your submission is likely to be made available to the general public on the Authority’s website. If necessary, please indicate any documents attached in support of your submission and any information that is provided to the Authority on a confidential basis. However, you should be aware that all information provided to the Authority is subject to the Official Information Act 1982.
- 1.2.2 The Authority’s preference is to receive submissions in electronic format (Microsoft Word) in the format shown in Appendix B. Submissions in

electronic form should be emailed to submissions@ea.govt.nz with “Consultation Paper—Proposed Code amendment - Saves and early win-backs” in the subject line.

- 1.2.3 Do not send hard copies of submissions to the Authority unless it is not possible to do so electronically. If you cannot or do not wish to send your submission electronically, you should post one hard copy of the submission to either of the addresses provided below or you can fax it to 04 460 8879. You can call 04 460 8860 if you have any questions.

Postal address

Submissions
Electricity Authority
PO Box 10041
Wellington 6143

Physical address

Submissions
Electricity Authority
Level 7, ASB Bank Tower
2 Hunter Street
Wellington

1.3 **Deadline for receiving a submission**

- 1.3.1 Submissions should be received by **5pm** on **5 August 2014**. Please note that late submissions are unlikely to be considered.
- 1.3.2 The Authority will acknowledge receipt of all submissions electronically. Please contact the Submissions' Administrator if you do not receive electronic acknowledgement of your submission within two business days.

2. Background on saves and win-backs

2.1 Definitions

- 2.1.1 If a customer is in the process of switching from one retailer (the “losing retailer”) to another (the “gaining retailer”), and the losing retailer manages to persuade the customer to cancel the switching process before it is complete, then a save has occurred.
- 2.1.2 The registry switching process requires that the acquiring retailer notifies the losing retailer in order to process the switch. Most switches are completed within four days, and must be completed within 10 days. Most saves occur within this 10-day window, or shortly after (an “early win-back”). However, switches may be withdrawn or cancelled up to two calendar months after the event date for a number of reasons.
- 2.1.3 The Authority uses data obtained through switch withdrawal notification as a proxy for the number of saves. In particular, the list of switch withdrawal codes published by the Authority under clause 18(b) of schedule 11.3 includes a code for customer-initiated switch withdrawals (code “CR”). This is acknowledged to be an imprecise measure of saves – it appears that 70% to 90% of switch withdrawals are due to saves.
- 2.1.4 If a customer completes a switch from one retailer to another, and the losing retailer later convinces them to switch back, then a *win-back* has occurred. As noted above, in this paper the Authority defines an “early win-back” as a win-back occurring within a short time (10 business days) after a switch has been completed.

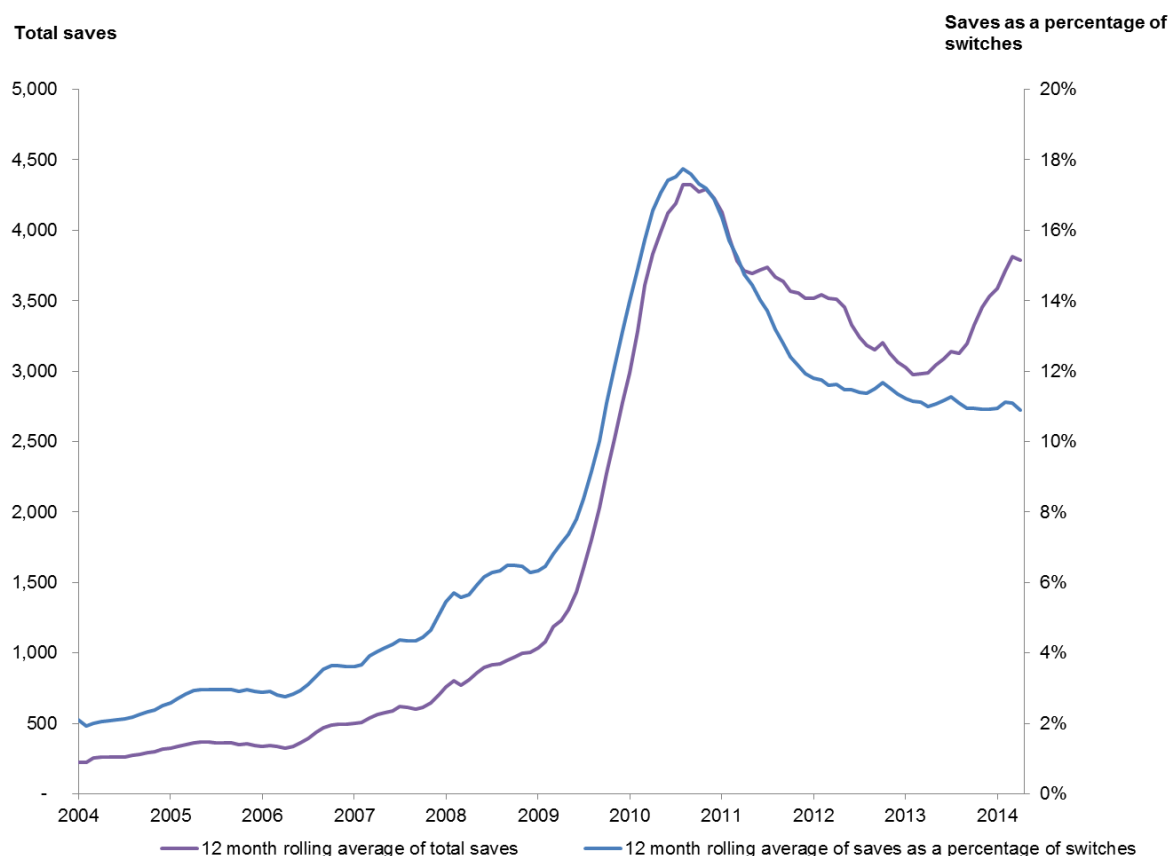
2.2 On average, roughly 10% of switches are saved

- 2.2.1 There were approximately 325,000 successful switches in 2012 and 385,000 switches in 2013.³ Annual switching has increased from about 10% of customers in 2006 to about 20% of customers in 2011, and has remained at or above 20% since 2011. Most of the switchers are residential customers.
- 2.2.2 Figure 1 shows CR coded switch withdrawals, as a total and as a percentage of total switches, for the period 2004 to 2014 as a proxy for

³ Switching trend data is available at http://www.emi.ea.govt.nz/Reports/VisualChart?reportName=R_SwT_C&categoryName=Retail&reportGroupIndex=2&reportDisplayContext=Gallery#reportName=R_SwT_C.

saves and early win-backs. The save rate peaked at 18% in 2010, but since then has fallen to about 11%.

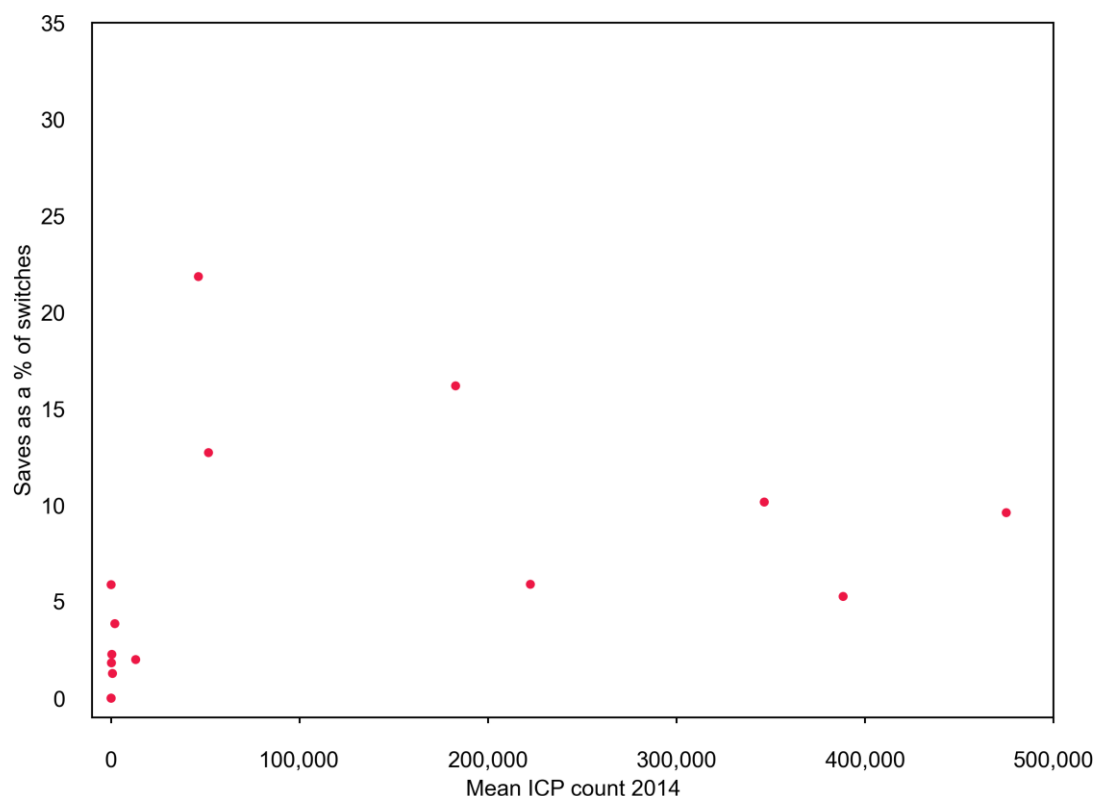
Figure 1: CR coded switch withdrawals as a total and as a percentage of switches (12-month rolling average), over the last decade



Source: Electricity Authority

2.2.3 Different acquiring retailers experience different save rates, as shown in Figure 2.

Figure 2: Different acquiring retailers experience different save rates (saves and early win-backs in 2013, referenced against actual ICP numbers in 2014)



Source: Electricity Authority

2.2.4 Based on Figure 2, acquiring retailers can be divided into three groups:

- (a) very small retailers, which all had low save rates in 2013 (i.e. their acquisitions were rarely saved by the losing retailer)
- (b) three small retailers (TrustPower, Todd Energy and Pulse Energy), which had a relatively high save rate. In all three cases the save rate was above 10%, and in Pulse's case it was over 20% (i.e. more than a fifth of Pulse's acquisitions were saved by the losing retailer)
- (c) the 'big four' retailers (Genesis Energy, Contact Energy, Meridian Energy and Mercury Energy), which all had a moderate save rate – averaging about 9%.

2.2.5 The Authority does not know the reasons why very small retailers have experienced a low save rate, or why TrustPower, Todd Energy and Pulse Energy have experienced a high save rate.

Q1. Why do some acquiring retailers experience a much higher save rate than some others?

2.3 The Authority has investigated retailer save practices

2.3.1 The Authority has investigated retailer save and win-back practices through:

- (a) a series of semi-structured interviews with retailers and selected past-employees of retailers, carried out by Sapere Research Group⁴
- (b) a survey of customers' switching experiences, carried out by UMR Research.⁵

2.3.2 Key findings from the investigation follow. More detailed findings are provided in Appendix C and Appendix D.

Effort devoted to saves and win-backs

2.3.3 The level of resource put into saves has gradually increased over recent years, as competitive pressures have grown.

2.3.4 All but one of the retailers interviewed only attempt to contact a proportion of their mass market customers who initiate a switch – those that are considered most valuable. The most common measures of value are credit worthiness and profitability. Some retailers' systems for identifying valuable customers are much more sophisticated than others, and a range of other criteria may be adopted, such as the loyalty of the customer.

2.3.5 The level of effort devoted to saving customers does not appear to depend on who the acquiring retailer is (except that less effort may be made if the acquiring retailer is a subsidiary of the losing retailer).

2.3.6 Relatively little effort is devoted to win-backs with retailers preferring to use normal marketing and acquisition channels to reach these customers.

The saving process

2.3.7 Generally, outbound calls are made to switching customers either from generalist staff within call centres, or from specialist save teams.

⁴ Sapere Research Group interviewed staff of eight retailers (small and large) and four past-employees of retailers. The interviews were conducted on a confidential basis.

⁵ UMR Research carried out a telephone survey of 600 respondents who claimed to have changed power company in the past year and 600 respondents who reported that they *considered* changing power company in the past year.

- 2.3.8 Topics covered vary from retailer to retailer, but may include verification of the switch, understanding the rationale for the switch, quality assurance, reminding the customer of any early termination fee, educating the customer, and making a counter-offer.
- 2.3.9 Many retailers value the opportunity to check with a customer that they did approve the switch, and that they have not been misled or left confused about the savings they may achieve through switching.
- 2.3.10 An inbound call, where the customer indicates they are considering switching, can also result in a counter-offer being made.

Counter-offers

- 2.3.11 A one-off credit on a customer's account is currently the most common form of counter-offer to mass market customers. The credit is usually on the order of \$50-\$150, but can be up to \$300. The credit will typically come with a lock-in period, where if the customer switches during this time the credit is repaid to the provider. The lock-in period varies between retailers, ranging from 3 months to 18 months.
- 2.3.12 The reliance on counter-offers in order to save customers also varies between retailers.

Reasons for a save being successful

- 2.3.13 Survey respondents that had been 'saved' were asked: "what did your old retailer say to persuade you to stay?" The breakdown of responses is shown in Table 1. In many cases a better deal was offered.

Consequences of a failed save

- 2.3.14 Apparently customers often switch without considering the termination fees associated with early exit from a fixed term contract. However, there is apparently mixed enforcement of termination fees by retailers.
- 2.3.15 Reasons given for not enforcing contracts include fairness to customers, technical issues, not wanting disgruntled ex-customers, and willingness to let low-value customers leave.

Table 1: Arguments used to save customers – breakdown of survey responses

ARGUMENTS USED TO CONVINCE CUSTOMERS TO STAY ONCE SWITCHING UNDERWAY	
<i>What did your old company say to convince you to stay?</i>	
	Considered switching %
They offered a credit/financial incentive	43
They offered a better deal (general)	25
They offered a cheaper deal	12
They offered a fixed rate	8
Told they were on contract and would have to pay a fee	8
Questioned the other company's offer e.g. whether GST included	6
They matched the other company's deal	5
Did a price comparison with other company and were similar/cheaper	4
Said they were a valued/loyal customer	3
Explained their perks such as prompt payment discount, meter reading	3
Checked if they really wanted to switch	2
Offered cheaper gas	1
Put us on a different plan	1
Other	2
Nothing/unsure	2

NB: Due to being multiple response, percentages may add to more than 100%

Base: All respondents that had considered changing power companies in the past year and heard back from their old company once they had got a new supplier to start switching them over

Commercial and industrial customers

- 2.3.16 Most of the above discussion relates to residential customers. Commercial and industrial customers would normally be on individual contracts and be relationship/account managed. For these customers, the save process is much less standardised, is normally the responsibility of the account manager, and may be based on a number of conversations over a period of time. Various channels may be used.
- 2.3.17 Naturally, counter-offers can be much more substantial for commercial and industrial customers than for residential customers.

Q2. Do you have any comments on the findings of the Authority's investigation of retailer save practices?

2.4 Saves are not possible in most markets, and are disallowed in some of the markets where they are possible

- 2.4.1 Saves are not possible in most retail markets, because a losing retailer is not notified of a consumer's intention to switch to another retailer before the switch is complete. The intention to switch is usually a private matter between the customer and the acquiring retailer.
- 2.4.2 Saves *are* technically possible in some electricity and telecommunications retail markets, because the losing retailer is notified as a part of the switching process.
- 2.4.3 There is a body of literature on the competition effects of save practices in telecommunications and electricity markets. The literature does not reach a consensus on whether saves undermine competition.
- 2.4.4 However, in some of the markets where saves are possible, saves are prohibited in order to support competition.
- 2.4.5 Restrictions on firms' ability to carry out retention marketing is common in telecommunications, with New Zealand, the USA and the United Kingdom all having regulations in place that largely prohibit the practice.
- 2.4.6 For instance, in the New Zealand fixed telecommunications market,⁶ a losing provider may not direct any form of marketing activity at a customer in response to a transfer request. The electricity market equivalent would be a ban on saves.
- 2.4.7 Restrictions on retention strategies are not as common in electricity markets, but are present in some markets. One example is the United Kingdom,⁷ where retailers are prohibited from matching a competitor's offer or providing discounts, which effectively eliminates their ability to make special offers to switching customers.
- 2.4.8 Appendix E provides an overview of the rules relating to saves and win-backs in selected international electricity and telecommunications markets.

⁶ i.e. landlines

⁷ Ofgem regulates the United Kingdom electricity market

3. Saves and early win-backs are likely to have a negative net effect on retail competition

3.1 Retail competition is the Authority's first priority

- 3.1.1 The Authority's statutory objective is to promote competition in, reliable supply by, and the efficiency of the electricity industry for the long-term benefit of consumers.
- 3.1.2 The Authority's primary focus for the next three years is to further enhance competition across the wholesale and retail markets.
- 3.1.3 The Authority's Statement of Intent 2013-2016 sets out that competition in the retail market:
- (a) is essential to build credibility regarding retail pricing, especially for residential consumers
 - (b) provides incentives for innovation and operational efficiency.
- 3.1.4 As part of promoting retail competition, the Authority seeks to ensure that smaller and new entrant retailers can compete on a level playing field with incumbent retailers. In particular, the Authority would be concerned if the Code was to impose a barrier to entry and expansion on certain types of retailers.
- 3.1.5 Limiting the number and size of barriers to entry and expansion is critically important, not only for smaller and new retailers that have entered the market, but also for potential entrants. They need to be able to have confidence that market arrangements are not biased against them.
- 3.1.6 The importance of new entry is recognised in the economics literature – see, for instance:
- (a) the "Porter's five forces of competitive position analysis" framework,⁸ in which threat of new entry is one of the key drivers of competition
 - (b) innovation theory, which suggests that smaller, new entrant firms are more likely to be the source of radical innovation, while incumbent firms tend to advance more cautiously.⁹

⁸ Originally developed from the Structure-Conduct-Performance paradigm – see http://en.wikipedia.org/wiki/Porter_five_forces_analysis

⁹ Following the line of thought originally set out by Joseph Schumpeter in his book "Theory of Economic Development"

3.2 Saves are not primarily a problem of market segmentation

- 3.2.1 It might be thought that saves are a problem because they make it too easy to segment the market. A retailer could offer its customers an uncompetitive price, wait for price-sensitive customers to switch, and then save those customers by offering them a better deal. In this way, the retailer could set two tiers of pricing - a high price for 'sticky' customers, and a lower price for price-sensitive customers. This would have an adverse effect on the level of competition experienced by the 'rump' of non-price-sensitive customers.
- 3.2.2 The Authority considers that is unlikely to be a viable strategy for a retailer, because the save rate is too low (at about 10%). A retailer that waited until the save process was underway to make a competitive offer to its price-sensitive customers runs the risk that it would rapidly lose them. Therefore, the Authority is not concerned about saves from a price discrimination perspective per se.
- 3.2.3 However, as discussed below, the save process creates other problems.

3.3 Rather, the key problem with saves is that they discourage acquisition activity

- 3.3.1 The competitiveness of the retail market is driven in large part by retailers seeking to acquire each other's' customers:
- (a) acquisition activity provides an opportunity for consumers to be presented with a better deal than they are receiving from their current retailer
 - (b) the threat of acquisition activity by competitors encourages retailers to pre-emptively offer their customers a better deal, in order to keep them.
- 3.3.2 Acquisition activity by new entrant retailers (or even the threat of new entry) is particularly important, because it challenges incumbents to compete vigorously.
- 3.3.3 Saves reduce the benefits of marketing activity by gaining retailers, because a proportion of the customers acquired cancel their switch decisions before they are completed.
- 3.3.4 Saves have a disproportionate effect on the *profitability* of acquisition activity, because they reduce benefits without reducing campaign costs.

This point is illustrated in the worked example overleaf. (All numbers are illustrative only.)

- 3.3.5 As noted, if an incumbent can initiate a save, the cost of acquiring customers increases, and this may discourage retailers from applying effort to acquire each other's customers and encourage them to focus on customer retention. This can be a barrier to entry for a new retailer because they do not have a customer base to retain, and must build one through acquisition, which is more expensive than retention.
- 3.3.6 Some smaller retailers appear to have been particularly affected by saves, in that their acquisitions have been saved at a higher rate than other retailers. It is not clear to what extent this may result from:
- (a) a deliberate strategy by the larger retailers with respect to how they compete with smaller, new-entrant retailers, or
 - (b) the nature of the offers or sales strategies used by some smaller retailers.
- 3.3.7 Regardless of differences in save rates, the current switching procedures give a losing retailer prior notice of an intended switch (and therefore information to initiate a save). This tilts the playing field between incumbents and prospective gaining retailers. The way in which market arrangements currently work makes it cheaper for an incumbent retailer to save a customer than for any other retailer to acquire the customer. The effect on new retailers appears to be greater, creating a barrier to entry/expansion for those retailers.

