

26 June 2018

Market Development Advisory Group
% Electricity Authority

Nova Energy Limited
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By email: mdag@ea.govt.nz

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

Thank you for the opportunity to provide feedback on the Customer acquisition, saves and win-backs: issues paper.

Nova Energy appreciates the review and feels the level of regulation on offer to retailers wanting to protect their customer acquisitions is sufficient. Nova Energy does not believe enforcing restrictions on saves and win-backs will benefit consumers over the long-term, noting that most customer switches are still completed successfully.

To be of net benefit overall, eliminating saves and win-backs would need to reduce acquisition costs across the market, increase competition, and as a result, provide consumers with lower prices. Given the number of retailers that have entered the market, the current arrangements do not seem to be a barrier to entry, and nor does there seem to be any evidence that regulating saves and win-backs would lower prices for consumers.

The perceived advantages or disadvantages of the status quo are applicable to all trading retailers equally, irrespective of the relative size of the retailers involved. Introducing regulatory controls on saves and win-backs would also increase compliance costs for retailers as they would need to both monitor their own marketing activities for compliance and those of other retailers.

There is no doubt, however, that niche retailers tend to target those customers deemed to have a lower cost to serve; due to elements such as good credit performance, AMI metering in place, high electricity consumption, etc. and therefore would benefit from a ban on win-backs; to the detriment of those incumbent retailers that supply electricity across the full spectrum of customers and regions.

Nova would be happy to discuss this submission further if requested.

Yours sincerely



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Submitter	Nova Energy Limited, Paul Baker
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	Questions	Comment:
1.	Do some retailers have a distinct win-back advantage which others do not have and cannot ever have?	There is no intrinsic win-back advantage for any retailer, and there is no reason why there should be. A retailer's strongest win-back stratagem has to be their previous track record and credibility in dealing with their customers.
1.1	What sorts of strategies do acquiring retailers have to defend against win-backs and how cost-effective are they?	<p>Acquiring retailers are notified if their customer has been effectively won-back or saved and therefore has the opportunity to reinforce any of the original marketing messages they used to acquire the customer in the first place, plus potentially 'sweeten the deal' for the consumer if they believe that is warranted.</p> <p>The retailer can also use anything learned from that transaction to further customise its offering for the next transaction. The market is never static, and strategies attuned to different customer groups can be expected to evolve over time.</p> <p>Retailers that are opted into the Save protection scheme can charge a cancellation fee to enforce their contract and recover some of the cost to acquire them in the first place.</p>
1.2	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?	<p>There is no a regulatory failure. The amendments made to the code after the introduction of the Save protection scheme are sufficient to allow retailers to safe guard their acquisitions should they choose to do so.</p> <p>Retailers must be cognisant of consumers' understanding of contracts and the impact they can have on the retailer's wider goodwill when entering into, and enforcing fixed term contracts. With commercial enterprises this risk is much less of an issue. Whether this could be characterised as a 'Market failure' is somewhat academic.</p> <p>(The issue is similar to that where consumers cancel fixed rate mortgages with banks and are charged the net cost relating to movements in interest rates to keep the bank whole on the transaction.)</p>

	Questions	Comment:
1.3	Does early switch notification give an undue advantage to retailers seeking to win-back customers?	An early switch notification enables retailers to respond by seeking to retain customers. This facility is available to all participating traders.
2.	Are consumers frequently prompted into making decisions when they switch or switch back that are not in their best interests?	<p>Consumers are entitled to make an informed decision based on their preferences. Only the end consumer can definitely answer this question.</p> <p>Every consumer is different; with different values placed on the service level's they receive, product options, and the time value of money. The concept of a sales transaction also varies, for some the sale is complete from the point they decide to accept an offer, the rest is just detail. For others the sale is not complete until they have paid their first invoice. In such instances, engaging with their previous retailer to discuss a possible reversal of the switch is all part of the same sales transaction.</p> <p>Just as some consumers are happy to buy products on hire-purchase terms, they may have a preference for sign-on credits rather than a guaranteed low price over a fixed term. Eliminating saves and win-backs would likely reduce the incidence of sign-up bonuses, as these would be less necessary to encourage the consumer to switch suppliers or circumvent a save or win-back.</p> <p>Banning saves or win-backs in effect cuts the process short for those parties unless they are proactive in seeking a counteroffer from their incumbent supplier. Not all consumers have the confidence or knowledge to request a counter-offer as such.</p>
2.1	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?	<p>When consumers make decisions it is always going to be based on more factors than just price alone.</p> <p>It is unclear here what constitutes a 'mistake'. An argument can be held for both the switch and the win back when it comes to decisions made in the 'heat of the moment'. That of course ignores the requirement under the Fair Trading Act that consumers who have been approached and signed up to a new agreement have five days in which they have the right to withdraw from that agreement.</p>

	Questions	Comment:
2.2	Is there any evidence that retailers have engaged systematically in proscribed marketing behaviours?	<p>Nova Energy has experienced cases of ‘slamming’ tactics along with sales made on the back of incorrect information being given to customers e.g. ‘Nova sold its electricity and natural gas business’.</p> <p>These instances have included both large and smaller, niche retailers and it tends to be the result of action by an occasional rogue sales person rather than any systemic fault in the industry.</p>
2.3	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?	No.
2.4	What are the implications (if any) for consumers of saves and win-backs?	<p>Saves and win-backs encourage consumers to switch suppliers and gain from better offers. It also tends to mean that the initial terms of an agreement focus on price, while the retailer will aim to retain that consumer over the longer term through services and add-ons.</p> <p>The more astute consumers will also realise that if they are a valuable customer of their incumbent supplier, then they are more likely to be offered an incentive to stay if they receive a competitive offer from another retailer.</p>
3.	Are there any further issues related to saves and win-backs that we have not considered?	<p>As mentioned in our previous submission on this topic, it does not appear to have been considered that scrapping win-backs may be a potential disadvantage to all customers. Gaining retailers will only offer as much as what is acceptable for a customer to switch instead of making them their best offer.</p> <p>It is also unrealistic to believe that scrapping win-backs will result in extra value being offered to all existing customers when considering the cost versus spread of benefits to consumers</p>