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CC: Miriam R Dean CNZM QC, Chair of the Expert Advisory Panel for the Electricity Price Review c/- energymarkets@mbie.govt.nz

Dear James

Re: Customer acquisition, saves and win-backs – Draft issues paper

Thanks for the opportunity to make a submission on this draft issues paper. We also appreciated the opportunity to meet with the Market Development Advisory Group (MDAG) in March. However, we are disappointed that the issues paper does not acknowledge this discussion or the information Ecotricity and other entrant retailers provided at that meeting or address the issues that we raised.[1]

Ecotricity supports the submissions made by Electric Kiwi, Vocus, Flick and Pulse on this issues paper.

Overall, we are concerned that the issues paper has answered its own questions and clearly reached conclusions when the purpose of an 'issues' paper is to seek feedback on whether the issues discussed and/or other issues are relevant to addressing the problem definition.[2]

Comments

We have adopted the following naming convention – incumbent retailers and entrant retailers; stayers and switchers.

Entrant retailers start with a customer base of zero and, in this 'zero-sum game', must attract customers on the basis of their unique sales proposition. Is the playing field 'level' for this acquisition activity? We categorically believe it is not level.

Paragraph 4.3.3 below is disingenuous. What is suddenly going to make the 42% that have not switched in the last two decades suddenly decide to switch.

[1] Our presentation to MDAG is enclosed as an Appendix to this submission
[2] For example, paragraphs 4.1.1,5.1.1, section 5.3

4.3.3 It is true that long-established retailers do have larger customer bases. Based on available data on switches since 2002, 42 per cent of residential ICPs have never switched. By definition, all of those ICPs are customers of existing retailers. But this perspective needs to be weighed against the fact that just because a retailer is a new entrant or small does not mean it has no access to capital to finance the acquisition of a significant number of customers and grow its business. And, as time passes, customers who have never switched may choose to switch.

In addition to this 42%, there is a group of customers that have switched only once or twice in the past two decades. These 'stayers' are a large part of the residential market and by definition are with the incumbent retailers. This is a significant pseudo-monopoly uncompetitive base which incumbent retailers can leverage off. This monopoly base is not available to entrant retailers. The tariffs paid by stayers are cross subsidising new / bespoke tariffs and the one-off incentive payments offered by incumbent retailers to win-back switchers.

Incumbent retailers with 90% market share have annual cashflow of over $1.5 billion from electricity retail and generation activities. Incumbent retailers are highly incentivised to maximise the number of residential customers that do not switch as these stayers are unaware of any competitive pricing offered by their retailer, or other retailers, and form a significant predictable cashflow.

In contrast, entrant retailers need to offer sharper prices to all potential customers to entice them to switch.

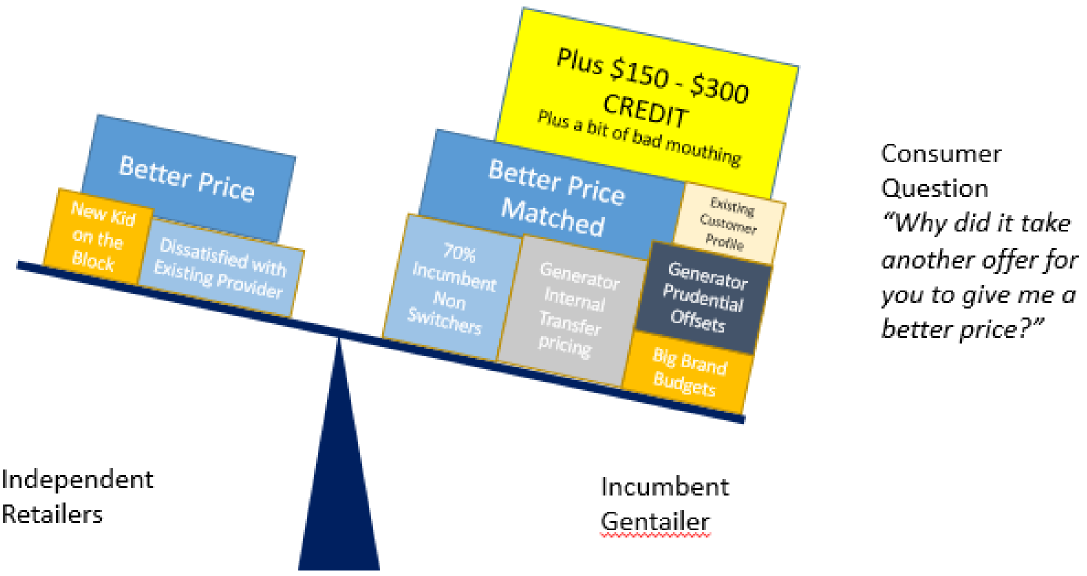
Looking at stayers and switchers the other way – if say 50% of residential ICPs are switching why do entrant retailers only have 7% of the market? Is this because entrant retailers cannot afford to pay one-off inducements of $150 – 300 per switch, or $400 as more recently experienced?