Effect of saves on the profitability of acquisition activity: a worked example

Suppose a retailer carries out an acquisition campaign. In previous campaigns, 20% of the customers it has won have been saved by the losing retailer. Consider three scenarios:

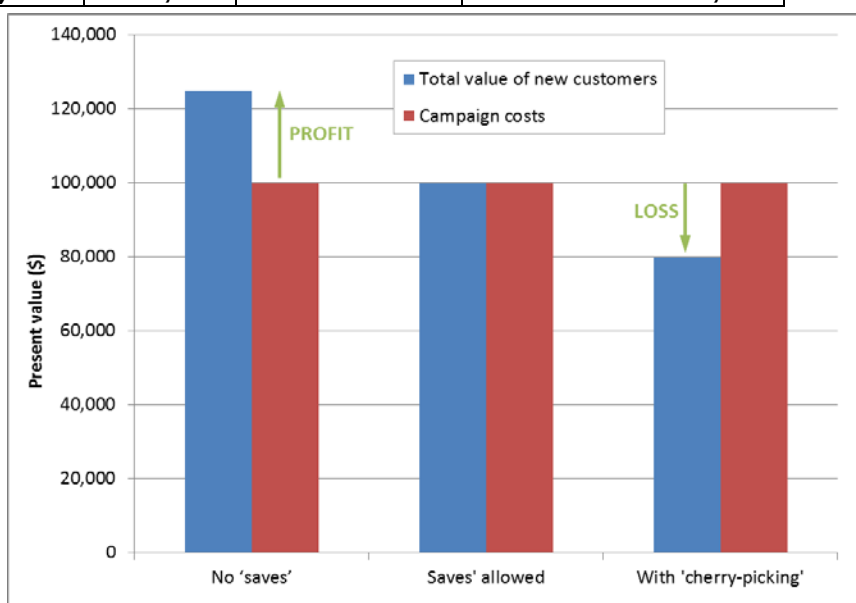
- in which the acquiring retailer is protected from saves
- in which it loses 20% of its acquisitions to saves
- a worst case in which it loses its 20% most profitable acquisitions to saves (as a result of 'cherry-picking' by the losing retailer).

The profitability of the campaign under each of these scenarios is shown below.¹⁰

	No saves	Saves allowed	With 'cherry-picking'
Customers approached	5000	5000	5000
Cost per customer approached (\$)	20	20	20
Success rate (% - net of switch cancellations unprompted by the losing retailer, which can occur under all three scenarios)	5%	5%	5%
Save rate (%)	0%	20%	20%
Number of customers acquired	250	200	200
Average time for which new customers are retained (yrs)	4	4	4
Average margin (\$/yr)	150	150	120
Total value of new customers (\$ PV)	125,000	100,000	80,000
Campaign costs (\$)	100,000	100,000	100,000
Profitability of campaign (\$ PV)	25,000	0	-20,000

It can be seen that a 20% save rate does not merely reduce the profitability of the campaign by 20%. Rather, it makes the campaign completely unprofitable.

In the worst case, where the losing retailer is able to 'cherry-pick' the best customers to save, the campaign makes a substantial loss.



¹⁰ Assumptions are made about the size and success rate of the campaign, and the value of the customers acquired. All calculations are pre-tax. A 10% WACC is assumed, though the results are not particularly sensitive to the choice of WACC.

3.4 Saves are likely to have a negative net effect on retail competition

- 3.4.1 The Authority acknowledges that the save process gives the losing retailer an opportunity to make an improved counter-offer, in order to persuade the customer to stay.
- 3.4.2 However, this positive effect only applies to the small minority of customers that are saved in any given year. The save process also has *negative* effects on retail competition. These adversely affect wider competition and are expected to render the majority of consumers worse off in the long run.
- 3.4.3 The most significant negative effect is the discouraging of acquisition activity. In particular, the potential for saves:
- (a) make it less likely that consumers will be offered a better deal by another retailer
 - (b) reduce the incentive on retailers to offer their existing customers a better deal
 - (c) reduce the incentive for new entrant retailers to enter the market (by making it harder for them to acquire a customer base)
 - (d) make it more difficult for smaller retailers to remain in the market (by making it harder for them to reach a 'critical mass' where they can cover their fixed costs).
- 3.4.4 The Authority considers that the positive effects of the save process on retail competition are outweighed by its broader negative effects.

Q3. Do you agree that saves are likely to have a negative net effect on retail competition? State your reasons.
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3.5 The right to reject a save is not an effective mitigation

- 3.5.1 Clause 17 of Schedule 11.3 provides for a switch request to be withdrawn by a losing or gaining trader.
- 3.5.2 Clause 18(d) further anticipates that a switch withdrawal request may be rejected.
- 3.5.3 In theory, therefore, a gaining retailer could reject a switch withdrawal request made by a losing retailer trying to effect a save.

- 3.5.4 However, in some circumstances, the gaining retailer may not have the legal right to require the customer to complete the switch. In other circumstances, the gaining retailer needs to consider (and manage) the reputational risks to its brand if customers were unhappy about their switch cancellation request being refused. For these reasons, the Authority understands that gaining retailers do not choose to veto saves under clause 18(d).
- 3.5.5 This right, therefore, does not appear to be an effective means of mitigating the problems associated with saves.

Q4. If you are a retailer, please advise how often you exercise the ability to refuse a switch withdrawal request. If you do not exercise this ability, what are the reasons why not?

3.6 Win-backs, other than early win-backs, are not a concern to the Authority at this point

- 3.6.1 The Authority is not generally concerned by win-backs because they do not utilise information gained through the switching process – compared with saves, which are only possible because the losing retailer is notified that the customer intends to switch before the switch is complete.
- 3.6.2 Further, the Authority considers that the negative impact of win-backs on the profitability of acquisition activity is likely to be relatively small, compared to what the negative impact of saves has been. The reasons for this view are that:
- (a) acquiring retailers can protect themselves from win-backs to some extent by signing their new acquisitions up to fixed term contracts,
 - (b) losing retailers attempt win-backs less often than saves¹¹ (although this could change in future)
 - (c) win-backs have a lower success rate than saves – it is easier to persuade a customer to cancel a switch than to persuade them to reverse it once it is complete
 - (d) it may be difficult to contact a customer in order to win them back, if they have since moved to a different address.
- 3.6.3 An exception to this is a win-back that takes place almost immediately after a switch has occurred. This type of win-back raises similar issues as for saves. This is because a win-back within a short period denies the

¹¹ Evidenced by the interviews described in Appendix C

gaining retailer any value from acquisition activity. If win-backs of this type were to grow substantially, gaining retailers would be more likely to impose fixed term contracts, notice periods and termination fees. While these are not necessarily problematic in themselves, the Authority considers that providing protection against win-backs for a short window after the switch may be beneficial.

- | | |
|------------|--|
| Q5. | Do you consider that win-backs have a material negative effect on retail competition? If so, why? |
| Q6. | Do you consider that early win-backs raise the same or similar issues as for saves? Please give reasons for your views. |

4. The Authority's proposed response has two elements

4.1 The first element is to amend the Code to allow retailers to elect to be protected from saves and early win-backs

- 4.1.1 The Authority considers that it is desirable for consumers to be able to receive a better deal from their current retailer. Retailers are, and will continue to be, entitled to make competitive offers:
- (a) when they first acquire a customer
 - (b) when they wish to discourage a customer from considering a move to another retailer (before the customer has agreed to switch)
 - (c) after the customer has left them and switched to a different retailer (a win-back), provided that the win-back occurs 10 business days after the switch.
- 4.1.2 However, the Authority wishes to prevent the specific situation in which a losing retailer makes a counter-offer during the switch process, or within a short period after the switch. The current process, under which a losing retailer is notified as part of the switching process and can seek to retain the customer based on that information, provides an undue advantage to incumbent retailers. Early win-backs give rise to similar issues.
- 4.1.3 The Authority is therefore proposing a targeted intervention, in which a gaining retailer can prevent losing retailers from attempts to retain a customer, triggered by information gained in the switch process.
- 4.1.4 Under the proposed amendment, a retailer can opt for its competitors to be prohibited from:
- (a) contacting a customer during the switch process, and attempting to persuade them to cancel the switch, or to switch back within a short period after the switch.
 - (b) making a counter-offer to a switching customer, for the same period as outlined above.
- 4.1.5 The Authority proposes to prevent contact for ten business days after the switch completion date. This is effectively a short-term protection against win-backs for save protected retailers. The 10 business day period in practice enables a gaining retailer a chance to deliver value to new customers. If a gaining retailer is not certain of being able to have the

chance to deliver value to a new customer, the incentive to engage in pro-competitive acquisition activity is diminished (and therefore negatively impacts on acquisition activity as set out in section 3.4 above).

- 4.1.6 A losing retailer would still be able to contact a switching customer for the purpose of advising the customer of any termination fees that they were required to pay.
- 4.1.7 There may be other purposes for which a losing retailer might need to contact a switching customer in the middle of the switch process. If participants advise any other such purposes, the Authority can add them as an exclusion in the Code drafting.
- 4.1.8 A further issue may relate to ensuring that retailers are not prevented from running general marketing campaigns – i.e. a campaign that is not specifically targeted at customers in the middle of (or having just completed) the switching process.
- 4.1.9 The Authority has a preference for non-prescriptive solutions, and considers that not all retailers might want to prevent the use of switching information to initiate saves. Therefore, the Authority proposes a solution under which retailers could choose to be protected from saves.
- 4.1.10 For instance, if retailer A chose to be protected from saves, and proceeded to win a customer C from another retailer B, then the proposed Code amendment would prohibit B from contacting C to persuade them to cancel the incomplete switch.
- 4.1.11 Save protection would be reciprocal. A retailer that chose to be protected from saves would be unable to engage in save activity of its own. It could not even save its customers from non-save-protected retailers.
- 4.1.12 Each retailer would therefore need to determine whether the value of protecting its own acquisitions was sufficient to justify losing the opportunity to carry out saves.
- 4.1.13 ‘Flip-flopping’ would be prevented – a retailer would not be able to rapidly switch between ‘save protection’ and ‘no save protection’. This is to prevent retailers from using the save protection temporarily while actively acquiring customers through marketing campaigns, and then switching back to no save protection in order to be able to defend those customers from other retailers’ acquisition campaigns. The Authority considers that a period of 12 months is sufficient to prevent this use of the save protection rules in this way, having regard to the usual cycle of acquisition campaigns.
- 4.1.14 The Authority would publish a list of save-protected retailers.

- Q7. What are the purposes for which a losing retailer may contact a switching customer during the switch process, other than trying to retain the customer or advising them of any termination fees they were required to pay?**
- Q8. If you are a retailer, how likely is it that you would choose to be protected from saves, if this was possible under the Code?**

4.2 The second element is increased monitoring of switch withdrawals, supported by improvements to data collection

- 4.2.1** The Authority proposes to carry out increased monitoring of the frequency of, and reasons for, switch withdrawals. This monitoring will support further policy development.
- 4.2.2** In order to do this, the Authority proposes to make improvements to the collection of data on reasons for switch withdrawals.
- 4.2.3** When a retailer requests the withdrawal of a switch, it must provide the registry with a withdrawal advisory code.¹² The Authority must determine and publish the list of valid withdrawal advisory codes.
- 4.2.4** The current list of codes (attached as Appendix F) does not provide enough information about the reasons for a switch withdrawal. A single code (CR) covers all events where the “customer has changed their mind and wishes to cancel”.
- 4.2.5** The Authority therefore proposes to discontinue the use of the CR code and introduce several new withdrawal advisory codes, listed in Table 2.
- 4.2.6** This change is expected to improve the transparency of the switch withdrawal process.

- Q9. Do you agree that the new withdrawal advisory codes listed in Section 4.2 should be introduced, in order to improve transparency about switch withdrawals? If not, why not?**
- Q10. Do you have any comments on the drafting of the new withdrawal advisory codes listed in Table 2?**

¹² Electricity Industry Participation Code 2010, Schedule 11.3 Clause 18 (a) and (b)

Table 2: New switch withdrawal advisory codes

Code	Reason	Explanation
C0	Other reason / reason not known	Customer does not give a reason for cancellation, or reason does not fit into other categories
C1	Customer uses cooling off period under Fair Trading Act	Customer cancels the switch by exercising their rights under subpart 2 of Part 4A of the Fair Trading Act
C2	Customer changed mind	Customer requests switch cancellation because they changed their mind
C3	Customer declines to agree acquiring retailer terms and conditions	Customer requests switch be cancelled because they find the acquiring retailer's terms and conditions unacceptable
C4	Customer cancels switch due to exit fee from fixed term contract	Customer wishes to cancel the switch because they will otherwise be liable to pay exit or contract termination fees to the losing retailer
C5	Customer accepts counter-offer from losing retailer	Customer wishes to cancel the switch because they have received a counter-offer from the losing retailer
C6	Customer alleges misleading sales information or inappropriate tactics	Customer wishes to cancel the switch because they are unhappy with the quality and accuracy of the information received from, or the sales tactics employed by, the acquiring retailer

5. Regulatory statement for the proposed Code amendment

5.1 The Authority's proposal

- 5.1.1 The proposed Code amendment (attached as Appendix A):
- (a) allows a retailer to choose to be protected from saves
 - (b) places limits on how often a retailer can change its choice
 - (c) requires the Authority to publish a list of all retailers that have chosen to be protected from saves.
- 5.1.2 When a customer switches to a retailer that has chosen to be protected from saves, the amendment prohibits the losing retailer from the time that the losing retailer is notified of the switch to ten business days after the switch from attempting to persuade the switching customer to cancel the switch (or switch back), including by making a counter-offer or offering an enticement
- 5.1.1 The losing retailer can still contact the switching customer to advise them of any early termination fees that may apply.
- 5.1.2 Under the amendment, a retailer that has chosen save protection may not carry out any save, including early win-back activity itself.
- 5.1.3 As well as amending the Code, the Authority proposes to improve monitoring of switch withdrawal behaviour, supported by more detailed data collection (Section 4.2). This part of the proposal does not require changes to the Code, and will be undertaken regardless of the options considered. This part of the proposal is likely to lead to benefits in that the Authority will obtain more accurate information about the reasons for switch saves, which will support better, more effective policy proposals. It also carries little or no implementation cost and is therefore highly likely to be net beneficial. For these reasons the changes to switch withdrawal codes are not specifically assessed by this regulatory statement.

5.2 Statement of the objective of the proposed amendment

- 5.2.1 The objective of the proposed amendment is to promote retail market competition.

Q11. Do you agree that the objective for the amendment set out in Section 5.2 is appropriate and consistent with the Authority's statutory objective? If not, why not?

5.3 The proposed amendment is expected to meet the objective

5.3.1 The Authority considers that the proposal would lead to a net increase in retail market competition.

5.3.2 The Authority recognises that there is a narrow sense in which the proposal would *reduce* retail market competition. At present, about 2% of consumers are saved in any given year.¹³ If the proposal is in effect, then some of these consumers¹⁴ would not receive save offers. This would reduce their ability to get a better deal during the narrow window of time in which the switch took place, and for a short period afterwards.

5.3.3 Nevertheless, these consumers:

- (a) would still be able to receive retention offers in the normal course of events (i.e. outside the switch process)
- (b) would still be able to receive win-back offers from 10 business days after the switch process is completed
- (c) along with all other consumers, would benefit from the general enhancement in retail market competition brought about by the proposal – as set out in the following subsections.

Increased acquisition activity

5.3.4 The Authority anticipates that allowing retailers to elect to be protected from saves and early win-backs will make acquisition activity more cost-effective, and hence increase the amount of acquisition activity carried out by save-protected retailers. This may include:

- (a) more frequent acquisition campaigns
- (b) more consumers targeted in each campaign
- (c) campaigns covering a wider region of the country.

5.3.5 As a result, retail customers will receive offers more frequently and have more opportunities to obtain a better deal from another retailer.

¹³ As a rule of thumb, 20% of customers switch and 10% of switch attempts are saved

¹⁴ I.e. those whose losing retailer or losing retailer had elected to be protected from saves

Lower barriers to entry and expansion for small and new entrant retailers

- 5.3.6 As set out in Section 3.1, the Authority seeks to lower barriers of entry and expansion for smaller/new entrant retailers.
- 5.3.7 The Authority anticipates that the proposed amendment will help to:
- (a) provide new entrants with confidence that incumbent retailers will not be able to leverage the switching system as a way of retaining their customers
 - (b) enable small retailers to remain in the market (because making acquisition activity more cost-effective will help them to acquire enough customers to cover their fixed costs).
- 5.3.8 This view is supported by comments by some small to mid-size existing retailers, which identify saves as a key factor restricting the extent to which they can grow a viable business.
- 5.3.9 Lowering barriers to entry and expansion will enhance retail competition and innovation, to the long-term benefit of consumers.

Encouraging retailers to make pre-emptive retention offers

- 5.3.10 The Authority anticipates that the proposal will encourage retailers to pre-emptively offer their existing customers a better deal.
- 5.3.11 Retailers will no longer be able to retain customers by waiting for them to initiate a switch and then carrying out a save. Rather, they will face an increased incentive to pre-emptively provide the customer with an improved price/service offering that will dissuade the customer from beginning the switch process in the first place.
- 5.3.12 This incentive will be particularly strong for:
- (a) commercial and industrial customers
 - (b) high value residential customers
 - (c) customers that are not on fixed term contracts
 - (d) customers that are considered relatively likely to switch in response to a better offer from another retailer.
- 5.3.13 The proposal will increase the likelihood that any consumer (but especially those belonging to the groups listed above) will receive a more competitive offer from their current retailer.

Other effects on competition

5.3.14 For completeness, the Authority lists other possible outcomes of the proposed amendment that are not expected to have a significant net effect on retail market competition.

- (a) The proposal may increase the scope for save-protected retailers to use 'sharp' or 'pushy' sales tactics in the course of acquisition activity – in the knowledge that the losing retailer will no longer have an opportunity to discuss these tactics with the consumer. On the other hand, it may also reduce the scope for losing retailers to use 'sharp' or 'pushy' tactics in the save process. The net effect is probably not significant, especially given that sales and retention behaviour is subject to other checks such as the Fair Trading Act.
- (b) The proposal may lead to increased win-back activity after the save and early win-back protection ends – because retailers that cannot save a high value customer may instead seek to win them back after the switch is complete. At this stage the Authority is less concerned by the prospect of increased win-back activity (for the reasons set out in Section 3.6 – i.e. win-backs are less likely to be successful than saves, and can be prevented to some extent by the use of fixed term contracts).
- (c) The proposal may lead to increased use of fixed term retail contracts, as an alternative way of retaining customers. At this stage the Authority is not concerned by the prospect of increased use of fixed term retail contracts (since a retailer must typically offer a customer more competitive terms if they wish to lock them in for a fixed duration).

Q12. Do you agree that the proposed amendment would achieve the objective set out in Section 5.2? If not, why not?

Q13. Do you consider that the proposed amendment would carry a risk of unintended consequences? If so, what are they?

5.4 The proposed amendment is expected to result in a net economic benefit

5.4.1 The Authority considers that the net increase in retail competition that would result from the amendment (for the reasons set out in Section 5.3) would be to the long-term benefit of consumers. The increase in competition would also result in a significant economic benefit through:

- (a) supporting innovation in the retail sector – which could deliver flow-on benefits to other parts of the electricity industry, including the generation, network, demand-side response and domestic energy efficiency sectors
 - (b) driving reductions in retail cost-to-serve, which is estimated to cost over \$300M per year at present¹⁵
 - (c) enhancing customers' ability to find a deal that suits their individual needs
 - (d) supporting the sustainability of the competitive retail electricity market, which delivers an ongoing stream of economic benefits.
- 5.4.2 These benefits are hard to quantify, as is often the case for benefits that stem from increased competition, innovation, and/or dynamic efficiency. The Authority has not attempted to quantify them. Nonetheless, the Authority expects that the economic benefits of the proposal would exceed its relatively small costs.
- 5.4.3 The costs of the proposal would include:
- (a) increased compliance costs faced by retailers and the Authority
 - (b) an increase in resources invested by retailers in acquisition, retention and win-back activity
 - (c) the overhead costs of any new retailers that are encouraged to enter the market, or small existing retailers that are encouraged to remain in the market, as a result of the amendment.
- 5.4.4 The increase in compliance costs is expected to be modest. The Authority would seek to establish efficient arrangements for dealing with alleged breaches of the save protection provision. The Authority expects such arrangements would involve:
- (a) providing a simple process for retailers to submit possible breaches of the provision
 - (b) on a monthly basis, contact retailers that had been identified as having possibly breached the provision, and ask them to demonstrate compliance
 - (c) follow up in more detail with any party that was persistently unable to demonstrate compliance, including by opening an investigation and/or seeking information relying on the Authority's powers in section 46 of the Act.

¹⁵ Average cost-to-serve is generally estimated to be in the vicinity of \$200 per ICP per year; there are over 1.5 million active domestic ICPs.

- 5.4.5 Such arrangements would not materially increase Authority costs, but could potentially increase the compliance costs incurred by retailers. If, for instance, ten retailers each allocated 0.1 FTE to managing compliance with the provision, at an analyst cost of \$120,000 per FTE per year, then the total incremental cost would be approximately \$1.3M PV.¹⁶
- 5.4.6 The increase in acquisition, retention and win-back costs (as a result of the anticipated increase in marketing activity) is also expected to be modest. If, for instance, an additional 5,000 customers per year switched as a result of acquisition campaigns, and the cost of acquisition activity was approximately \$100 per customer successfully acquired, then the total incremental cost would be \$5.3M PV. This cost would be partly offset by a reduction in the costs incurred in the process of save activity.
- 5.4.7 The increase in retailer overhead costs has the potential to be more significant. If, for instance, one additional small retailer was to enter the market as a result of the provision, and spent \$2M per year on overheads,¹⁷ then the total incremental cost would be \$21M PV. However, this cost would be partly or fully offset if the small retailer was able to achieve a lower cost-to-serve than other retailers.
- 5.4.8 In conclusion, the net economic benefit of the proposal is expected to be positive. However, as some options (discussed below) are also likely to give rise to a positive net benefit, and because the Authority has relied on qualitative as well as quantitative benefits, the Authority has applied the ‘tiebreaker’ Code amendment principles numbered 4 through 8 – see Section 5.7.

