



Better together.

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TRUSTPOWER SUBMISSION: SAVES AND WIN-BACKS

1 Original Code amendment and post-implementation review – some relevant background

- 1.1.1 In 2014 the Electricity Authority (**the Authority**) implemented a voluntary, saves protection scheme. The objective of the scheme was to promote competition through removing the unintended competitive advantage of retailers whose customer's initiate a switch.
- 1.1.2 During the Code amendment process, Trustpower Limited (**Trustpower**) raised concerns that implementing a restriction on a retailer's ability to save or win-back customers would not be in the best interests of the consumer and had not been proven to increase retail competition.
- 1.1.3 The 2017 post-implementation review of the saves protection scheme found:
 - a) no evidence that the scheme had either improved or harmed competition; and
 - b) that retailers had adapted to the limitations on saves by increasing win-backs and completing switches more quickly so they could effect win-backs more quickly.

2 The MDAG's consideration

- 2.1.1 The Authority has asked the Market Development Advisory Group (**the MDAG**) to investigate retail customer acquisition issues, including saves and win-backs, and to advise the Authority on whether there are problems that require further review.
- 2.1.2 The MDAG has subsequently released an Issues Paper¹ to gather information and feedback from stakeholders around whether there is a regulatory problem or market failure relating to customer acquisition, including saves and win-backs practices, and the switching process.

¹ Customer Acquisition, saves and win-backs: Issues Paper. A copy is available via the following link: <https://www.ea.govt.nz/development/work-programme/consumer-choice-competition/saves-and-win-backs/consultation/#c17077>

3 Trustpower's views

3.1.1 We welcome the opportunity to provide a submission to the MDAG on whether there are regulatory or market failures relating to customer acquisition and the switching process that create barriers to entry or reduce the ability of some retailers to compete.

3.2 Post-implementation review findings and our experience to date

3.2.1 The post-implementation review findings accord with our ongoing views around the voluntary saves protection scheme.

3.2.2 We originally did not consider that incorporating a restriction on a retailer's ability to save or win-back a customer they lose would have any impact on retail competition overall, but rather result in a change in the approach adopted by retailers. This has proven to be the case.

3.2.3 The review findings are also consistent with our experience being part of the scheme. That is, there was no direct value in being part of the scheme as it simply meant that more customers are "won-back" after the switch occurred. It was for this reason we opted back out of the scheme after 12 months.

3.2.4 We have however found that the saves protection scheme provides the indirect benefit of increasing transparency of reported activity around customer acquisitions and switching. This has provided a better idea of:

- a) the level of effort for retailers; and
- b) the level of consumer engagement

in the customer acquisition and switching processes.

3.3 No need for further changes to the saves protection scheme

3.3.1 In our experience there are not any regulatory or market failures that arise as part of the current customer acquisition and switching processes that require addressing.

3.3.2 We note that in the past the question of whether the scheme should be expanded to cover win-backs has been raised.

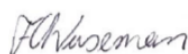
3.3.3 We do not consider that there is any need to put in place further restrictions on a retailers ability to win-back customers, via extending the current arrangements.

3.3.4 Expanding the scheme to cover win-backs would be to the detriment of consumers given the current dynamic retailer environment where new offers are being developed all the time. Put simply, any restrictions on win-backs would mean that customers are missing out on receiving new offers for a period of time.

3.3.5 Our responses to the specific questions outlined in the Issues Paper are provided in Appendix 1.

For any questions relating to the material in this submission, please contact me on 027 549 9330.

Regards,



FIONA WISEMAN
SENIOR ADVISOR STRATEGY AND REGULATION

Appendix 1: Responses to the MDAG's questions

Question		Response
<p>1. Do some retailers have a distinct win-back advantage which others do not have and cannot ever have?</p>		<p>The retail electricity market is highly competitive and in a highly competitive market one would expect some retailers to simply be better than others, thereby having a distinct win-back advantage.</p> <p>In our experience there are not any regulatory or market failures that arise as part of the current customer acquisition and switching processes that require addressing.</p>
	<p>i. What sorts of strategies do acquiring retailers have to defend against win-backs and how cost-effective are they?</p>	<p>There are a number of strategies which a particular retailer can use to defend against win-backs. It is up to each retailer to decide which approach to take and assess whether it is cost-effective.</p>
	<p>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?</p>	<p>Retailers have the option to enforce contractual terms should they deem it appropriate. This purely a commercial decision for a retailer.</p> <p>There may be instances where small-debts from customers are left unpaid to retailers, but this is neither new problem nor a regulatory or market failure. Retailers make a pragmatic decision, through a cost benefit analysis, as to whether or not to enforce contracts. It will also dependent on a retailers overall acquisition and retention strategy, i.e. some retailers may expressly market themselves as having no exit fees as this may be considered by a segment of the market to be advantageous.</p>
	<p>iii. Does early switch notification give an</p>	<p>Win-backs do not rely on early switch notifications. Any</p>

	<p>undue advantage to retailers seeking to win-backs customers?</p>	<p>advantages from early-switch notification are mitigated by opting into the save protection scheme.</p> <p>We do not consider that there is any need to put in place further restrictions on a retailers ability to win-back customers, via extending the current arrangements.</p>
<p>2. Are consumers frequently prompted into making decisions when they switch or switch back that are not in their best interests?</p>		<p>There is no evidence that this is a problem. There are existing protections for customers (for example, cooling off periods). Should any decisions be made that are not in a customers' best interest there are reasonable methods of addressing these errors.</p>
	<p>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?</p>	<p>Although we are aware that on occasions customers may make mistakes around churning in the heat of the moment, it is not possible to record these details. We think a robust and comprehensive compliance framework (e.g. cooling off periods, clear communication of pricing including price freezes, correct exit fees) is the primary requirement to ensure this risk is minimized.</p>
	<p>ii. Is there any evidence that retailers have engaged systematically in proscribed marketing behaviour?</p>	<p>We are not aware of any evidence of retailers engaging systematically in proscribed marketing behaviour.</p>
	<p>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?</p>	<p>There is no clear indication that current regulatory provisions are problematic.</p> <p>We consider that any differing treatment of saves and win-backs are a potential interpretation issue of the requirements relating to cooling off periods rather than regulatory issue.</p>
	<p>iv. What are the implications (if any) for</p>	<p>A competitive market is reflected in having a variety of</p>

	consumers of saves and win-backs?	propositions and the ability of consumers to choose between the most desirable options. Given the current dynamic retailer environment, where new offers are being developed regularly, saves and win-backs add to consumers plentiful options to choose from.
3. Are there any further issues related to saves and win-backs that we have not considered?		We are not aware of any further issues.