meridian

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MDAG Chair
c/- Electricity Authority
PO Box 10041
Wellington 6143

By email: mdag@ea.govt.nz

MDAG Acquisitions, Saves and Win-backs Issues Paper – Meridian / Powershop Submission

Meridian and Powershop appreciate the opportunity to submit on the above paper.

Our responses to specific consultation questions are appended. More general feedback is discussed below.

The MDAG in its paper asks whether current acquisition arrangements – saves protection related or otherwise – serve to inhibit competition and / or affect the durability of the retail market.

Following on from the Authority's 2017 post-implementation evaluation of the saves protection scheme, which concluded there was no evidence of any impact - net positive or otherwise - from the scheme overall, the paper presents a continuing picture of no apparent regulatory or market failures in the area of acquisitions.

We agree with the MDAG's assessment.

From Meridian's / Powershop's standpoint, win-backs are clearly distinguishable from saves and the Authority's original reasons for excluding win-backs from the saves protection scheme remain valid.

Please contact me if you have any questions regarding this submission.

Yours sincerely

Alannah MacShane
Regulatory Analyst

DDI **04 381 1378**
Mobile **021 941 443**
Email **alannah.macshane@meridianenergy.co.nz**

Appendix A – Responses to consultation questions

Question		Response
1	Do some retailers have a distinct win-back advantage which others do not have and cannot ever have?	No. MDAG's analysis of switches, switch losses, and switch avoidance by retailer size suggests there is no evidence of this.
i	What sorts of strategies do acquiring retailers have to defend against win-backs and how cost-effective are they?	Acquiring retailers may defend against win-backs using a combination of methods identified in Section 4 of the paper – that is, through a range of retention and / or acquisition-focused strategies. On the retention side, maintaining high standards of service – as per the discussions in later parts of the paper - can also be an important part of a retailer's strategy. At the point of imminent potential loss of a customer, retailers may seek to compete on price (offer inducements) or adopt alternative approaches, as recognised in the paper.[1] The cost effectiveness of any particular strategy – whether targeting retention of a specific customer or retention more broadly – will depend on a range of factors. Credits and other financial inducements, for instance, may be offered only in certain circumstances, or more widely at high cost – both from a direct and indirect (administrative / staff) cost perspective. With more than 40 electricity retailers currently operating in New Zealand, operating models and costs will vary across the market. As the MDAG acknowledge[2], there will be no one single effective customer acquisition / retention strategy.

[1] Refer in particular paragraph 4.2.11 of the consultation paper which lists querying the accuracy of the deal and reminding customers of termination fees, where applicable, as possible alternative actions on the part of retailers.

[2] Discussed page 29 of the paper.

Questions		Responses
ii	Is there a market or regulatory failure preventing acquiring retailers using contractual terms to counter win-backs, given that some retailers are prepared to enforce contracts when customers leave them before the completion of the contract term?	No. As recognised in the paper[3], retailers may exercise choice as to whether they enforce their contracts for reputational or competitive reasons. We believe whether they do or not is based on a choice rather than a failure of the market or regulatory arrangements. We note that early termination / claw back / exit fees, when highlighted to the customer at the time of sale, and where they are applied, will need to follow relevant Fair Trading Act requirements.
iii	Does early switch notification give an undue advantage to retailers seeking to win-back customers?	No. We share the MDAG's view that the deferred timeframes for win-backs distinguishes these activities from saves and that, as a consequence, there is no apparent advantage for losing retailers.[4]
2	Are consumers frequently prompted into making decisions when they switch or switch back that are not in their best interests?	We do not believe so.
i	If consumers make mistakes in the 'heat of the moment', is there a way to tell which was intended and which was the error – the switch or the win-back?	This information is not able to be inferred by retailers and would need to be provided by consumers.
ii	Is there any evidence that retailers have engaged systematically in proscribed marketing behaviours?	No.
iii	Are there regulatory provisions that treat saves and win-backs in a different manner from other acquisition activity in such a way as to constitute a regulatory failure?	The MDAG's paper discusses the potential for differential treatment under 'cooling off' provisions of the Fair Trading Act. We have no additional suggestions to provide.

[3] Refer paragraph 6.1.4 of the paper.
[4] Refer paragraph 2.3.4.

Questions		Responses
iv	What are the implications (if any) for consumers of saves and win-backs?	Consistent with past submissions[5], we remain of the view that more permissible arrangements, pre the saves protection scheme, enabled retailers to discuss / clarify alternative offers – providing, in doing so, an important "check" on retailer practices. Consideration of this is needed in assessing consumer impacts overall.
3	Are there are any further issues related to saves and win-backs that we have not considered?	No.

[5] Available: https://www.ea.govt.nz/dmsdocument/18338