Q14. Do you agree with the assessment of net economic benefit? If not, what is your reasoning?
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5.5 The Authority has identified other options for addressing the objectives, but considers the proposed amendment is preferable

- 5.5.1 Other options¹⁸ considered by the Authority include:

¹⁶ PV over twenty years, assuming an 8% real discount rate.

¹⁷ For reference, Pulse Energy spent \$4.3M on staff in the year to 2013, and another \$1M on “computers and communication, directors fees, auditors fees, professional services fees, rent and leasing costs”. Pulse however is a mid-size retailer; a smaller retailer could be expected to spend significantly less.

¹⁸ Each option assumes the Authority increases monitoring of the reasons for switch request/improves data collection.

- (a) taking no action at this point
- (b) one-way save protection – i.e. allowing retailers to choose to be protected from saves, while still being able to carry out saves themselves
- (c) providing save protection for all retailers by default, but allowing retailers to opt out of save protection if they wish
- (d) banning saves entirely
- (e) placing restrictions on both saves and win-backs.

5.5.2 The Authority explains below why it considers the proposed amendment is preferable to each of these options.

Option (a): no restriction on saves

5.5.3 Relying on increased market monitoring alone would fail to achieve the net economic benefit described in Section 5.4. Saves would still be permitted, and the profitability of acquisition activity would still be suppressed.

Option (b): one-way save protection

5.5.4 If retailers could ban other retailers from saving their acquisitions, without losing the ability to carry out saves themselves, then there would not be a level playing field between save-protected and non-save protected retailers

5.5.5 Under this option, it seems likely that all retailers would opt for save protection because if they did not do so, they would be significantly disadvantaged compared with save protected retailers. If so, then this does not differ in substance from option (d) below.

Option (c): retailers are save protected by default, but can opt out

5.5.6 Under the proposal, retailers would not be save protected by default, but could opt in to save protection. An alternative would be to provide for retailers to be save protected by default, but could opt out of save protection if they wished.

5.5.7 This option would force change immediately upon all retailers, and then require retailers to opt out. It has the potential for over-reach and may result in consequential reductions in competition and reductions in market efficiency.

Option (d): saves are banned entirely

5.5.8 Another alternative would be to apply save protection to all retailers, with no option to opt out.

5.5.9 This option:

- (a) would not be consistent with the Code amendment principles, which include a preference for opt-out features
- (b) is not preferred to the market-based solution of allowing each retailer to determine the value of save protection to their own business.

Option (e): Both saves and win-backs are restricted

5.5.10 As set out in Section 3.6, the negative impact of later win-backs on the profitability of acquisition activity (and hence on retail competition) is likely to be relatively small, compared to what the negative impact of saves and early win-backs has been.

5.5.11 Further, retailers can already protect themselves from later win-backs to some extent by signing their customers up to fixed term contracts.

5.5.12 The proposal limits win-backs for ten business days after the switch date.

5.5.13 The benefits of placing further restrictions on win-backs are unlikely to justify the costs at this stage.

Q15. Do you agree that the proposed amendment is preferable to other options? If not, please explain your preferred option in terms consistent with the Authority's statutory objective.

5.6 Assessment under section 32(1) of the Act

5.6.1 Section 32(1) of the Act provides that Code provisions must be consistent with the Authority's objective and be necessary or desirable to promote any or all of the following:

- (a) competition in the electricity industry
- (b) the reliable supply of electricity to consumers
- (c) the efficient operation of the electricity industry
- (d) the performance by the Authority of its functions
- (e) any other matters specifically referred to in the Act as a matter for inclusion in the Code.

5.6.2 Table 3 sets out an assessment of the proposed amendment against the requirements of section 32(1) of the Act

Table 3: How the proposal complies with section 32(1) of the Act

Requirement	Comment
The proposed amendment is consistent with the Authority's objective under section 15 of the Act, which is to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers.	The proposed amendment is expected to: • promote competition in the retail electricity market, for the long-term benefit of consumers • not undermine reliability of supply or the efficient operation of the electricity industry.
The proposed amendment is necessary or desirable to promote any or all of the following:	
(a) competition in the electricity industry;	The proposed amendment is expected to produce a net increase in retail market competition.
(b) the reliable supply of electricity to consumers;	The proposed amendment is not expected to undermine reliable supply of electricity to consumers.
(c) the efficient operation of the electricity industry;	The proposed amendment is not expected to undermine the efficiency of the electricity industry.
(d) the performance by the Authority of its functions;	The proposed amendment will not materially affect the performance of the Authority.
(e) any other matter specifically referred to in this Act as a matter for inclusion in the Code.	The proposed amendment will not materially affect any other matter specifically referred to in the Act for inclusion in the Code.

Q16. Do you agree that the Authority's proposed amendment complies with section 32(1) of the Act?

5.7 Assessment under the Code amendment principles

5.7.1 Table 4 describes the Authority's consideration of the Code amendment principles in the preparation of the proposal.

Table 4: Regard for Code amendment principles

Principle	Comment
1. Lawful	The proposal is lawful, and is consistent with the statutory objective and with the empowering provisions of the Act.
2. Provides clearly identified efficiency gains or addresses market or regulatory failure	The proposal addresses a flaw in existing market arrangements that acts as a barrier to competition.
3. Net benefits are quantified	The Authority has partially quantified the net benefits of the proposal, but expects that the proposal would provide a net economic benefit (Section 5.4).
4. Preference for small-scale 'trial and error' options	Yes – the proposed amendment is reversible.
5. Preference for greater competition	Yes – the proposed amendment is considered likely to result in a net increase in competition.
6. Preference for market solutions	Yes – the benefits of the amendment will be delivered through an improved retail market.
7. Preference for opt-out features	Yes – the benefits of the amendment will include increased innovation.
8. Preference for non-prescriptive options	Yes – each retailer will be able to choose whether the value of save protection is sufficient to justify forgoing the ability to carry out saves themselves.

Q17. Do you agree that the Authority's proposed amendment complies with the Code amendment principles?

Glossary of abbreviations and terms

Act	Electricity Industry Act 2010
Authority	Electricity Authority
Code	Electricity Industry Participation Code 2010
Counter-offer	An offer made to a customer by a losing retailer, in an attempt to persuade the customer to cancel an incomplete switch
Protected from saves	Under the proposed Code amendment, a retailer can choose to be protected from saves. When this retailer acquires a customer, the losing retailer would not be permitted to contact the customer during the switch process, or within 10 business days after a switch is completed to try to persuade them to cancel the switch. A retailer that chooses to be protected from saves must cease all save activity of its own
PV	Present value
Regulations	Electricity Industry (Enforcement) Regulations 2010
Save	If a customer is in the process of switching from a losing retailer to an losing retailer, and the losing retailer manages to persuade the customer to cancel the switching process, then a save has occurred
Save protection	See 'protected from saves' above
Save rate	The number of saves, as a proportion of the number of switches that are initiated
WACC	Weighted average cost of capital
Win-back	If a customer completes a switch from one retailer to another, and the losing retailer later convinces them to switch back, then a win-back has occurred
Withdrawal advisory code	When a retailer requests the withdrawal of a switch, it must provide the registry with a withdrawal advisory code

Appendix A Proposed amendment

11.15AA Trader may elect switch saving protection

- (1) A **trader** may elect to have switch saving protection under clause 11.15AB by giving written notice to the **Authority**.
- (2) The **Authority** must **publicise** the name of a **trader** that has elected to have switch saving protection as soon as reasonably practicable after receiving notice of the **trader's** election.
- (3) A **trader's** election comes into effect on the day after the day that the **Authority** **publicises** the **trader's** election.

11.15AB Switch saving protection

- (1) This clause applies if a **trader** ("the electing **trader**") has elected to have switch saving protection under clause 11.15AA.
- (2) If the electing **trader** enters into an arrangement with a **customer** to commence trading **electricity** with the **customer** at an **ICP** at which another **trader** ("the losing **trader**") trades **electricity** with the **customer**, the losing **trader** must comply with subclause (4).
- (3) If a **trader** ("the gaining **trader**") enters into an arrangement with one of the electing **trader's customers** to commence trading **electricity** with the **customer**, the electing **trader** must comply with subclause (4).
- (4) The losing **trader** (under subclause (2)) or the electing **trader** (under subclause (3) (as the case may be) must not, by any means, attempt to persuade the **customer** to terminate the arrangement referred to in subclause (2) or subclause (3) (as the case may be) during the period specified in subclause (5), including by—
 - (a) making a counter-offer to the **customer**; or
 - (b) offering an enticement to the **customer**.
- (5) The period starts on the day that the losing **trader** receives notice of the switch in accordance with clause 22(a) of Schedule 11.3, and ends on the day that is 10 **business days** after the **event date** set for the switch in accordance with Schedule 11.3.

11.15AC Trader may advise customer of termination fees and run marketing campaigns

- (1) Despite clause 11.15AB—
 - (a) clause 11.15AB(2) does not prohibit the losing **trader** from contacting the **customer** to advise the **customer** of any termination fees that the **customer** would be required to pay the losing **trader** as a result of the **customer** ceasing to trade with the **losing trader**; and
 - (b) clause 11.15AB(3) does not prohibit the electing **trader** from contacting the **customer** to advise the **customer** of any termination fees that the **customer** would be required to pay the losing **trader** as a result of the **customer** ceasing to trade with the **losing trader**.
- (2) Despite clause 11.15AB, clause 11.15AB(4) does not prohibit the losing **trader** or the electing **trader** (as the case may be) from offering an enticement to the **customer** as part of a general marketing campaign.

11.15AD Cancellation of elections

- (1) A **trader** that has elected to have switch saving protection under clause 11.15AA may cancel its election by notice in writing to the **Authority**.
- (2) Despite subclause (1), a **trader** may not cancel its election earlier than 12 months after the effective date of the election.
- (3) Despite clause 11.15AA, a **trader** that has cancelled its election may not make another election earlier than 12 months after the date of the cancellation.

Appendix B Format for submissions

Number	Question	Comment
1	Why do some acquiring retailers experience a much higher save rate than some others?	
2	Do you have any comments on the findings of the Authority's investigation of retailer save practices?	
3	Do you agree that saves are likely to have a negative net effect on retail competition? State your reasons.	
4	If you are a retailer, please advise how often you exercise the ability to refuse a switch withdrawal request. If you do not exercise this ability, what are the reasons why not?	
5	Do you consider that win-backs have a material negative effect on retail competition? If so, why?	
6	Do you consider that early win-backs raise the same or similar issues as for saves? Please give reasons for your views.	
7	What are the purposes for which a defending retailer may contact a switching customer during the switch process, other than trying to retain the customer or advising them of any termination fees they were required to pay?	
8	If you are a retailer, how likely is it that you would choose to be protected from saves, if this was possible under the Code?	
9	Do you agree that the new withdrawal advisory codes listed in Section 5.2 should be introduced, in order to improve transparency about switch withdrawals? If not, why not?	
10	Do you have any comments on the drafting of the new withdrawal advisory codes listed in Table 2?	
11	Do you agree that the objective for the amendment set out in Section 6.2 is appropriate and consistent with the Authority's statutory objective? If not, why not?	
11	Do you agree that the proposed amendment would achieve the objective set out in Section 6.2? If not, why not?	

13	Do you consider that the proposed amendment would carry a risk of unintended consequences? If so, what are they?	
14	Do you agree with the assessment of net economic benefit? If not, what is your reasoning?	
15	Do you agree that the proposed amendment is preferable to other options? If not, please explain your preferred option in terms consistent with the Authority's statutory objective.	
16	Do you agree that the Authority's proposed amendment complies with section 32(1) of the Act?	
17	Do you agree that the Authority's proposed amendment complies with the Code amendment principles?	

Suggested format for providing drafting comments on the proposed Code amendment in Appendix A:

Clause reference	Submitter's comment	Submitter's alternative drafting

Appendix C Interviews carried out by Sapere Research Group

- C1. Saving customers during the switching process is a popular customer retention tool used by electricity retailers. The level of resource put into saves has gradually increased over recent years, as competitive pressures have grown.
- C2. All but one of the retailers interviewed only attempt to contact a proportion of their mass market customers who initiate a switch - those that are considered most valuable. The most common measures of value are credit worthiness and profitability. Some retailers' systems for identifying valuable customers are much more sophisticated than others, and a range of other criteria may be adopted, such as the loyalty of the customer.
- C3. In the main, outbound calls are made to switching customers either from generalist staff within call centres, or from specialist save teams. The breadth of the conversation with switching customers varies from retailer to retailer, but may include verification of the switch, understanding the rationale for the switch, quality assurance, reminding the customer of any early termination fee, to educate the customer, and to make a counter-offer.
- C4. Many retailers value the opportunity to check with a customer that they did approve the switch, and that they have not been misled or left confused about the savings they may achieve through switching.
- C5. A one-off credit on a customer's account is currently the most common form of counter-offer to mass market customers, in the order of \$50-\$150, but can be up to \$300. The credit will typically come with a lock-in period, where if the customer switches during this time the credit is repaid to the provider. The lock-in period ranges from 3 months to 18 months, and tends to vary by retailer, rather than the amount of credit provided. The reliance on counter-offers in order to save customers also varies between retailers.
- C6. Most retailers adopt the same save strategies to inbound calls from customers who indicate that they might be looking to switch (although these types of phone calls are relatively uncommon). They are, however, likely to make a lower counter-offer than during the switching period and take a more ad-hoc approach. Also, in general, most effort is put into satisfying customers so that they don't switch and contacting customers within the window of the switch - rather than trying to win-back customers after they have switched.

Methodology

- C7. A series of interviews were undertaken with current electricity retailers and selected past-employees of retailers. These sought to gather information on the strategies that are used by retailers to retain customers and how those strategies are applied.
- C8. The majority of the detailed interview questions were in relation to saves. A couple of questions were asked of the retailers' win-back strategies. Within the industry, different terminology is used for customer retention strategies. For example, one retailer uses 'saves' to mean a customer that is convinced to stay with them prior to a switch being registered, and 'win-back' for when a customer is convinced to stay with them during the switching process.

- C9. A list of interviewees is provided as Appendix 1. The interview data has been generalized for this report.

Interview findings

Save strategies

- C10. Most retailers organize themselves differently for mass market customers (i.e. residential and small business) and commercial and industrial customers - and there is subsequently a difference in the save strategies adopted. Except where otherwise stated, the strategies described here are for mass market customers only.

Customer criteria

- C11. The majority of retailers only contact a proportion of those customers who have initiated a switch (i.e. the retailer has been advised by the registry of a transfer). Only one retailer said that they contact all customers, and that they do so for validation purposes.
- C12. For retailers who contact a proportion of their switching customers, they apply criteria in order to determine who they contact. The number of criteria varies, as too does the complexity of the model used to identify customers to be targeted. The most common criteria are credit history and profitability. Profitability is generally based on usage, but may also take into account cost of supply (including network costs, location of generation assets, and risk management contracts) and other costs for servicing the customer (e.g. how often the customer contacts them).
- C13. Other criteria used for prioritizing customers include if they:
- (a) are on a fixed term contract;
 - (b) are on dual-fuel;
 - (c) have a smart-meter;
 - (d) have asked not to be contacted for marketing purposes;
 - (e) have made a complaint or have experienced general service issues; and
 - (f) have only been with the retailer for a short period of time (customers who switch often are not attractive to some retailers and/or are seen to be difficult to entice back).
- C14. All interviewees stated that the gaining retailer is not a factor in deciding which customers they will contact, except if the switch is to a subsidiary of the gaining retailer.
- C15. The finite resource available for contacting customers is also a relevant factor. Some retailers will use criteria (other than credit history) to prioritise customers; and a switch may be completed for low priority customers before the existing supplier can get in contact with them.
- C16. Decisions for contacting customers can also be influenced by factors external to that individual's account - such as market conditions, activities of competitors, the time of year, and the retailer's sales strategy and customer targets (e.g. they may decide to focus their sales on particular regions).

Proportion of customers contacted and success rates

- C17. Estimates of the proportion of customers that retailers attempt to contact (from all of those who had initiated a switch) ranged from 30% to 80%. The number fluctuates for each individual retailer as well as between retailers - being influenced, in particular, by the variation in numbers of customers switching, and the resources that the retailer is putting into saves at any given point in time.
- C18. A number of retailers pointed out that, although they may attempt to contact a high proportion of customers, the number they actually manage to talk to during the window of the switching period is significantly lower (e.g. 10%-40% of those customers that they attempt to contact).¹⁹
- C19. The success rate for saves was estimated by most interviewees - and ranged from 20 to 60%. Again, there can be significant variation in the success rate - depending, for example, on the campaigns used by gaining retailers.

Organisation for save calls

- C20. For all retailers, outbound phone calls are the dominant form of contacting switching customers (in the mass market). A couple of retailers use, or have attempted to use, email or mail - but these tend to be viewed as relatively unsuccessful due to the narrow window available for cancelling the switch (and may therefore be reserved for lower priority customers, if used at all). A couple of retailers noted that the 'switching window' is becoming more relevant as fixed term contracts become more common. This suggests that contractual obligations may start to dominate the Code requirements (i.e. the two month window for cancelling a switch may become less relevant).
- C21. Retailers tend to adopt one of the following approaches (although one retailer uses a mix of the two):
- a) Dedicated resource for save calls, within in-house call centres (although this resource will also be used for other work from time to time - depending on the needs of the business); or
 - b) Saves activity spread across a generalist team that has a number of other responsibilities (e.g. call centres that are also responsible for customer acquisition, inbound calls, or teams that also deal with proactive customer satisfaction).
- C22. Both models seem equally popular, and there does not seem to be a correlation between the type of model and the nature of the retailer (i.e. whether existing supplier or rival). Also, for some, their preferred model has changed with time.
- C23. A point raised by a couple of interviewees is that new entrants have far fewer resources to dedicate to saving switching customers compared with existing retailers. This includes the ability to invest in systems for identifying the most profitable customers. They will also be on 'catch-up' in terms of understanding the market - and so won't necessarily understand the role of saves in the market, and the resource needs for this.

¹⁹ These comments suggest that most effort is put into saving a customer early (i.e. prior to the switch completing) rather than within the full 2 month window for cancelling. This is consistent with the comment by one retailer that they will only make a counter-offer where the customer has not yet paid the final invoice, i.e. they still have a relationship with that customer.

- C24. Most retailers will not attempt a 'save-on-a-save'. That is, a gaining retailer will not tend to try to save a customer that was going to switch to them, but cancels due to the save strategy of the existing supplier. Where reasons were given for this, they referred to issues of customer experience, the fact that they have already put their 'best foot forward', or that the switch window is too short. Two retailers said that they would regularly contact the customer to find out the reason for them cancelling the switch, and will sometimes be successful at winning them back. Retailers may themselves cancel the switch, if the customer did not pass a credit check.
- C25. Commercial and industrial customers would normally be on individual contracts and be relationship/account managed. Therefore the 'saves' process is much less standardized, is normally the responsibility of the account manager, and be based on a number of conversations over a period of time. The account manager may have a face-to-face conversation with the customer or just contact them by phone, whichever they deem most appropriate for the specific relationship and situation.

Nature of conversations with switching customers

- C26. The breadth of the conversation with switching customers varies from retailer to retailer, and may contain one or more of the following:
- a) Verifying the switch. There can be a number of reasons why a switch shouldn't go through - e.g. someone other than the account holder was responsible for the switch request, the sales agent may have been premature in activating the switch or the customer has just asked for information, or there may have been a data error - a wrong address or ICP;
 - b) Understanding the rationale for the switch. This will influence the approach the retailer takes to that particular customer (e.g. whether it is a price or a service issue), but is useful as a form of market research as well (e.g. understanding customer needs and wants, and competitors' pricing);
 - c) Quality assurance - ensuring the customer is well informed of the decision they have made, and have not been misled by sales agents or are confused about what they have signed up for;
 - d) Reminding the customer of any early termination fee that will apply, if they are on a fixed term contract. i.e. a check that the customer understands the implications of the switch; and
 - e) Educate the customer on options available to them and/or make a counter-offer to encourage the customer not to switch.
- C27. It is common for gaining retailers to initially attempt to ensure that the customer is well informed in relation to the decision they have made. Some retailers are concerned that their customers are not always fully aware of what they are signing up for (e.g. the terms and conditions, such as the length of the lock-in periods), or are being misled (either on purpose or accidentally) by the sales agent of the gaining retailer. This is particularly the case where the door-to-door sales channel is used - as it is difficult to monitor the conversations that occur. One retailer noted that "we are more successful against those retailers who do a poor job at selling". Another noted concerns of customers feeling pressured into agreeing to switch because of a pushy sales person.