Ecotricity is concerned that a lack of consumer engagement is leading to inequitable outcomes. Basically, people that don't switch, stayers, are very likely to be paying more that switchers.

Any proposal to change the information available about consumers at the time of a switch is of no benefit or a solution. This could increase social inequity as retailers have more information on which to base a decision about whether, or not, to try to retain a customer.

Rather, more transparency about the range of tariffs offered by incumbent retailers should be required. The Electricity Authority could request this information to underpin a more informed analysis of the level of real competition in electricity retailing.

The following diagram summarises our view that the playing field is NOT level between entrant independent retailers and incumbent gentailers. This extends beyond the issue of customer acquisition activity – but all the factors are under the Electricity Authority's purview.



MDAG must consider what changes are needed so that all consumers, including stayers, benefit from competition.

Contradictory positions

The Issues Paper includes a number of contradictions. For example:

Paragraph 4.3.13 states it is unclear whether the Fair Trading Act applies to saves and win-backs and para 4.3.14 states the Fair Trading Act is a protection for consumers from retailers' marketing activities.

The issues paper concludes that there is "no systematic relationship between firm size and age and switch loss rates, switch avoidance (win-back or save) rates or switch failure (lost to a win-back or save) rates".[3] This comment seems to be contradicted by Figure 1 - looking at the relative size of retailers, the largest (incumbent) retailers have the highest loss avoidance rate – all over 20% with an outlier at 45%. Is MDAG concerned about this outlier? Further during the month of April 2018 Mercury and Genesis (incumbent retailers) had win-backs that exceeded 70% of trader losses!

Paragraph 5.3.10 states that it is unclear how much additional impact an increase in switching would have – when 5.3.9 states no switch withdrawals (ie an increase in switching) would reduce the concentration ratio by 5.3%.

The heading of section 5.3 states 'No evidence of negative effects from switching rates on long term competition'. However, paragraph 5.3.4 supports removing switch withdrawals and thus increasing switching – "the effects on firm market shares would vary considerably".

[3] Page 3 and section 5

Suggested solution

Ecotricity strongly recommends a 60 Day Cooling off Period to prevent early win-backs and allow the new retailer to establish a relationship. We suggest the following features:

- no communication allowed other than written if the losing retailer needs to contact a customer to, for example, notify about penalties (but no telemarketing, face-to-face marketing activity etc)
- no cash / credit offers – just better rates (otherwise they pay later or other customers pay)
- mandatory AND enforced.

The advantages of a 60 day cooling off period are it gives the gaining retailer the ability to:

- build a relationship with the customer
- send first bill (sometimes there are metering issues), and
- there would be nothing stopping a losing retailer from making the same offer after 60 days.

This cooling off period would be good for the consumer as it will

- ensure retailers look after their customers pro-actively; and
- over time will restore consumer confidence in Electricity market.

Time is of the Essence – this has been a known issue for over 3 YEARS.

Imposition of a cooling off period could be a temporary measure until the outcome of this saves and win-backs review is complete as there is substantially more work to be undertaken on this review.

Ecotricity looks forward to further engagement with the MDAG and Electricity Authority on this important aspect of competition. Reducing barriers to entry for entrant retailers will improve the quality of competition and provide benefits for more residential consumers.

Yours sincerely
Ecotricity

Al Yates
Director