- C28. A recent example (cited by several interviewees) is of sales agents comparing GST exclusive to GST inclusive prices, and so misleading customers on the nature of the savings they could achieve by switching. Other examples of incorrect comparisons include where the gaining retailer's sales agents have not taken into account prompt payment discounts or other discounts, have compared unit rates and not fixed daily charges, or have not taken into account exit fees.
- C29. Conversations with customers will often include how the gaining retailer's offer (if this information is provided by the customer) compares to the existing supplier's product offering. Otherwise, the existing supplier will tend to focus on informing the customer about their products and services only. There may be alternative products that are more suitable for the customer, or services or other benefits that the customer is not currently utilising, such as paying bills on-line or loyalty programmes.
- C30. All retailers believe that their employees who make the save calls do not currently get into discussions about other retailers - except to verify the switch and to discuss the nature of their offer, where it is known. Some went on to say that, because all save conversations are had over the phone, that they are recorded and monitored by the retailer to ensure that this doesn't happen (in addition to ensuring compliance with other requirements).
- C31. Some retailers provided examples of where they have heard of negative things about them being said to their customers by the gaining retailer in order to encourage a switch, but this isn't thought to be widespread. There is general agreement that this type of talk undermines the credibility of the electricity sector, and so is not good for anyone. One retailer commented that they have heard of others using 'guilt' to encourage a customer not to switch (e.g. they will say that they do a lot more in the customer's local community than other retailers).

Nature of the counter-offer

- C32. No retailer currently offers non-standard pricing plans or prompt payment discounts to mass market customers (so those that are offered, are made generally available). A reason provided for this is the business complexity that would result. They may, however, offer the customer promotional offers that are available to new customers (but wouldn't normally be available to existing customers).
- C33. It is commonplace to offer a credit on the customers' account as a save strategy. The majority of providers offer between \$50 and \$150, although one retailer offers up to \$300 to mass market customers. Those retailers who have fairly good information on the value of each customer will use this in determining how much credit to offer to each individual. Others will focus more on whether or not they can 'match' the competitor's offer within certain parameters. Customer preference and situation will also play a role (e.g. whether they would prefer cash, or some form of non-monetary benefit). One retailer will often offer benefits on another utility service that they provide (if the customers is signed up for this as well as electricity), rather than applying this to the electricity bill, such as a beneficial credit, a degree of free usage or free add-on services.
- C34. The credit will generally come with a lock-in period, and if the customer switches during this time, the credit is repaid to the losing provider (only one retailer said that they do not have a lock-in period where credit is provided, but they do have a 30 day notice period). The lock-in periods range from 3 months to 18 months, and tend to vary by retailer, rather than the amount of credit provided.

- C35. A few retailers may offer non-monetary benefits instead of credit, such as magazine subscriptions, phones, supermarket vouchers, movie tickets or extra loyalty points - but this is not commonplace. A couple of interviewees mentioned that gaining retailers will often offer to pay the cost of the customer terminating their existing contract, but it is not clear from the interview data how common this is in the market.
- C36. Counter-offers, including offers of credit and rate reductions, can be substantial for commercial customers (e.g. thousands of dollars).

Frequency that counter-offers are used

- C37. The proportion of customers who required 'something' additional in order for them not to switch varies between retailers. Several retailers mentioned that they didn't necessarily need to provide a customer with a counter-offer in order for them to stay - because, for example, an explanation of their new products, correction of misleading information about different products, or reminding the customer of the early termination fee, will be enough for that customer to cancel the switch. However, others said that they need to provide credit to the vast majority of customers to encourage them not to switch.

Customer switching and fixed contracts

- C38. Fixed term contracts are reasonably common in the mass market (including lock-in periods where credit has been provided). However, in many instances the first that a losing provider will hear of a switch is when they receive the notification from the registry (i.e. it is rare for customers to ring up their electricity provider and talk to them about terminating their contract), hence the need for the switching conversation to involve discussion of exit fees.
- C39. For those that have early termination penalties, there is mixed enforcement between retailers. Reasons for not enforcing include fairness to customers, technical issues, not wanting disgruntled ex-customers, or because the retailer is happy to let the customer leave due to their profitability.

Changes in approach over time

- C40. A number of retailers commented that customer retention has always been important to their business (including because it is cheaper than acquisition) - and that saves is only one of the items in their toolbox for this.
- C41. As competition has increased over the past 5-6 years, the emphasis on save strategies by each retailer (as indicated by the resource put into this activity) has generally either remained about the same or has increased. Across the industry as a whole, this activity appears to be gradually growing. Several interviewees noted that the main change has been gradual improvements in the analytics behind save strategies (e.g. how they identify customers and apply incentives) and the formalization of save structures and systems.
- C42. A theme was that the incentive that retailers need to provide to retain customers is increasing, and they are now relying mainly on one-off cash offers - whereas non-monetary incentives were more commonplace in the past. Some retailers, in the past, would offer non-standard discounts or other pricing/terms to mass market

customers. One reason given for why this is no longer a preferred approach is the cost of the support systems required for non-standard rates/plans.

- C43. Looking forward, there are no obvious trends expected in the save strategies that retailers adopt (other than gradual refinement and improvement).

Retention strategies outside of the switching period

- C44. A customer may call their current retailer to, for example, discuss their current plan, say that they are looking for a better deal or intend to switch, or enquire about their contract terms. Some retailers adopt the same save strategies for such inbound calls, while others adopt similar strategies - but the counter-offer will be of lower value and their approach is more ad-hoc. One retailer stated that they wouldn't make a counter-offer until a switch is registered for a customer.
- C45. Several retailers commented that these types of inbound calls are quite rare - so this activity is relatively insignificant compared to save calls to switching customers.

'Win-back' strategies

- C46. Interviewees were asked about their strategies to win-back past customers after a switch has been completed. In general, most effort is put into satisfying customers so that they don't switch and contacting customers within the window of the switch - rather than trying to win-back customers after they have switched.
- C47. The majority of retailers do not undertake specific marketing to past customers, but rather rely on general marketing campaigns to communicate their offers to this group. For those who do have some activity in this space, or have in the past, it is generally ad-hoc, rather than ongoing - and variable in its form (e.g. communication medium used) and degree of targeting (e.g. some will only contact those customers who are worth winning back). A customer's past information may be used when a retailer wants to target their win-back campaigns, but won't generally be used in the conversation with the customer.

Retailers' views of retention strategies

- C48. Several interviewees provided their views more generally on save practices in the market.
- C49. A view put forward by two interviewees is that the saves process is an impediment to competition and discredits the industry. The reasons provided for this are that:
- a) Established players can inflate their prices for all customers and only discount in save situations for those customers that shop around. This creates an uneven playing field as new entrants need to put their best price forward to all customers;
 - b) There is a window of opportunity for the losing provider to match or better the gaining provider's offer, but not for the gaining provider to make a further counter-offer. This disproportionately impacts on new entrants who are, inherently, focused on acquiring customers;
 - c) New entrants will not have the same resources as existing suppliers to put into saves strategies, and they may need to spend significant resource and time to understand what is required to battle the established retailers in this space; and

- d) It creates an opportunity for existing suppliers to lock-in customers for a period of time (as there is additional leverage in save calls that wouldn't otherwise exist).

- C50. One interviewee is also concerned that customers may sign up for counter-offers in the 'heat of the moment' which they do not fully understand, or where they have not had time to weigh up the pros and cons. During a save call, many customers may be focused on the benefit offered, and not pay enough attention to the more stringent terms and conditions that accompany it (such as the lock-in period).
- C51. The majority of interviewers, however, did not express concern about others' save strategies – on the basis that 'they are all doing similar'. Some were surprised, however, at the levels of credit that some retailers will offer mass market customers (e.g. \$250-\$300). Retailers were more likely to express concern about the tactics that others use to 'close a sale' (e.g. the provision of misleading information in door-to-door sales).

There are some concerns with door-to-door sales

- C52. Several retailers wished to emphasize their concerns with the door-to-door sales channel more generally – as an issue for the whole industry. The high turn-over of staff, the incentives they have to make sales and the inability to record the point of sale conversations means there are potential quality issues. A view put forward is that the numbers of customers being mis-sold is probably reasonably small, but is still an important issue for the industry. The reputational issues are of particular concern for some. The industry code of conduct has helped the industry self-enforce quality of sales, but not all retailers have signed up to this code.
- C53. One retailer considers that, if save practices were to be restricted or removed – so that save calls were no longer able to be used to check the switch – then there would need to be more intensive requirements around door-to-door sales channels.

Electricity Authority

Switching Experiences Research A Quantitative Study

April 2014



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Objectives and method

1.1 Objectives

The key objective of the research is to explore the experiences consumers have had when looking to switch power companies. This includes analysing the types of interactions with power companies – both incumbent and potential supplier, the response of the incumbent supplier to the switch and the impact of the interactions on their final decision regarding switching.

1.2 Method

The following tables are based on a telephone survey of 1200 electricity consumers. The sample comprised of two audiences.

- 600 respondents that claimed to have changed power company in the past year.
- 600 respondents that had considered changing power company in the past year.

The margin of error for a sample size of 600 is +4.0%.

Fieldwork was carried out from 26th February to 31st March 2014.

1.3 Reporting notes

The two separate audiences in this report are referred to by two short names for simplicity – those that have changed power companies in the past year are referred to as 'switchers' and those that have considered changing power companies in the past year are referred to as 'potential switchers'.

The major power companies and their subsidiaries have been combined in this report for convenience, when referring to their names or figures only the major company has been referred to. The relevant companies are:

- Contact Energy/Empower referred to as 'Contact' in this report
- Genesis Energy/Energy Online referred to as 'Genesis' in this report
- Mercury Energy/Tiny Mighty Power referred to as 'Mercury' in this report
- Meridian Energy/Powershop referred to as 'Meridian' in this report.

Executive summary

Most respondents had switched no more than once in the past couple of years. For those that did switch, financial reasons were, by far, the predominant motivator. The switching process was generally initiated by a direct approach from a competing company rather than a consumer actively approaching different suppliers about switching.

It was then likely that the existing power company would contact their customers to entice them to stay by offering a credit, a better deal or some other incentive in order to keep them from switching. Results show that contact at this time plays an important role in retaining customers. Once having made the switch, only a small proportion were willing to make the switch back to their old supplier – again, the most common reasons for switching back were financial. Fixed term contracts were only cited by a few as a factor preventing them switching.

Price comparison websites had a positive impact - with large minorities stating they were more likely to make them switch. Powerswitch had the most positive influence on switchers with the slim majority that had visited it reporting it had made them more likely to switch.

Views of power companies were positive on the whole with the majority being satisfied and giving high ratings across service attributes. One difference that stood out among switchers and potential switchers was that switchers were more likely to be satisfied they were getting value for their money compared to those that had ended up not switching.

68% of switchers and 80% of potential switchers considered switching due to being approached

53% of switchers were contacted by their old company compared to 93% of those that decided

Financial reasons predominant motivator to switch or stay:

57% of switchers switched for a cheaper deal

20% of potential switchers stayed due to a credit, 16% because savings not enough

Appealing to finances most common tactic to keep customers:

40% of switchers offered a credit to try keep them from switching

57% of potential switchers offered a credit to keep them from switching

3.1 Switching frequency

■ Switching more than once every couple of years not common

The vast majority of respondents that had switched power companies had done so only once in the past two years (81%), 17% had switched twice and a minor 2% had switched at least three times.

Those that had only considered switching power companies in the past year were far less likely to have actually switched in the past two years with 78% having not switched at all and just under one in five (18%) having switched once. A very small proportion (3%) said they had switched twice and none of them had switched more than that.

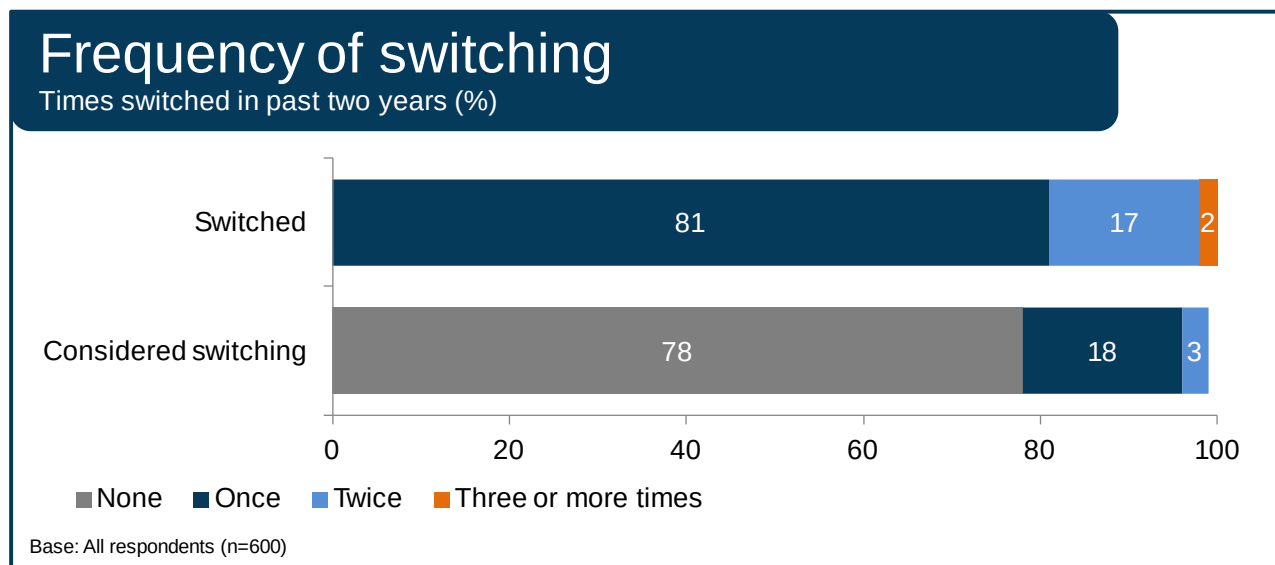


Figure 3. Frequency of switching among the switchers and potential switchers groups in the past two years

3.1.1 Switching frequency across switchers

Of the switchers group, those in Auckland and Wellington were more likely to have switched multiple times in the past two years (22% and 23% switched twice, respectively) and those in the South Island were more likely to have switched just once (92% of those in Canterbury and 93% of those in 'other' South Island regions).

There was also a trend whereby those with higher household incomes were more likely to have switched multiple times with 26% of those with over \$100,000 switching twice and 71% having switched just once compared to 9% with \$30,000 or less switching twice and 88% switching once.

Respondents that had switched to Genesis were also more likely to have switched twice (23%), as were those that switched away from Mercury (29%).

3.1.2 Switching frequency across potential switchers

Potential switchers were much less likely to have switched in the past two years than switchers and there were no real differences across most demographics. One difference they shared with switchers was that those with household incomes over \$100,000 were more likely to have switched twice (7%).

Those that currently belonged to Contact and Genesis were less likely to have switched with 12% and 16% of them having switched in the past two years. Mercury and Meridian customers were more likely to have switched, with 29% and 30% having switched in the past two years.

3.2 Price comparison websites

3.2.1 Website visitation

Visitation for the What's My Number website was similar among switchers and potential switchers with just over a quarter of each having visited it (28% and 26% respectively).

Both groups were slightly less likely to have visited the Powerswitch website, though switchers were more likely to have visited Powerswitch (24%) than potential switchers (18%).

3.2.2 Visitation for switchers

The most obvious trend in website visitation was based on age with younger respondents far more likely to have visited the price comparison websites than older respondents. 39% of those 18-59 years of age had visited the What's My Number website compared to 18% of those 60 and over. Furthermore, 34% of those 18-59 years of age had visited the Powerswitch website compared to 16% of those 60 and over.

A trend also existed by household income where those with incomes of \$30,000 or under were less likely to have visited the sites and those with higher incomes were more likely to. Only 13% of those with a household income of \$30,000 or less had visited the What's My Number website compared to 37% of those with over \$50,000. Similarly, only 11% of those with a household income of \$30,000 or less had visited the Powerswitch website compared to 33% of those with over \$50,000.

Those that had switched to Meridian were more likely to have visited the price comparison websites (39% visited What's My Number and 44% visited Powerswitch).

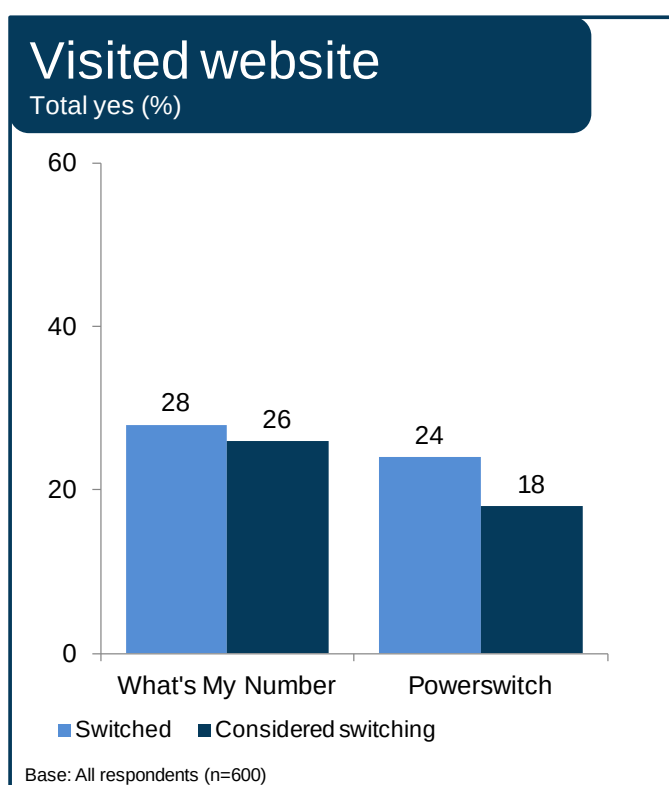


Figure 4. Those that had visited the What's My Number and/or Powerswitch websites among switchers and potential switchers

3.2.3 Visitation for potential switchers

Potential switchers had similar subgroups that were more or less likely to have visited the websites. 50% of those 18-39 had visited the What's My Number website compared to 16% of those 70 and over and 27% of those 18-39 had visited the Powerswitch website compared to 10% of those 70 and over. Furthermore, only 16% of those with household incomes \$30,000 or less had visited the What's My Number website compared to 40% with incomes \$50,001-\$100,000 and 11% with incomes \$30,000 or less had visited the Powerswitch website compared to 23% with incomes over \$50,000.

Those that had considered switching to Meridian were more likely to have visited the websites (48% visited What's My Number and 36% visited Powerswitch).

3.2.4 Impact of websites on likelihood to switch

The What's My Number website had a relatively high positive influence with around two in five stating it made them more likely to switch. Switchers were slightly more likely than potential switchers to report a positive influence (43% compared to 38%).

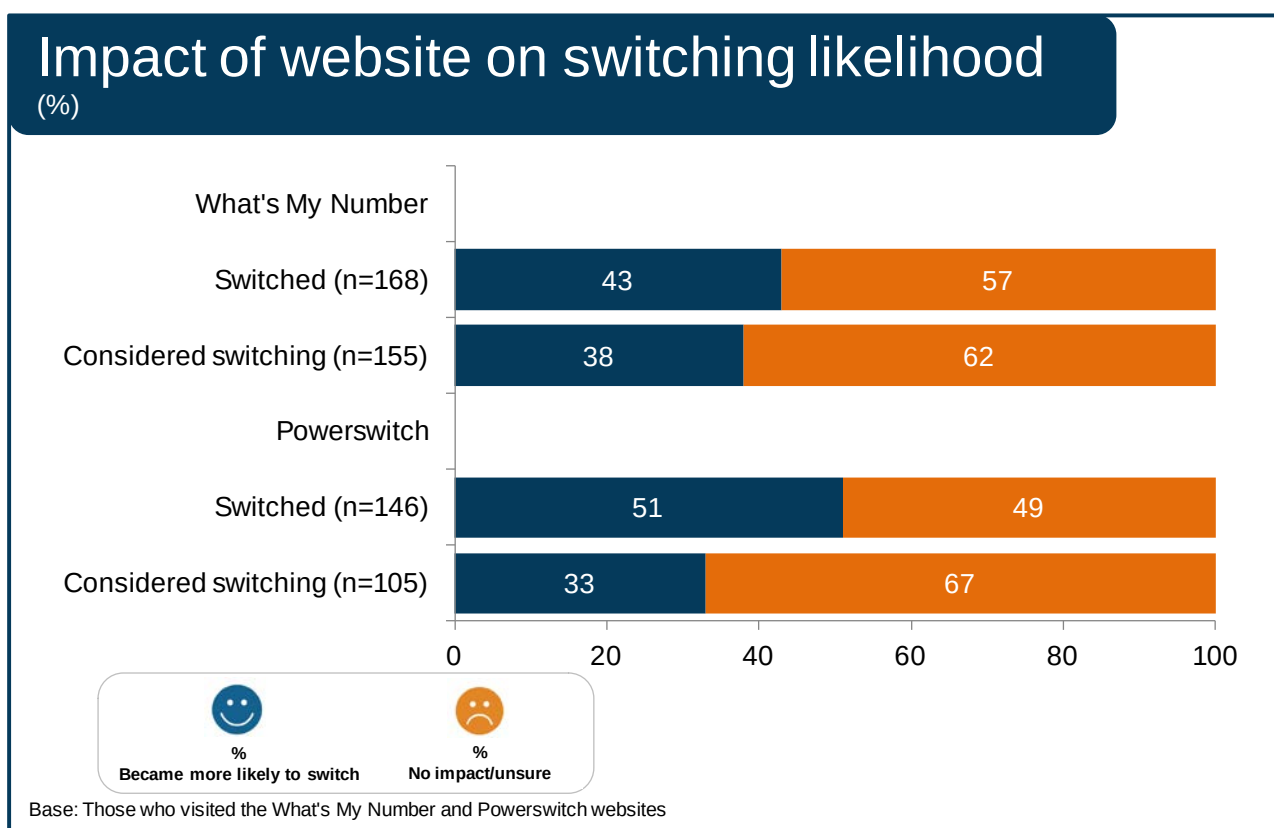


Figure 5. Influence of the price comparison websites on respondent's likelihood of switching

The Powerswitch website had a larger positive influence than What's My Number on switchers with over half (51%) reporting it made them more likely to switch power companies. It was less effective on potential switchers, with a third reporting it made them more likely to switch – a lower proportion than that which rated the What's My Number website as effective.

4.1 Drivers for switching

4.1.1 Prompted drivers

■ Being approached top reason for considering switching

The most common reason switchers considered changing their power company was that they were approached by another company to switch (68%). This reason was far ahead of all others with only 15% reporting they actively approached a company for a better offer and 9% who used a price comparison website to find a better deal.

4.1.2 Analysis of prompted drivers by subgroups

Although being approached by another company to switch was the top driver across all subgroups, some subgroups were more likely to have been influenced by other drivers than the overall figures.

Younger respondents 18-39 were more likely to have considered switching after finding a better deal on a price comparison website (20%) and respondents 70 and over were more likely to have actively approached another company for a better offer (20%). The age group most likely to have given the predominate reason of being approached by another company to switch were those 50-59 years old (77%).

Those that had switched to Genesis or Mercury were more likely to have been approached by another company (presumably Genesis or Mercury), with 83% and 79% of their current customers citing this respectively. Those that switched to Meridian were more likely to have found a better deal online using a price comparison website (17%).

Those that switched away from Contact were more likely to have been approached by another company (79%), and those that switched away from Trustpower were more likely to have actively sought a different supplier (27%).

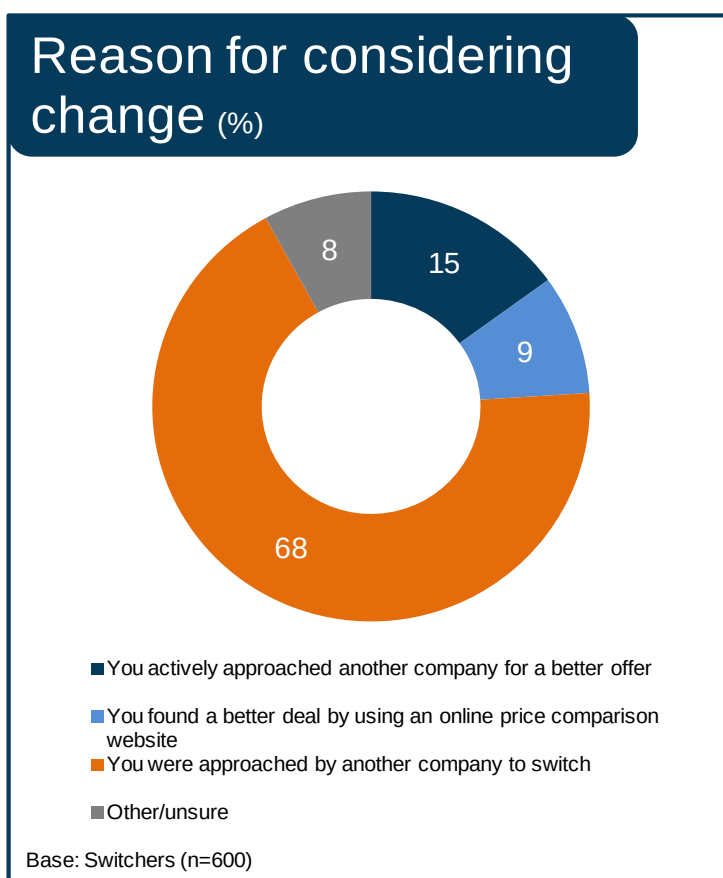


Figure 6. Reasons that the switchers group initially considered change

4.1.3 Unprompted drivers

■ Financial reasons predominant motivator for switching

When asked directly, the reason for switching, switchers cited financial reasons as their predominant motivator. Getting a cheaper deal was by far the most popular reason, cited by 57%, and the more general response of getting a 'better' deal was the next most popular with 19% citing it.

Other reasons were cited by around a tenth of switchers or less. The new company offering fixed prices for a period of time was cited by 11%, followed by the previous company increasing their prices or giving a high bill at 10%. Less common reasons were that the new company was offering a credit (5%), that the previous company had given poor service (4%) and that the new company had a larger prompt payment discount (2%).

TABLE 1.

REASONS FOR SWITCHING

You said you recently switched power company - what were your reasons for switching?

	Switched
	%
Base: n=	600
Getting a cheaper deal	57
Getting a better deal	19
New company offered fixed prices	11
Previous company increased their prices/high bills	10
New company offered a one-off credit/payment to switch	5
Not happy with the service of the previous company	4
New company had a larger prompt payment discount	2
New company was recommended by friends/family	1
Cheaper due to a deal including both electricity and gas	1
Came to the end of a fixed price with previous company	1
Offered a few months of free gas	1
New company had a cheaper daily charge	1
New company is New Zealand owned	1
Previous company estimated meter readings	1
No switching penalty or fixed term contract with new company's offer	1
New company offered an annual rebate to switch	1
Switched because they were against the asset sales	1
New company does a deal with solar power	1
Switched because of What's My Number campaign	1
Because I was moving house	1
So that the power and gas bill would be the same	1
Was convinced by the sales rep	1
Got better deal through/member of Grey Power	1
Lack of transparency with previous company	1
Did not switch companies/changed back	1
Other	2

NB: Due to being multiple response, percentages may add to more than 100%

Base: All respondents that changed power companies in the past year

4.1.4 Analysis of unprompted drivers by subgroups

There were regional differences in respondent's motivations for switching. Those in the Auckland and Canterbury regions were more likely to cite being offered a cheaper deal as their reason for switching (both 69% vs. 57% overall) and those in the Waikato or Bay of Plenty area were more likely to report being offered a 'better' deal (30% vs. 19% overall). Respondents in Wellington were more likely to be motivated by their previous company increasing prices with 17% stating they switched due to price increases or a high bill (compared to 10% overall).

Younger respondents were also more likely to cite being offered a cheaper deal as motivation for switching (66% of those 18-49 vs. 57% overall). Those 40-49 were more likely to cite price increases or a high bill as a reason for switching (15% vs. 10% overall) and those 60-69 were more likely to cite being unhappy with the service of their previous company (8% compared to 4% overall).

A cheaper deal was also a more likely incentive for those with high household incomes with 68% of those in households whose income was over \$100,000 citing it (compared to 57% overall and only 46% of those with incomes \$30,000 or less).

Current Mercury customers were more likely to say they had switched due to the new company offering a better deal (28% vs. 19% overall). Current Trustpower customers were more likely to say they were motivated to switch due to the company's larger prompt payment discount (16% vs. 2% overall) and current Meridian customers were more likely to say they had been offered a credit or one-off payment to switch (14% vs. 5% overall).

Those that had belonged to Genesis said they switched because Genesis raised their prices too much or had a high bill (15% vs. 10% overall) and past Trustpower customers said they had been dissatisfied with the level of service (14% vs. 4% overall).

4.2 Ease of switching

■ Switching seen to be easy

The majority of switchers found it very easy to switch power companies with over two thirds (68%) reporting this; overall, 85% claimed it was easy to switch. Bad experiences were rare with a small proportion (7%) reporting it was difficult to switch and 3% having found it very difficult.

Eight percent had no feelings either way or were unsure about how difficult they found it to switch.

Females were more likely to report their switching experience as easy (88%) compared to males (82%).

Those that had switched to Contact were more likely to describe the process as difficult (18%), as were those in South Island regions other than Canterbury (14%).

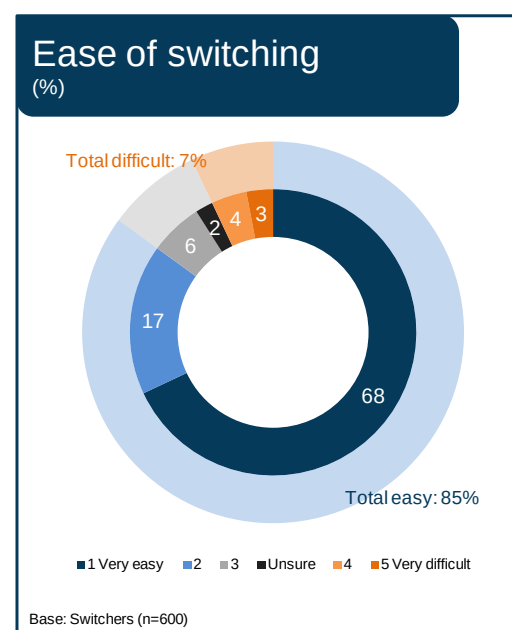


Figure 7. The ease of the switching process as rated by switchers

4.3 Reactions of existing supplier

24 June 2014 2:03 p.m.

4.3.1 Contact by existing supplier

■ Around half contacted to try to convince them to stay

Just over half of power suppliers contacted their existing customers to try and convince them not to switch (53%).

Of the four major power companies, Genesis was most likely to have contacted its existing customers with 66% reporting having been contacted. Mercury and Meridian were similar to the overall figures (51% and 48% respectively) and Contact was the least likely with 39% reporting they had been contacted.

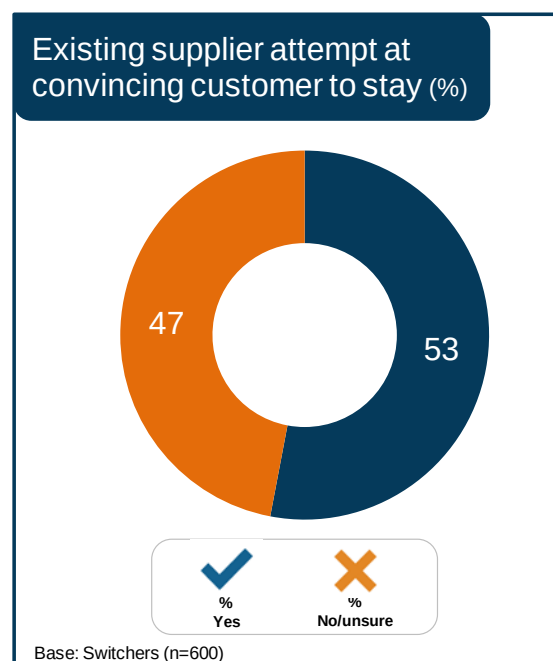


Figure 8. The proportion of suppliers that contacted their switching

4.3.2 Tactics to prevent switching

■ Appeal to finances most common tactic to prevent switching

The most common tactic power companies used to try to convince their customers to stay with them was to offer a credit on their account, a tactic reported by 40% of switching customers. Around two thirds of those that proposed a credit offered under \$150 and the remaining third were offered credit of \$150 or over.

Offering some kind of deal was another strategy used, with 14% of switchers simply stating they were offered a 'better' deal, 10% were offered a cheaper deal, 5% offered a similar deal and 5% offered a worse deal.

Other tactics were nominated by lower proportions, with 6% reporting having been offered a fixed rate, 5% asking why they were going to switch and another 5% questioning the accuracy of the competitor's deal (e.g. by asking whether it included GST). All other tactics were reported by less than 5% of switchers. Only 3% recalled being reminded of a termination fee due to being under contract. When looking at the verbatim responses in more detail, the value of this termination fee varied with most being told it was \$100-\$150 and one being told it was \$350.

Six percent reported that their old company had left them a message but did not end up contacting them; it is clear from the verbatim responses that this may partly be due to the respondents themselves avoiding talking to their old company.

4.3.3 Tactics by subgroups

Those with a household income over \$100,000 were more likely to recall being offered a credit under \$150 or of an unknown amount (39% vs. 26% overall).

When examining specific power companies, those that had been customers of Contact were more likely to have been offered a better deal (33% vs. 14% overall) or offered a deal that matched the new companies deal (14% vs. 5% overall). Those that had been customers of Meridian were more likely to have been offered a credit of \$150 or more (31% vs. 14% overall).

TABLE 2. REASONS GIVEN TO PREVENT SWITCHING	
<i>What did they say to try to stop you switching?</i>	
	Switched
	%
Base: n=	317
Offered a credit	
Under \$150/ unknown amount (26%)	40
Of \$150 or more (14%)	
They offered a better deal	14
They offered a cheaper deal	10
They offered a fixed rate	6
Left message/tried to get in touch but could not	6
They matched the other company's deal	5
They asked the reasons for switching	5
They questioned deal with other company/not that good/left things out	5
They offered a deal that was not as good as the new deal	5
Tried to convince us not to switch (general)	4
They said I was still under contract/ that there was a breaking fee	3
Asked what they could do to keep me	3
Said they would be sorry to lose me	1
They offered more brownie points	1
They said it would be okay to switch back later	1
They offered a cheaper deal on gas	1
Didn't try to stop me from switching/was just checking I was switching	1
Said they had better service/were more reliable	1
Other	2
Can't remember/unsure	3
NB: Due to being multiple response, percentages may add to more than 100%	
Base: Respondents that were contacted by their old power company to try and convince them not to switch	

4.4 Regaining lost customers

■ Low proportion switched back, motivated by a better deal

One in ten switchers had actually started up with a new supplier and then ended up switching back to their old supplier.

The most cited reason for switching back to their old supplier was similar to the reason that most respondents said they had switched in the first place – they offered a better deal (cited by 33%); another 10% expressly stated they offered a cheaper deal. One in five said the new supplier was not as cheap as they had promised.

Other reasons cited for switching back were that the old supplier offered to credit their account and that they were just happier with the old supplier (both cited by 8%). Another 8% were dissatisfied with the new supplier's service and 7% reported that the new supplier had given them false information.

TABLE 3.
REASON FOR RETURNING TO OLD SUPPLIER AFTER SWITCHING

Why did you switch back to your old supplier?

	Switched
	%
Base: n=	60
The old supplier offered a better deal	33
New supplier not as cheap as promised/more expensive than old one	20
The old supplier offered a cheaper deal	10
The old supplier offered a credit	8
Dissatisfied with the new company, its service	8
Was satisfied/ happier with the previous company	8
New supplier had given false information	7
I was under contract with previous company	3
I wanted to be loyal to my company	2
Old company did gas as well	2
Switching is a hassle	2
Was recommended to/ heard bad things about new supplier	2
Stuck with new supplier	3
Other	3

NB: Due to being multiple response, percentages may add to more than 100%

Base: Switchers that started up with a new supplier for a short time but ended up switching back to their old supplier

4.5 Company analysis

There was evidence of a lot of activity – both switching to and from, across the large companies reflecting their market share.

All of the large power companies had a larger proportion of customers switch away from them than switch to them, implying that they are having a net loss of customers. Genesis, Mercury and Contact all had between 6% and 7% more customers switch away from them than switch to them. Meridian had a similar number switch to (11%) and from (13%) them.

Three companies stood out as having the largest gain in customers – Just Energy had an 8% net gain, followed by Energy Direct and Pulse Energy, both with a net gain of 6%.

Across the sample population of switchers, Genesis and Mercury remain the most popular (with 20% and 16% of switchers respectively). Contact, Meridian and Just Energy have similar proportions of switchers (between 10% and 11%) and Trustpower, Energy Direct, Pulse Energy and Nova Energy all have notable minorities (5% to 8%). When comparing these figures to those of respondents that had only considered switching but did not switch in the past year, Just Energy, Energy Direct and Pulse Energy all feature far less strongly.

TABLE 4. SUPPLIER SWITCHED FROM		
Those who switched were asked: <i>On the most recent occasion which supplier did you switch FROM?</i>		
	Switched From	Current provider (switched to)
	%	%
Base: n=	600	600
Genesis Energy/ Energy Online	26	20
Mercury Energy/ Tiny Mighty River	23	16
Contact Energy/ Empower	18	11
Meridian Energy/ Powershop	13	11
Nova Energy	8	5
TrustPower	6	8
Just Energy	2	10
Bay of Plenty Electricity	1	-
Bosco Connect	-	-
Energy Direct	-	6
King Country Energy	-	-
Mega Energy	-	-
Opunake Hydro	-	-
Prime Energy	-	-
Pulse Energy	-	6
Unsure	3	7
Did not think of specific company	-	-
Base: Those who switched		

5.1 Drivers for potential switching

- **Being approached top reason for considering switching, even more so than for switchers**

Being approached was the prime reason for potential switchers to consider changing power companies, cited by 80% - 12% more than the number of switchers that cited it as a reason. Other reasons were not nearly as common, with only 10% actively approaching another company and 4% finding a better deal on a price comparison website.

5.1.1 Analysis of drivers by subgroups

Similar to the switchers group of respondents, being approached by another company to switch was the top motivating factor for considering change across all subgroups.

Younger respondents 18-39 were more likely to report being motivated to consider changing power companies due to finding a better deal on a price comparison website (10%) and those 60-69 were more likely to report being motivated after actively approaching another company for a better offer (15%).

Those with low household incomes of \$30,000 or less were also more likely to have actively approached another company for a better offer (19%) and those with high incomes over \$100,000 were likely to have considered changing after being approached (88%).

When examining results by the power company respondents considered switching to, it is inferred that Genesis and Trustpower were more likely to approach respondents, with 88% that had considered Genesis and 93% that had considered Trustpower being motivated by an approach. Those that had considered Contact were more likely to have actively approached another company (21%) and those that had considered Meridian were more likely to have found a better deal by using a price comparison website (12%).

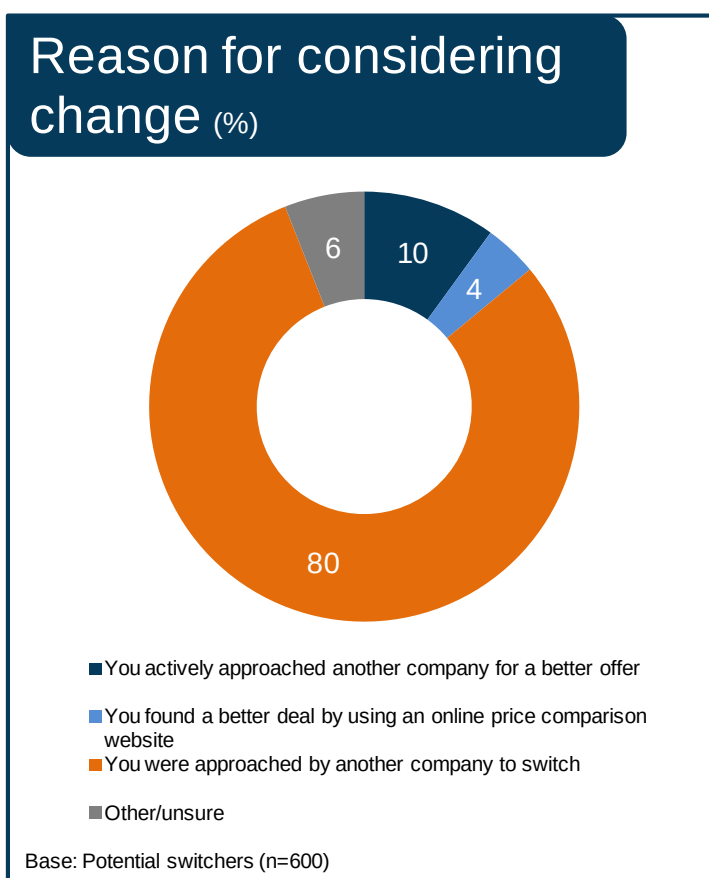


Figure 9. Reasons that the potential switchers group initially considered change

5.2 Reasons for not switching

■ Financial reasons, again, predominant motivator for staying with current company

When asked why they decided to stay with their current company, the top reasons given were all financially based. The most cited reason was that their current company offered them a better counter-deal, cited by 31%. One in five said that their current company offered a credit and a slightly lower proportion (16%) reported that savings simply weren't high enough to justify switching.

Other, non-financial reasons were that switching ended up being too much hassle or too complicated (8%) and that they were a happy or loyal customer (7%).

Smaller proportions cited that they found out they were still on a fixed contract (6%), their current company offered a cheaper deal (5%) or similar deal (5%) or that they were dissatisfied with the new company (4%).

5.2.1 Reasons by subgroups

Those from Canterbury were more likely to say that their existing company offered them credit to stay (32% vs. 20% overall) and those in Auckland were more likely to cite finding out they were under a term contract as their reason (15% vs. 6% overall).

Males and those 60-64 years of age were more likely to report that their existing company had offered a better counter-deal (37% and 40% respectively vs. 31% overall) and those 18-39 were more likely to cite being offered a credit (29% vs. 20% overall).

When examining the companies that respondents chose to stay with it can be inferred that Contact was more likely to offer a better counter-deal (43% vs. 31% overall) and that Meridian was more likely to offer a credit (36% vs. 20% overall), as well as remind their customers they were still under a term contract (13% vs. 6% overall). Mercury was also more likely to point out its customers were still under a term contract (10% vs. 6% overall).

TABLE 5.

REASONS FOR NOT SWITCHING

Why did you decide not to switch?

	Considered switching %
Base: n=	600
Current company offered a better counter-deal	31
Current company offered a credit/financial incentive to stay	20
The savings weren't enough to go through with switching	16
Ended up being too much hassle/too complicated	8
Happy with current company/am a loyal customer	7
Found out we were still under contract with current company/termination fee	6
Current company offered a cheaper deal	5
Current company matched other company's deal	5
Dissatisfied with service of new company	4
Deal not as good as I thought when reading the fine print	3
Current company offered a fixed rate	3
Still deciding or want to switch	2
Personal issues	1
Just changed my mind	1
New company didn't supply both power and gas	1
Other	2

NB: Due to being multiple response, percentages may add to more than 100%

Base: All respondents that had considered changing power companies in the past year

5.2.2 Fixed term contracts as a barrier

■ Fixed term contract not a large barrier to switching

Just under a third (30%) of potential switchers were on fixed term contracts with their current suppliers. However, as discussed above, only 5% of potential switchers cited being under contract as an explicit reason they did not switch.

Those from Auckland were far more likely to report they were on a fixed term contract (52%) and those from the Waikato/Bay of Plenty region were less likely (19%). Males were also more likely to recall being on a fixed term contract (35%) when compared to females (27%).

Younger respondents under 40 and those with household incomes over \$100,000 were more likely to report not being on a fixed term contract (76% and 70% respectively).

When examining individual power companies, it appears that Genesis and Contact customers were far more likely to not have a fixed term contract in place (only 13% and 19% did, respectively). Customers of Mercury (59%), Meridian (53%) and Trustpower (45%) were all more likely to report being on a fixed term contract.

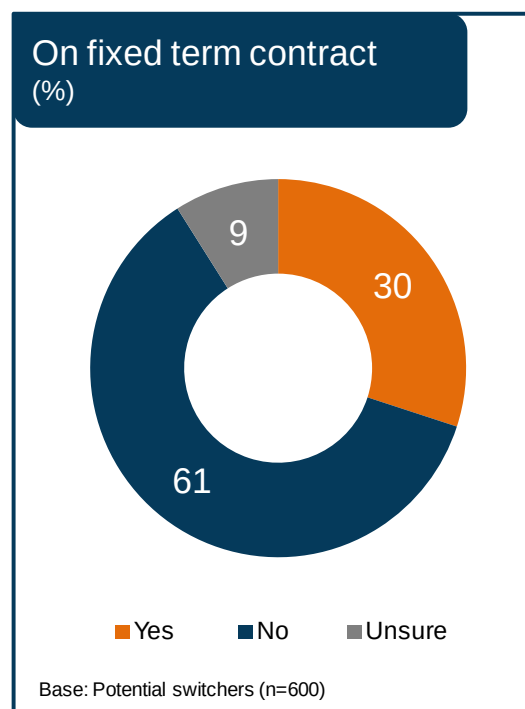


Figure 10. The proportion of potential switchers on a fixed term contract

5.3 The switching process

The majority of potential switchers got the new supplier to begin the switching process before not going through with it (59%), with a smaller proportion (30%) just talking to a different supplier about the possibility of switching.

Younger respondents under 40 were more likely to have got a new supplier to start switching them over (77%) and respondents 70 and over were more likely to have just talked to a new supplier about the possibility of switching (45%).

Meridian customers were more likely to have initiated switching to a different company (75%) and Contact customers were more likely to have just talked to a different supplier (39%). Mercury was the company most likely to have started the process of switching people over to them after being considered by potential customers (74%).

TABLE 6. EXTENT OF PROGRESS THROUGH THE SWITCHING PROCESS	
<i>When you considered switching - how far along the switching process did you go, had you..?</i>	
	Considered switching %
Base: n=	600
Got a new supplier to start switching you over	59
Just talked to a new supplier about possibly switching	30
Just researched switching online	1
Did not talk to anyone about switching	1
Agreed to switch but nothing happened	1
Expressed interest but stopped when current supplier contacted us	1
Agreed to switch but then did not sign anything final	1
Got switched without proper consideration	1
Unsure	5
Base: All respondents that had considered changing power companies in the past year	

5.3.1 Channels used to initiate switching

There were two main channels used to initiate a switch with the main one being via phone (56%), followed by face to face contact (40%). A slim minority (3%) used email to initiate the switch.

There were some major differences between regions. Respondents in Auckland and Canterbury were significantly more likely to have initiated the switch via face-to-face contact than the other regions (79% and 61% respectively). Those from South Island regions other than Canterbury (88%), from the Waikato/Bay of Plenty area (68%) and from Wellington (67%) were significantly more likely to have initiated the switch via phone.

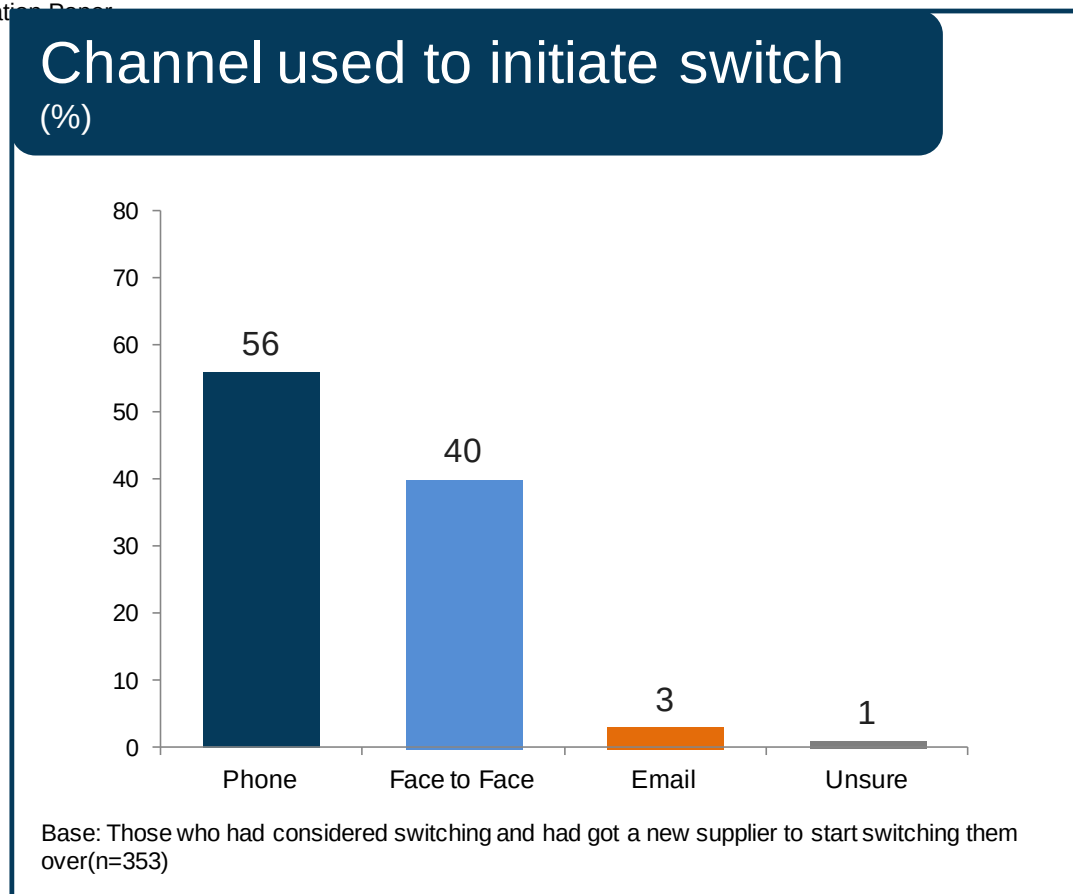


Figure 11. Channels used by potential switchers to begin the switching process

5.4 Reactions of existing supplier

5.4.1 Contact by existing supplier

Almost all potential switchers (93%) heard from their existing company once the new supplier had begun the switching process. This is a much larger proportion than the number of switchers that said they had been contacted by their old company (53%), showing that this contact may play a big role in retaining customers.

Although the proportion of those contacted was high across all regions, it was highest in Auckland where all of those surveyed in that region reported having being contacted by their existing supplier after the switching process began. It was lowest in the Waikato/Bay of Plenty area (87%).

Genesis was the power company most likely to have contacted their customers after finding out they were switching (97%).

5.4.2 Convincing customers to stay

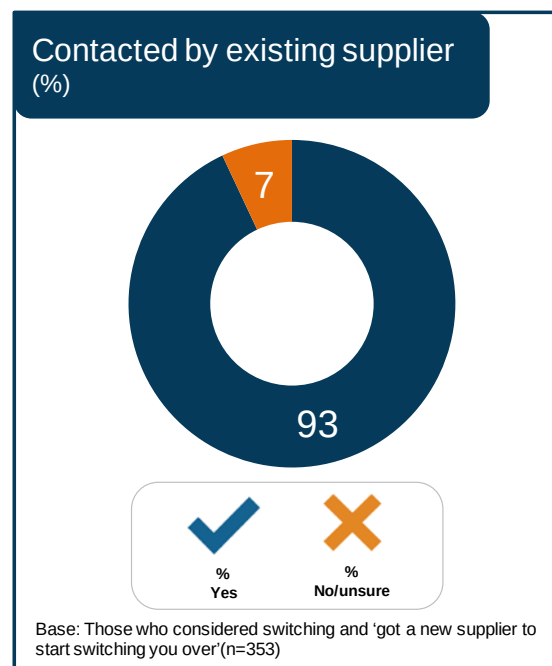


Figure 12. The proportion of suppliers that contacted potential switchers to convince them to stay

■ Again, appeal to finances most common tactic to prevent switching

The two main tactics power companies used to try and convince their customers to stay were the same as those reported by switchers. Potential switchers cited being offered a credit as the primary tactic used by power companies with 43% being offered one – a similar proportion to the number of switchers that had been offered one (40%). Being offered a better deal was the second most cited tactic, recollected by a quarter of potential switchers and a cheaper deal was cited by 12%.

Other tactics were less common with an offer of fixed rates and pointing out termination fees due to being on contract cited by 8%. Questioning the integrity of the other company's offer, for example, by asking whether it included GST was cited by 6%. An offer matching the competing companies deal was cited by 5%.

Talking through a power bill to do a price comparison and coming out similar or cheaper, appealing to their sense of customer loyalty and explaining that they may have less obvious advantages such as monthly meter reading or a larger prompt payment discount were also noted by small proportions.

When examining specific companies it appeared that Contact was more likely to offer a better deal (38%), a cheaper deal (22%) and/or a fixed rate (15%). Meridian was more likely to offer credit (60%) and remind their customers they were on a term contract and would have to pay a termination fee (16%).

TABLE 7.
ARGUMENTS USED TO CONVINCE CUSTOMERS TO STAY ONCE SWITCHING UNDERWAY

<i>What did your old company say to convince you to stay?</i>	
	Considered switching %
Base: n=	330
They offered a credit/financial incentive	43
They offered a better deal (general)	25
They offered a cheaper deal	12
They offered a fixed rate	8
Told they were on contract and would have to pay a fee	8
Questioned the other company's offer e.g. whether GST included	6
They matched the other company's deal	5
Did a price comparison with other company and were similar/cheaper	4
Said they were a valued/loyal customer	3
Explained their perks such as prompt payment discount, meter reading	3
Checked if they really wanted to switch	2
Offered cheaper gas	1
Put us on a different plan	1
Other	2
Nothing/unsure	2

NB: Due to being multiple response, percentages may add to more than 100%

Base: All respondents that had considered changing power companies in the past year and heard back from their old company once they had got a new supplier to start switching them over

5.4.3 Specific incentives offered to retain customers

When asked directly if there were any incentives offered if they stayed with their existing company and what they were, 11% said they were not offered anything and 9% were unsure. The majority (57%) were offered a credit with 37% being offered a credit worth less than \$150 or an unspecified amount and 20% being offered a credit of \$150 or more.

Other notable incentives were a cheaper deal (17%), a fixed rate (10%) and a better deal (5%). It was less common to merely match the other company's deal (3%) or offer bonus points for a loyalty scheme (2%).

Regionally, those in Auckland were more likely to be offered a credit of \$150 or more (31%). Younger respondents under 40 were also more likely to recall being offered this incentive (33%).

There were also differences in the specific incentives that power companies offered their existing customers. Contact was more likely to offer a cheaper deal (42%) and/or a fixed rate (20%). Mercury and Meridian were both more likely to offer a credit of \$150 or more (42% and 40% respectively).

TABLE 8.

INCENTIVES OFFERED TO RETAIN CUSTOMERS

What if anything were you offered to stay with them?

	Considered switching %
Base: n=	330
Offered a credit	
Offered a credit under \$150/ unknown amount (37%)	57
Offered a credit of \$150 or more (20%)	
The offered a cheaper deal	17
They offered a fixed rate	10
They offered a better deal (general)	5
They matched the other company's deal	3
Points for a scheme (flybuys/brownie points)	2
Lower gas rates	1
Larger prompt payment discount	1
Few months free power/gas	1
Offered a gift e.g. power surge protector	1
Offered new rates that were back-dated a few months	1
Better services (meter reading, electronic billing)	1
Other	1
Unsure/ refused	9
Nothing	11

NB: Due to being multiple response, percentages may add to more than 100%

Base: All respondents that had considered changing power companies in the past year and heard back from their old company once they had got a new supplier to start switching them over

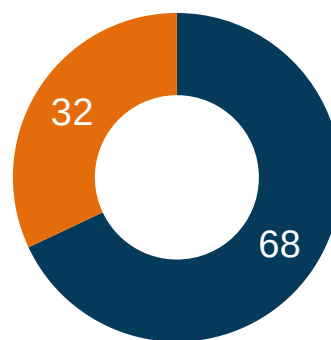
5.4.4 Attaching a contract term to the incentives

Around a third (32%) of the incentives offered to potential switchers had a contract term attached to them.

Respondents 70 years of age or over were more likely to be certain that they did not have to sign up for a contract term (21% said they had to).

When looking at individual power companies, results must be interpreted cautiously due to the smaller subgroups; however, Contact and Mercury appear to be more likely to have attached a contractual term to their offers (both 43%) compared to Genesis (28%) and Meridian (18%).

Contract term on acceptance of offer (%)



Base: Those who considered switching and 'got a new supplier to start switching you over' and heard from old company (n=330)

5.5 Regaining lost customers

■ Switching back more likely to be prompted by incentives than bad experiences

A very small proportion (5%) of potential switchers had actually started up with a new supplier for a short time and then switched back to their previous supplier.

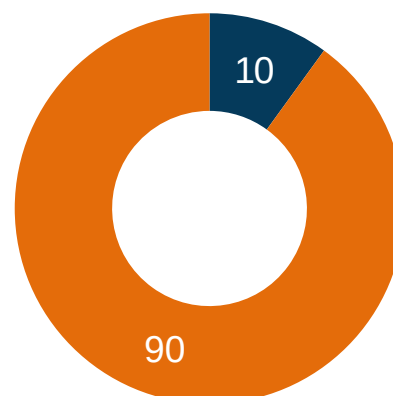
The switching back to previous suppliers was generally more likely to be due to incentives the previous company had offered rather than negative experiences with the new company. Two in five (39%) reported that their previous company offered a better deal, followed by 23% that said they offered a credit. Another 6% said that the previous supplier offered a cheaper deal.

In contrast, 10% reported switching back due to being dissatisfied with the service of the new company and 6% because the new supplier was not as cheap as promised.

Other reasons mentioned included wanting to be loyal to their previous company and because their previous company did both power and gas (6%).

The sample sizes of subgroups were too small to give any solid indication of differences that might exist among them.

Switched and switched back (%)



Base: Switchers (n=600)

Figure 14. The proportion of potential switchers that switched power suppliers and then switched back to their initial supplier

TABLE 9.

REASON FOR RETURNING TO OLD SUPPLIER AFTER SWITCHING

Why did you switch back to your old supplier?

	Considered switching %
Base: n=	31
The old supplier offered a better deal	39
The old supplier offered a credit	23
Dissatisfied with the new company, its service	10
The old supplier offered a cheaper deal	6
New supplier not as cheap as promised/more expensive than old one	6
I wanted to be loyal to my company	6
Old company did gas as well	6
Was satisfied/ happier with the previous company	3
I was under contract with previous company	3
Switching is a hassle	3
Was recommended to/ heard bad things about new supplier	3
Other	6

NB: Due to being multiple response, percentages may add to more than 100%

Base: Potential switchers that started up with a new supplier for a short time but ended up switching back to their old supplier

5.6 Company analysis

The company that most potential switchers had considered switching to was Genesis Energy at 18%.

'Just Energy' was seen as attractive with 13% considering a switch to this company. When looking at the sample of switchers, it was one of only a small number of companies to have a net gain in customers. Mercury Energy was also considered by 13% of potential switchers.

Other companies considered by around one in ten included TrustPower (9%), Contact Energy (8%) and Meridian Energy (7%). Companies considered by lower proportions included Energy Direct (6%), Nova Energy (4%) and Pulse Energy (2%).

TABLE 10.

SUPPLIER CONSIDERED SWITCHING TO

Those who considered switching were asked:

On the most recent occasion which supplier did you consider switching to?

	Considered switching to	Current supplier (stayed)
	%	%
Base: n=	600	600
Genesis Energy/ Energy Online	18	30
Just Energy	13	1
Mercury Energy/ Tiny Mighty River	13	18
TrustPower	9	8
Contact Energy/ Empower	8	22
Meridian Energy/ Powershop	7	11
Energy Direct	6	2
Nova Energy	4	7
Pulse Energy	2	-
Bay of Plenty Electricity	-	-
Bosco Connect	-	-
King Country Energy	-	-
Mega Energy	-	-
Opunake Hydro	-	-
Prime Energy	-	-
Unsure	17	1
Did not think of specific company	3	

Base: Those who considered switching

6.1 Satisfaction with current power company

■ Majority are satisfied with power company

Less than half of those that switched were satisfied with their current power company (46%), though this figure is still far higher than the number dissatisfied (5%). The reason for these relatively low figures is due to 36% reporting they were unsure about their satisfaction levels – perhaps because they haven't had enough time to form an opinion of their company after switching recently. When excluding the unsure results, satisfaction was at a much higher 72%.

Almost all those that had just considered switching power companies had a solid opinion of their company with only 2% reporting they were unsure. Just under two thirds (63%) were satisfied and 23% had no feelings either way; a minority reported being dissatisfied (12%).

6.1.1 Satisfaction by subgroups

When examining subgroups of the switchers group, excluding those that gave unsure responses, there were only a couple of notable differences. Those that had high household incomes, over \$100,000, were more likely to declare satisfaction with their power company (83%) and customers of Genesis were less likely to declare satisfaction (63%).

There were also limited differences among subgroups of the potential switchers group when declaring satisfaction with their current power company. In the potential switchers group, those with lower household incomes were more likely to declare satisfaction with their current power company (75% of those with incomes \$30,000 or less) and Aucklanders were more likely to declare dissatisfaction with their power company (20%). Customers of Contact Energy were more likely to declare they were satisfied than customers of other companies (72%).

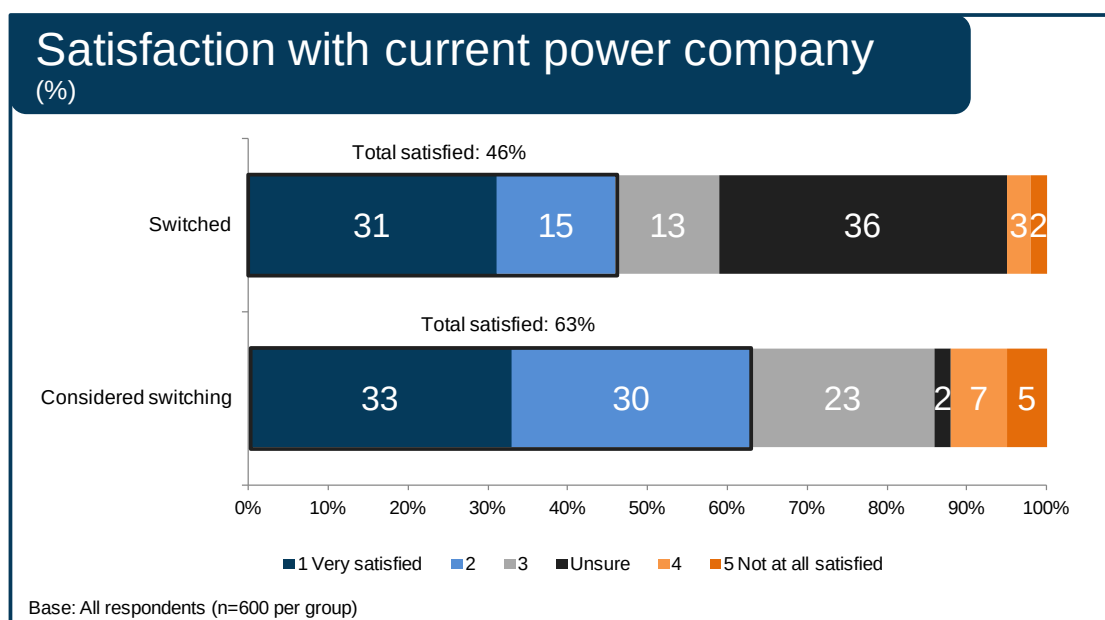


Figure 15. Levels of satisfaction with power companies among switchers and potential switchers

6.2 Measures of current power company's attributes

Switchers more likely to believe they are getting value for money

Switchers had between one in five and a quarter unsure about how to rate their current power company across a variety of service measures. When excluding these unsure responses, results were fairly similar among switchers and potential switchers across most measures. The following analysis compares potential switchers with switchers excluding the unsure responses from both groups.

Being reliable and secure was the highest rated measure for switchers, with 80% of switchers agreeing that applied to their company. The highest rated measure for potential switchers was being well established, with 84% agreeing that applied to their company.

For switchers, the second highest rated measure was for providing good service (77%), followed by being well established (76%). Being trustworthy was a close fourth (74%).

For potential switchers, the second highest rated measure was being reliable and secure (83%), followed by providing good service (78%) and being trustworthy (72%).

For both groups the lowest rating was given to value for money; however, for switchers this measure still rated highly with 72% reporting they were satisfied they were getting value. It was much lower for potential switchers with half (51%) reporting they were satisfied that they were getting value from their power company.

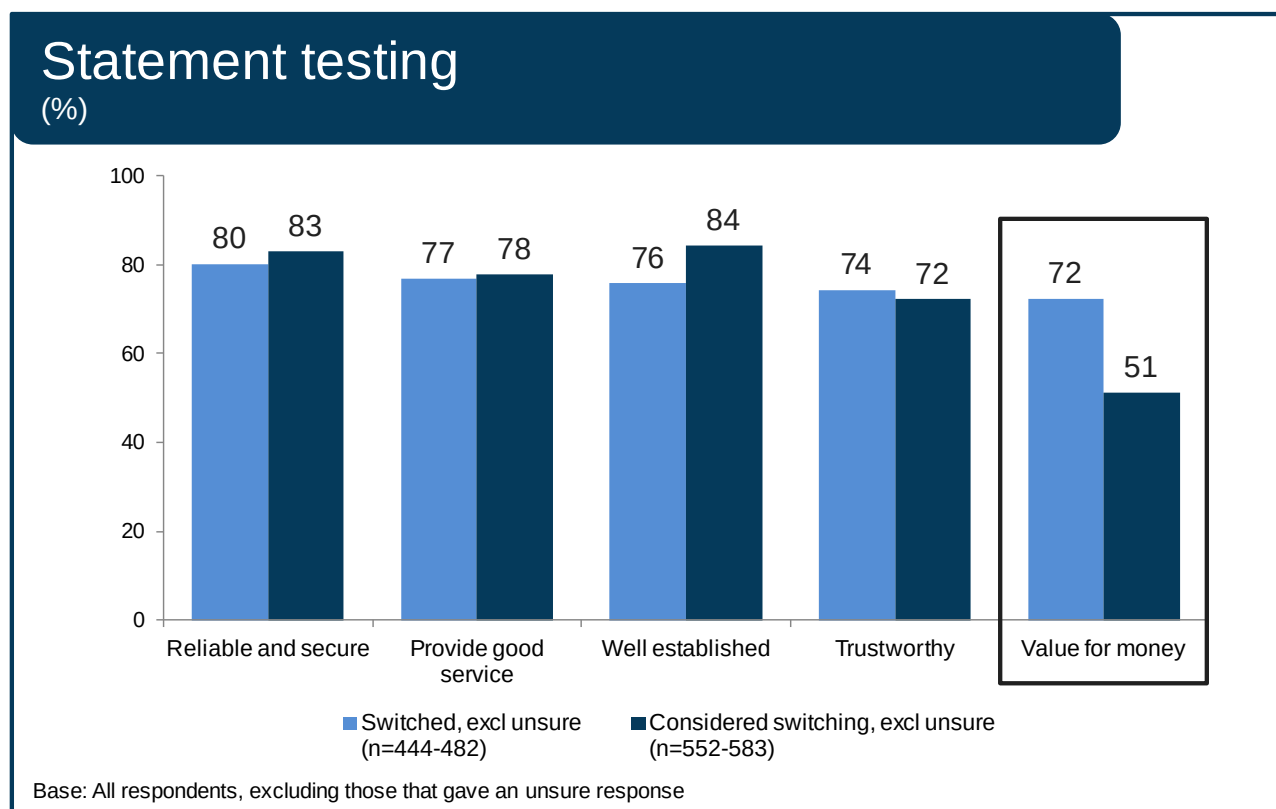


Figure 16. Levels of agreement testing different measures of power companies compared across switchers and potential switchers

6.3 Analysis of measures by subgroups

6.3.1 Reliable and secure

Older respondents over 70 were more likely to rate their power company as reliable and secure (89%). Trustpower customers were also more likely to rate Trustpower as reliable and secure (97%). Those from Canterbury were more likely to say their power company was not reliable and secure (12% vs. 6% overall).

There were no large differences in subgroups for this measure for potential switchers.

6.3.2 Provide good service

Once again, those over 70 were more likely to rate their power company as providing good service (83%). Customers of Meridian were also more likely to rate them as providing good service (89%) and customers of Contact Energy were less likely to rate them as having good service (65%).

Similar to the switching group, those over 70 in the potential switchers group were also more likely to state that their power company provided good service (87%). Potential switchers from parts of the South Island other than the Canterbury region were also more likely to report good service (85%).

6.3.3 Well established

In the switchers group, there were two power companies that stood out by having their customers report them as being well established comparative to other companies; they were Trustpower (89%) and Mercury (87%).

In the potential switchers group, no respondents were more likely to rate their current power company as well established compared to the others; however, older respondents were more likely to rate their power companies as being well established (91% of those 60 and over).

6.3.4 Trustworthy

Similar to previous measures, switchers that were 70 years of age and over were more likely to rate their company as trustworthy as were those of that age in the potential switchers group (both 85%).

Other subgroups in the potential switchers group more likely to rate their company as being trustworthy were those that lived in the South Island, excluding Canterbury (84%).

6.3.5 Value for money

Switchers with household incomes over \$100,000 were more likely to rate their company as being good value for money (82%). Customers of Genesis were less likely to say they were good value (60%).

On the whole, potential switchers were less likely to report their power companies as being good value for money. Among their subgroups, those at least 70 years of age were more likely to say they were good value (64%). There were also some large differences in how potential switchers rated their current power companies. Current customers of Contact were most likely to rate them as being good value for money (62%), Mercury, Genesis and Trustpower bordered around the average (44% to 51%) and Meridian customers were least likely to say their company was good value for money (34%).

TABLE 11.

APPLIES TO YOUR POWER COMPANY EXCLUDING UNSURES – (SWITCHED)

Using a 1 to 5 scale where 1 means applies a lot, and 5 does not apply at all, how much do the following statements apply to your power company?

	1 Applies a lot %	2 %	Total 1 + 2 %	3 %	4 %	5 Does not apply at all %	Total 4 + 5 %
Reliable and secure	49	31	80	14	4	2	6
Provide good service	51	26	77	17	3	3	6
Well established	54	22	76	18	3	3	7
Trustworthy	42	32	74	17	5	3	8
Value for money	44	28	72	19	6	3	9

Base: Those who have switched , excluding those that gave an 'unsure' response

TABLE 12.

APPLIES TO YOUR POWER COMPANY INCLUDING UNSURES– (SWITCHED)

Using a 1 to 5 scale where 1 means applies a lot, and 5 does not apply at all, how much do the following statements apply to your power company?

	1 Applies a lot %	2 %	Total 1 + 2 %	3 %	4 %	5 Does not apply at all %	Total 4 + 5 %	Unsure %
Reliable and secure	37	23	60	11	3	1	4	25
Provide good service	38	19	57	13	2	2	4	26
Well established	43	17	60	14	2	3	5	21
Trustworthy	31	24	55	13	4	2	6	26
Value for money	35	23	58	15	5	2	7	20

Base: Those who have switched

TABLE 13.

APPLIES TO YOUR POWER COMPANY EXCLUDING UNSURES – (CONSIDERED SWITCHING)

Using a 1 to 5 scale where 1 means applies a lot, and 5 does not apply at all, how much do the following statements apply to your power company?

	1 Applies a lot %	2 %	Total 1 + 2 %	3 %	4 %	5 Does not apply at all %	Total 4 + 5 %
Reliable and secure	54	28	83	11	5	2	6
Provide good service	47	31	78	15	5	2	7
Well established	61	23	84	10	4	2	6
Trustworthy	42	30	72	18	5	6	10
Value for money	25	26	51	31	10	8	18

Base: Those who considered switching , excluding those that gave an 'unsure' response

TABLE 14.

APPLIES TO YOUR POWER COMPANY INCLUDING UNSURES – (CONSIDERED SWITCHING)

Using a 1 to 5 scale where 1 means applies a lot, and 5 does not apply at all, how much do the following statements apply to your power company?

	1 Applies a lot %	2 %	Total 1 + 2 %	3 %	4 %	5 Does not apply at all %	Total 4 + 5 %	Unsure %
Reliable and secure	53	28	81	10	4	2	6	3
Provide good service	46	30	76	15	4	2	6	3
Well established	59	22	81	9	4	2	6	4
Trustworthy	40	28	68	17	4	6	10	5
Value for money	23	24	47	29	9	7	16	8

Base: Those who considered switching

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7.2 Additional tables

TABLE 15. SAMPLE MAKE-UP		
	Switched %	Considered switching %
Base: n=	600	600
Sex		
Male	46	40
Female	54	60
Age group		
18-39	9	10
40-49	18	15
50-59	22	25
60-69	22	24
70+	29	26
Household income		
\$20,000 or less	4	8
\$20,001-30,000	15	13
\$30,001-40,000	10	10
\$40,001-50,000	6	8
\$50,001-70,000	12	11
\$70,001-100,000	14	12
More than \$100,000	20	20
Income was nil/or made a loss	1	1
Refused	18	17
Personal income		
\$15,000 or less	9	9
\$15,001-25,000	16	16
\$25,001-30,000	9	10
\$30,001-40,000	8	11
\$40,001-50,000	8	7
\$50,001-70,000	13	11
\$70,001-100,000	8	7
More than \$100,000	6	8
Income was nil/or made a loss	6	7
Ethnic background		
NZ Maori	8	9
NZ European/ New Zealander	81	83
British	7	4
Other European	4	4
Pacific Island	1	1
Asian	4	3
Other	-	1
Refused	1	1
Time resided at current residence		
Less than two years	7	7
2-5 years	13	16

6-10 years	20	21
More than 10 years	60	56
Base: All respondents	Continued over page	

SAMPLE MAKE-UP (continued)		
	Switched %	Considered switching %
Base: n=	600	600
Number of household members 18 years of age or older		
1	26	27
2	55	57
3	17	14
4 or more	1	2
Unsure/ Refused	1	-
Number of household members under 18 years of age		
0	74	70
1	9	11
2	11	11
3	5	8
4 or more	1	-
Unsure/ Refused	-	-
Region		
Northland	4	3
Auckland	22	16
Waikato/ Bay of Plenty	22	21
Gisborne/ Hawkes Bay	6	4
Manawatu-Whanganui/ Taranaki	5	8
Wellington	22	24
Nelson/ Tasman/ Marlborough/ West Coast	2	3
Canterbury	12	12
Otago/ Southland	5	9
Live in a rural area or district that has a population of less than 2,000 people		
Yes	14	13
No/ Unsure	86	87
Responsibility for either paying or having a say in the electricity bill		
Yourself	61	63
Yourself and your spouse or partner	37	36
Yourself and others in the household	2	1
Unsure	-	-
Other	-	-
Average power bill each month		
Less than \$100 a month	14	13
More than \$100, but less than \$200 a month	52	51

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More than \$200, but less than \$300 a month	23	27
More than \$300, but less than \$400 a month	6	6
More than \$400 a month	2	1
Unsure	3	2

Base: All respondents

Continued over page

SAMPLE MAKE-UP (continued)		
	Switched %	Considered switching %
Base: n=	600	600
On gas supply		
Yes	30	31
No	70	69
Member of an organisation or buying group		
No	90	96
Greypower	8	2
Other	2	2
Current power supplier		
Genesis Energy/ Energy Online	20	30
Mercury Energy/ Tiny Mighty Power	16	18
Contact Energy/ Empower	11	22
Meridian Energy/ Powershop	11	11
Just Energy	10	1
TrustPower	8	8
Energy Direct	6	2
Pulse Energy	6	-
Nova Energy	5	7
Mega Energy	-	-
Bay of Plenty Electricity	-	-
Bosco Connect	-	-
King Country Energy	-	-
Opunake Hydro	-	-
Prime Energy	-	-
Unsure	7	1
Base: All respondents		

TABLE 16.

NUMBER OF TIMES SWITCHED IN PAST TWO YEARS

And how many times have you switched power company in the past TWO years?

	Switched %	Considered switching %
Base: n=	600	600
None	-	78
Once	81	18
Twice	17	3
Three or more times	2	-
Unsure	-	1

Base: All respondents

TABLE 17.

VISITED PRICE COMPARISON WEBSITES – ‘YES’

Have you visited the following price comparison websites?

	Switched %	Considered switching %
Base: n=	600	600
What's My Number	28	26
Powerswitch	24	18

Base: All respondents

TABLE 18.

VISIT TO ‘WHAT'S MY NUMBER’ WEBSITE MAKE YOU MORE LIKELY TO SWITCH

Did visiting the ‘What's My Number’ website make you more likely to switch?

	Switched %	Considered switching %
Base: n=	168	155
Yes	43	38
No/ Unsure	57	62

Base: Those who visited ‘What's My Number’ website

TABLE 19.
VISIT TO 'POWERSWITCH' WEBSITE MAKE YOU MORE LIKELY TO SWITCH

Did visiting the 'Powerswitch' website make you more likely to switch?

	Switched	Considered switching
	%	%
Base: n=	146	105
Yes	51	33
No/ Unsure	49	67

Base: Those who visited 'Powerswitch' website

TABLE 20.
REASON FOR CONSIDERING CHANGING POWER COMPANY

On the most recent occasion you considered changing power company was this because...:

	Switched
	%
Base: n=	600
A) You actively approached another company for a better offer	15
B) You were approached by another company to switch	68
C) You found a better deal by using an online price comparison website	9
Other	7
Unsure	1

Base: Those who switched

TABLE 21.
EASE OF SWITCHING

On the most recent occasion you switched, using a 1 to 5 scale where 1 means very easy, and 5 very difficult, how easy or difficult did you find it to switch companies?

	Switched
	%
Base: n=	600
1 Very easy	68
2	17
TOTAL EASY (1 + 2)	85
3	6
4	4
5 Very difficult	3
TOTAL DIFFICULT (4 + 5)	7
Unsure	2

Base: Those who switched

TABLE 22.

EXISTING SUPPLIER TRY TO CONVINCE YOU NOT TO SWITCH

We know you ended up switching suppliers, but did your old power company say anything to try to convince you not to switch?

	Switched
	%
Base: n=	600
Yes	53
No/ Unsure	47

Base: Those who switched

TABLE 23.

STARTED WITH NEW SUPPLIER FOR SHORT TIME THEN SWITCHED BACK

Did you actually start up with a new supplier for a short time but ended up switching back to your old supplier?

	Switched
	%
Base: n=	600
Yes	10
No/ Unsure	90

Base: Those who switched

TABLE 24.

REASON FOR CONSIDERING CHANGING POWER COMPANY

On the most recent occasion you considered changing power company was this because...:

	Considered switching
	%
Base: n=	600
A) You actively approached another company for a better offer	10
B) You were approached by another company to switch	80
C) You found a better deal by using an online price comparison website	4
Other	4
Unsure	2

Base: Those who considered switching

TABLE 25.

FIXED TERM CONTRACT

Were you on a fixed term contract with your supplier when you considered switching?

	Considered switching %
Base: n=	600
Yes	30
No	61
Unsure	9

Base: Those who considered switching

TABLE 26.

CHANNEL USED TO INITIATE SWITCH

Did you initiate the switch by phone, email or seeing someone face to face?

	Considered switching %
Base: n=	353
Phone	56
Face to Face	40
Email	3
Unsure	1

Base: Those who had considered switching and had got a new supplier to start switching them over

TABLE 27.

CONTACT FROM OLD COMPANY

Once the new supplier started to switch you over, did you hear from your old company?

	Considered switching %
Base: n=	353
Yes	93
No/ Unsure	7

Base: Those who considered switching and 'got a new supplier to start switching you over'

TABLE 28.

CONTRACT TERM IF OFFER TAKEN UP

Did you have to sign up for a contract term if you took up their offer and stayed with them?

	Considered switching %
Base: n=	330
Yes	32
No/ Unsure	68

Base: Those who considered switching and 'got a new supplier to start switching you over' and heard from old company

TABLE 29.

STARTED WITH NEW SUPPLIER FOR SHORT TIME THEN SWITCHED BACK

Did you actually start up with a new supplier for a short time but ended up switching back to your old supplier?

	Considered switching %
Base: n=	600
Yes	5
No/ Unsure	95

Base: Those who considered switching

TABLE 30.

SATISFACTION WITH CURRENT POWER COMPANY

Using a 1 to 5 scale where 1 means very satisfied and 5 not at all satisfied, how satisfied are you with your current power company?

	Switched %	Considered switching %
Base: n=	600	600
1 Very satisfied	31	33
2	15	30
TOTAL SATISFIED (1 + 2)	46	63
3	13	23
4	3	7
5 Not at all satisfied	2	5
TOTAL NOT SATISFIED (4 + 5)	5	12
Unsure	36	2

Base: All respondents

TABLE 31.

SUMMARY TABLE – TOTAL APPLIES (1 + 2)

Using a 1 to 5 scale where 1 means applies a lot, and 5 does not apply at all, how much do the following statements apply to your power company?

	Switched %	Switched, excl unsure %	Considered switching %	Considered switching, excl unsure %
Base: n=	600	*	600	**
Reliable and secure	60	80	81	83
Provide good service	57	77	76	78
Well established	60	76	81	84
Trustworthy	55	74	68	72
Value for money	58	72	47	51

Base: All respondents

*Base for the 'switched, excl unsure' column varies depending on proportion of switchers that gave an unsure response ($n=444-482$)

** Base for the 'considered switching, excl unsure' column varies depending on proportion of potential switchers that gave an unsure response ($n=552-583$)

Appendix E Rules relating to saves and win-backs in selected international electricity and telecommunications markets

- E1. This appendix sets out some of the consideration that has been given to retention strategies relating to saves and winbacks in other jurisdictions and markets. These illuminate some of the strands of literature to which we turn in later appendices.

New Zealand's fixed telecommunications market

- E2. The Customer Transfer Code²⁰ guides the process for transferring customers between service providers using Telecom's fixed line network and Chorus's unbundled services in a way that is consistent with the Telecommunications Act 2001. Clause 43 expressly prohibits marketing activity that is "based on or ...in direct response to" requests made by the winning provider as part of the transfer process. The losing provider is however allowed to market to customers who contact them directly. The losing provider may also use its own internally generated information for marketing purposes.
- E3. The only restriction then on marketing relates to the losing provider initiating contact with a customer as a direct result of being notified that they are transferring to another provider as part of the transfer process. This is akin to a ban on electricity retailers contacting customers when the Registry notifies the losing provider that a customer is switching.
- E4. This ban has been in place in the telecommunications industry since the first Customer Transfer Code was put in place in 2006. The rationale is reported by the Telecommunications Forum as a mixture of technical reasons relating to the operational difficulty of reversing transfers mid-stream including the possibility that a user may lose their connection, and 'competition-related' reasons reflecting concern that Telecom had an advantage as the existing retailer and infrastructure owner (in 2006).
- E5. The operational issues of concern in telecommunications are not relevant to the electricity industry as the technical aspects of the switching process are relatively straightforward. The incumbency argument may have more relevance although no analytical detail is available from the Telecommunications Carriers' Forum (TCF). It may be that the regulations were intended to target Telecom as the infrastructure owner rather than just another retailer (prior to the separation of Chorus). This is a common thread in this type of regulation where the infrastructure owner has a 'natural' advantage that authorities seek to limit by regulation. Bans on saves or winbacks are also often implemented in other jurisdictions to protect competition in its infancy,

²⁰ NZ Telecommunications Carriers' Forum (2012)

and later removed. In 2006, when this Code was first put in place, Telecom had a near monopoly in retail fixed line telecommunications and that year saw the implementation of a number of policies to change this including the local loop unbundling and the Telecommunications Amendment Act that required the operational separation of Telecom's retail, wholesale and infrastructure arms.

Australia – telecommunications market

- E6. In relation to the Australian Telecommunications market, we have not found any rules or standards which limit the ability of a losing provider to contact customers who initiate or complete a transfer for marketing or win-back purposes. The regulation of telecommunications is largely achieved through the application of general competition law (Competition and Consumer Act 2010).
- E7. The Telecommunications Consumer Protections (TCP) Code sets out community safeguards in the areas of customer information, contracts, billing, credit management, customer transfer, complaint handling and code administration and compliance. In relation to customer switching, the TCP code (Chapter 7) sets out a range of obligations for the gaining supplier (and does not set out any limitations for the losing provider).
- E8. In the section of the code relating to consumer sales, service and contracts (chapter 4) – there are standards around selling practices, including promotion of transfers (see 4.3.5). These are principle- based, rather than being overly prescriptive – i.e. when promoting a transfer “A Supplier must ensure communications with Consumers about Transfers are carried out in a fair and accurate manner, to allow a Consumer to make an informed choice about whether to undertake a Transfer to that Supplier or take up a Supplier’s Offer.” We note that there is a specific requirement within these rules that a supplier “ensures its Sales Representatives do not mislead Consumers about other Supplier’s Telecommunications Products or the nature of the Supplier’s Telecommunications Products or the nature of the Supplier’s affiliation or relationship with another Supplier when promoting Transfers”.
- E9. The Code was revised in 2012, to provide additional protection for consumers. In relation to customer switching, the main changes were clarifications of informed consent in the context of changing suppliers (anti-slamming rules)²¹, requirements around post-customer-transfer notifications, and provisions covering customer transfers resulting from mergers. The revisions to the Code were driven by a 2011 public inquiry by the regulator

²¹ Slamming is a practice sometimes used in the telecommunications industry where a customer is switched to a different provider without their consent. This practice is not legal: in New Zealand Slingshot was fined \$250,000 in December 2013 under the Fair Trading Act after admitting charges relating to slamming.

(ACMA), known as 'Reconnecting the Customer', which was focused on consumer protection rather than competition issues.

- E10. The industry guideline for mobile number portability similarly does not include any restrictions on losing providers contacting customers for marketing purposes; nor does the local number portability industry code .

Australia – electricity market

- E11. The AEMC is currently undertaking a project relating to electricity customer switching in the NEM. The purpose of this review is to support customer choice and make the switching process more efficient (currently switches take lengthy periods to complete, with the average at 30 calendar days, but some customers waiting in excess of 60 calendar days). However this review does not consider issues relating to saves or winbacks.
- E12. There are no rules prohibiting the presentation of counter-offers by the existing supplier during the 10 day cooling off period during which time a customer may cancel their switch without penalty (saves) or marketing targeting recently switched customers (winbacks).²²

US – telecommunications

- E13. Telecommunications providers in the US are unable to market to switching customers during the switching process as Telecommunications Act 1996 47 USC section 222(b) prohibits the use of proprietary information provided by one carrier to another from being used for marketing. A decision of the Federal Communications Commission which was upheld on appeal by the DC Circuit held that details of a switching customer were proprietary information of the carrier which had won the customer (the Bright House case).²³ The paramount goal of this provision was that the losing carrier should have a neutral role in the execution of porting.²⁴
- E14. The decision is clear that the prohibition is restricted to counter-offers made as part of the switching process:

This entire situation arises only because incumbents control the technical process...The FCC plainly needs to ensure that incumbents do not tamper with this process in order to discourage customers from switching.²⁵

²² Correspondence with the AEMO 12 February 2014

²³ Bright House Networks, LLC, et al. Complainants v Verizon California Inc, et al, Defendants; Memorandum Opinion and Order FCC 08-159

²⁴ The decision also related to the legal question of the definition of a common carrier. This point, while somewhat controversial, is not relevant for our purposes.

²⁵ Statement of Commissioner Michael J Copps, *Re Bright House LLC et al supra* note 11

Carriers are free to initiate customer retention marketing campaigns before a consumer gives the order to switch from his or her current phone service provider to a new provider. Under the law, carriers are also permitted to launch “win-back” campaigns after consumers have switched. Today’s action underscores long-held Commission policy that using proprietary customer information for marketing efforts cannot take place during the window of time when a customer’s phone number is being switched to a new provider.²⁶

E15. This decision followed the reasoning in the so-called 1998 “Anti-slamming Decision”. That decision highlighted the distinction between the role of a local exchange carrier as a “neutral executing carrier and its objectives as a marketplace competitor...an executing carrier may not use information gained from a carrier change request for any marketing purposes, including attempts to change a subscriber’s decision to switch to another carrier...s.222(b) does not prohibit all winback attempts, but only those that are based on carrier proprietary information”.²⁷

E16. The Bright House case was notable because the Commission rejected the recommendation of the staff that the conduct at issue was not a violation of s.222(b). The staff recommendation noted that the effect of the conduct was “not at all clear”, a position which is generally aligned to the literature as we shall see:

[I]t is not at all clear to the Bureau whether retention marketing should be allowed, or even encouraged as a form of vigorous competition, or whether it is a form of anticompetitive conduct. In fact, one could argue that, when the customer’s existing provider offers to lower prices or expand services to prevent the customer from switching providers, the customer benefits. This type of aggressive competition to win and to keep customers can result in lower prices for consumers, the introduction of new services and technologies, and improved quality of service as carriers compete in the open marketplace.²⁸

²⁶ Statement of Commission Robert M McDowell, *Re Bright House LLC et al supra* note 11

²⁷ Second Report and Order and Further Notice of Proposed Rulemaking, Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996/Policies and Rules Concerning Unauthorized Changes of Consumers’ Long Distance Carriers, 23 December 1998 FCC 98-334 (the Anti-Slamming Decision), paragraph 106-107.

²⁸ Bright House Networks, LLC, et al. Complainants v Verizon California Inc, et al, Defendants; Recommended Decision by the Chief, Enforcement Bureau, DA 08-860, paragraph 28.

- E17. The staff recommendation was that the conduct be allowed but that a process of consulting on new rules around customer retention marketing should be promptly begun.
- E18. The FCC Chair dissented from the majority view and noted that he agreed with the staff that “customer retention marketing is a form of aggressive competition that has the potential to benefit consumers through lower prices and expanded service offerings”.²⁹

Canada – telecommunications

- E19. The Canadian Radio-television and Telecommunications Commission (CRTC) established rules in 1999 requiring cable companies to refrain from contacting customers for 90 days after they have notified their intention to cancel their service, and from offering discounts or other inducements not generally available to the public where the customer contacts them (i.e. banning winbacks). In 2004 these rules were modified to apply only to cable companies with 6,000 or more subscribers and only in relation to multi-unit dwellings. In 2007 the rules were eliminated completely.
- E20. The CRTC’s rationale for these rules was that in the initial stages of competition, winback rules foster competition “these activities [discounts, free services or other inducements] might reasonably be expected to impede or frustrate the efforts of existing or potential new entrants and the evolution of a sustainable competitive market”³⁰ but “they are in the longer term a restraint on competition that should not be retained longer than necessary”.³¹
- E21. The winback rules were asymmetrical in that they applied to existing suppliers only (and later only those with more than 6,000 subscribers). The rationale for this was “the ability of new entrants to engage effectively in this activity is counterbalanced by the incumbent distributors’ dominant position and their significant market share. Moreover new entrants do not have the critical mass of historical customer information or the range of services that incumbent cable companies currently enjoy.”³²

UK – electricity

- E22. In December 2002, Ofgem, the gas and electricity regulator in the UK published an occasional paper to inform public debate on the level of wholesale and retail electricity prices.³³ This paper included some

²⁹ Bright House Networks, LLC, et al. Complainants v Verizon California Inc, et al, Defendants; Statement of Chairman Kevin J Martin, Dissenting

³⁰ CRTC, Telecom – Commission Letter – Re CISC Dispute – Rules regarding communication between the customer and the broadcasting distribution undertaking, 1 April 1999

³¹ CRTC, Broadcasting Public Notice CRTC 2007-111, paragraph 19.

³² CRTC letter, 1 April 1999, *supra* note 19

³³ Ofgem (2002)

consideration of retention strategies that target switchers. We discuss this in this section. At this stage we are unaware of any further work on these issues, although a great deal is being done in regards to switching and specifically its speed, reliability and efficiency.

E23. In the occasional paper, Ofgem indicated their intention to pay particular attention to supply offerings that targeted switchers including potential switchers, noting however that “this is not to suggest that such offerings are necessarily anti-competitive”.³⁴ The rationale for this scrutiny was that their study of prices indicated that switchers systematically paid less than non-switchers. Indeed the gap between the existing supplier and the best offer appeared to be widening. This pattern is not replicated in New Zealand geographic markets.³⁵

E24. There are other similarities though, perceptions of competition were poor, with a perception that switching costs were high, and the benefits would not be sustained. Ofgem also recognised that electricity consumers are not as price sensitive as they are to other products. It put some effort into analysing the size of a price differential that was required to persuade customers to shift. Early analysis (i.e. when competition was new) suggested that the existing supplier could price up to 37% above its rivals and retain enough customers for this to be an economic strategy. While this extreme was not subsequently borne out by customer behaviour, only 35% of customers switched when a 17% saving was available. “Ofgem recognises an important consequence: customers’ confidence in the market is of prime importance to the continued health of competition.”³⁶

E25. Ofgem concludes:

Whilst aiming to retain customers is clearly not in itself anti-competitive, Ofgem will pay particular attention to focused initiatives aimed at prospective or past switchers which aim to reduce switching in the incumbent’s favour and hence may foreclose the market. Assessment of such initiatives will consider a range of issues, which might include:

- Whether the likely benefit to the supplier of the offer (e.g. retaining or winning back a customer) is commensurate with the cost of the offer
- Whether the offer forecloses further entry or expansion of new or existing competing suppliers, and

³⁴ Ibid, Executive summary.

³⁵ See Appendix E for some charts of price dispersion by region. There is no readily observable pattern to these.

³⁶ Ibid, p.25

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- Whether the offer applies different terms and conditions to equivalent transactions in a way which makes it particularly attractive for prospective or past switchers to take supply from the incumbent.³⁷

E26. In 2010, Ofgem started a Retail Market Review in response to their concerns that the energy markets in the UK were not working effectively for customers. The result of this review was the “simpler, clearer, fairer” reforms. These reforms had a range of components including:

- The introduction of standards of conduct covering all interactions between customers and suppliers. These standards came into force in August 2013 and require fair, honest, transparent, appropriate, prompt and professional behaviour, information and processes. Suppliers are required to publish an annual statement describing the actions they are taking to treat customers fairly.
- A limit of four “core” tariffs per fuel (electricity and gas), with simplified, uniform discounting for dual fuel and online accounts based on £/year. Additional fixed term tariffs that meet Ofgem’s criteria are also allowed.
- All tariffs have the same structure (standing charge and unit rate) and are presented in new consistent formats (Tariff Comparison Rate and a tariff information label).
- Additional rule around the form of communication with customers were also added. This includes a requirement that suppliers provide customers with personalised information on every bill setting out the cheapest tariff they offer that customer.

E27. The “simpler, clearer, fairer” reforms appear to have effectively eliminated the ability of electricity suppliers in the UK to offer special deals to switching customers.

UK – telecommunications

E28. The UK telecommunications regulator Ofcom has perhaps spent the most analytical effort recently in considering the implications of saves for competition. Ofcom has been undertaking a lengthy consultation to amend the process for transferring customers on fixed voice and broadband services on the copper network. Ofcom was concerned about what it terms “reactive save”. It defines this retention activity as occurring when the losing provider is able to identify *as a result of the switching process* all customers intending to switch away from it. This type of activity is distinguished from more general retention marketing, and indeed marketing to customers who contact their provider seeking a better offer (who may otherwise switch).³⁸

³⁷ Ibid, p.35

³⁸ See Ofcom (2013) at paragraph 6.7-6.9 for a more detailed definition.

- E29. Ofcom has used the literature on price guarantees to underpin its analysis, and its assessment that reactive saves are bad for consumers (overall). We will discuss the literature on price guarantees in the next section on price relationship agreements, but draw out and discuss some of Ofcom's conclusions in this section.
- E30. The Ofcom analysis was heavily criticised by Charles River Associates (CRA) on behalf of a group of communication providers (BskyB, BT and Virgin Media). We will also discuss their criticisms and its relevance to the New Zealand electricity market.
- E31. The switching process that Ofcom is concerned about requires the customer to contact the existing supplier to obtain a code that will enable them to retain their phone number. This process is applied to a subset of switchers (for technical reasons that are not relevant to the competitive effects of saves), while other switchers are subject to a process whereby their new provider informs the existing supplier of the switch. In the latter case, regulation preventing the existing supplier contacting the customer for marketing purposes was already in place at the time of the consultation.

Ofcom 2012

- E32. The Ofcom 2012 consultation document sets out the arguments for prohibiting saves, in essence that existing suppliers are advantaged compared to entrants and this reduces overall competition in the market and therefore consumer welfare. The key components of this argument are:
- a. The new entrant must make an attractive offer to all potential customers. The existing supplier responds by matching the offer on intending switchers only, retaining its higher price for all other customers. The new entrant may then have to beat this new lower price (for all customers).
 - b. For each successful switch there may be several which are saved by the existing supplier. This raises acquisition costs for new entrants.
 - c. Approximately 50% of customers were offered a save (in Ofcom's dataset). This gives rise to concerns about adverse selection: if low value customers are let go by the existing supplier, the new entrant will have a disproportionately high number of low value customers.
- E33. Overall then Ofcom's view was that the new entrant would have limited "ability to successfully challenge incumbents, and may ultimately discourage market entry and expansion".³⁹ Ofcom also refers to a judgment of the Competition Appeals Tribunal relating to the misuse of information provided to BT as network provider to provide a competitive advantage and target

³⁹ Ofcom 2012, p.84

switching customers. However, our reading of that judgement is that BT was found to be contravening regulations when it passed confidential information about switching customers from its wholesale to its retail department. The Tribunal was not required to assess whether the save activity had an anticompetitive effect, only that the information had been passed on and that this gave a “competitive advantage” to BT.

E34. Ofcom commissioned some work by Hviid, an expert in price guarantees to provide a summary of the effects of price guarantees and insight into the applicability of this literature to the switching rules.⁴⁰ We consider the literature on price guarantees in more detail in the next section. For now, we note that Hviid considers that the price guarantees literature can help give insights into the effects of saves. He likens saves to a meet-or-release clause whereby the existing supplier can select the customers it wishes to save by assessing (more accurately than the new provider) the benefits of offering to match the rival's offer. This gives rise to an adverse selection (which he terms “winners curse”) problem. This in turn may deter entry.

E35. Hviid also highlights the price discrimination aspect of saves, whereby switchers pay less than non-switchers. He notes that the welfare effect of price discrimination is ambiguous. Total welfare may increase if sales rise, or a more efficient firm increases its market share. “A more precise assessment would involve separately estimating the elasticity of consumers who never switch supplier and those who do.”⁴¹ This point is critical: whether saves have a positive or negative effect on welfare is ultimately an empirical question, albeit one that may not be estimable.

CRA critique

E36. As mentioned, CRA provided a critical report for a group of communication providers of the Ofcom 2012 consultation. In particular they disagreed with the conclusions that saves might deter entry or expansion. Some of their criticisms were highly market specific. For example, they suggest that saves will not deter entry because entry into the UK fixed voice and broadband market is unlikely in any event: they consider it a mature and competitive market. CRA notes that switching rates should not necessarily be seen as a measure of the competitiveness of the market, as in a perfectly competitive market only those whose preferences changed would switch supplier. Therefore, switching rates should not be used to determine the effect of a policy on consumer welfare (or competition).

E37. Some criticisms of the model may be more relevant to the New Zealand electricity market. For example, they suggest that there is no adverse selection problem. In fact they argue (based on evidence from their clients which is redacted in the public version) that all customers in the UK fixed voice and

⁴⁰ Hviid (2010a) and Hviid (2010b)

⁴¹ Hviid (2010a) p.4.

broadband market are worth saving and that reactive saves are not meaningfully distinct from other retention activity which is undertaken by the same team of people but where the probability of the consumer actually switching varies (e.g. someone who telephones to complain may be given the same offer as a save).

- E38. CRA also argue that a prohibition on saves might make it easier for entrants to get higher margin customers (although they do not accept that margins are variable), but it would also make them more difficult to retain (because the new supplier would have no opportunity to counter a second subsequent switch offer). The net effect (for the entrant) is therefore, CRA argue, ambiguous. “More generally, making markets *ex post* more competitive may have detrimental effects on incentives for further entry when entry costs are significant.”⁴²
- E39. They argue against using the price guarantees literature to provide insights into the effects of saves because they note that the effects of price guarantees depend very much on the detail of the guarantee (this is backed up by the literature, see below). They also note that there are some fundamental differences between a price guarantee and a save, not least that there is no obligation on either buyer or seller to make or accept a save offer (unlike say a meet-or-release clause which provides contractual obligations on both sides).
- E40. CRA provides a model which shows that with particular parameter choices saves can be welfare enhancing. The issue here appears to be the interpretation of the results. The model shows that all customers are better off if saves are allowed, except those who stay with their original retailer (i.e. non-switchers). This result seems uncontroversial. It is the implications that are at issue: Ofcom considers this would deter entry; CRA argue it is welfare enhancing.
- E41. It seems likely that which implication is correct in any particular case will depend on the size and elasticity of the different groups (as noted by Hviid). Indeed CRA agree that a general conclusion cannot be drawn “the literature is complex and nuanced and... a blanket conclusion that this class of contracts [price guarantees] is anti-competitive is not warranted”⁴³
- E42. One point that is made by CRA that we have not covered so far is the implementation difficulties associated with banning a specific type of retention activity. For example, if switchers often contact the existing supplier anyway then there would be limited effect from the type of policy change Ofcom was considering. A parallel consideration arises where saves are prohibited if the

⁴² Charles River Associates (2012) p.17.

⁴³ Ibid, p.20.

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information that a person is switching comes from the process, but saves are allowed where the information comes from the existing supplier's own efforts. Identifying (and proving) where the information that a person was considering switching originated may be very difficult, resulting in a costly enforcement process (or ineffective policy).

- E43. Finally, CRA point out that further thought needs to be given to the counterfactual. If one type of retention strategy is denied to the LP what strategies would they adopt instead to reduce churn (such as long term contracts). On this point we note that many continuous subscription services (e.g. newspapers, gym membership, insurance) have notice periods or some requirement that the consumer contact the seller in the event that they want to cease their subscription (say because they are switching provider). These types of contract might (efficiently) replace the notification provided by the switching process.

Ofcom 2013

- E44. Ofcom updated its analysis in the 2013 consultation paper, including giving further consideration of the risk to competition from reactive saves. We comment on their response to two aspects of CRA's criticism: that reactive saves are not distinct from other retention activity and that the welfare effect of reactive saves is positive.
- E45. In that paper, Ofcom noted that in its view reactive saves differ from other retention activity as the offer is able to be individually targeted to those who have revealed they are in the process of switching. This means that there is less pressure on existing suppliers to keep prices low across the customer base, this in turn allows them to make a lower offer to the switcher (because they are cross-subsidised from the non-switching customers). Ofcom's view is that there is a difference between saves when the consumer contacts the existing supplier and when the existing supplier contacts the consumer as in the former situation the existing supplier cannot be sure that they will get the opportunity to make a counteroffer and therefore needs to keep their prices lower overall.
- E46. In terms of the welfare effects of reactive saves, Ofcom and CRA agree that switchers may be better off with reactive saves (if they are offered one), but inactive customers will face higher prices. "Which effect predominates at any point in time (e.g. from a static efficiency viewpoint) will depend upon the relative share of such customers, the level of discount given to active consumers and the level of product differentiation. Critically ...our concerns with reactive save relate to the dynamic effects on competition. In the long run, we are concerned that reactive save may weaken dynamic competition by deterring entry and expansion."⁴⁴

⁴⁴ Ofcom (2013) p.135.

E47. On this last point CRA and Ofcom diverge. The CRA model assumes that the entrant will continue to compete aggressively with the reactive save strategy of the existing supplier. Ofcom does not consider this scenario likely expecting the entrant to withdraw, or not enter in the first place. “We continue to be concerned that reactive save activity raises customer acquisition costs for new entrants, resulting in lower switching levels and may lead to entrants acquiring disproportionately low value customers....all else being equal, entrants are likely to find it more difficult to expand and to successfully challenge incumbents when reactive save is permitted and prevalent under the switching process. Critically over time, this may weaken competition in the market and lead to consumer harm.”⁴⁵

E48. The analysis by Ofcom and CRA indicates that the specific facts of the market are important to determining whether allowing saves is likely to be detrimental to competition. Factors to consider include:

- The size of the two groups (switchers and non-switchers) and their price elasticities of demand
- The prevalence of saves and the effectiveness of the strategies at persuading customers not to switch
- The level of competition in the market
- Whether some customers are more profitable than others and the existing supplier can distinguish between more and less profitable customers
- Whether the existing supplier offers terms to the switching customer that are different from its general offer to other customers
- The effort and costs to a consumer in seeking a counter offer from the existing supplier

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Appendix F Approved switch withdrawal advisory codes

From <https://www.ea.govt.nz/dmsdocument/8566>:

Code	Description	Explanation of Use
CR	Customer Requests Cancellation	Customer has changed their mind and wishes to cancel.
IN	Invalid ICP Status	Site is in the process of being decommissioned.
UA	Unauthorised Switch	Account holder did not authorise switch request.
WS	Wrong Switch Type	Switch notification received is being withdrawn, as the switch type used was incorrect eg: an "S" not an "SM" code and the premise is vacant. Also use for TOU & NON TOU etc.
MI	Withdrawn on Metering Issue	Winning retailer requests withdrawal because of metering issue e.g. did not intend to switch a premise that has prepaid metering.
WP	Wrong Premise	The wrong premise has or is being switched.
DF	Date Failed	RTD (requested transfer date) greater than 10 business days in the future.
WR	Losing Retailer not current Retailer	Withdrawn, as the Retailer is not the current retailer for the ICP. ICP has been switched to another retailer and the Registry has not been updated from that switch.