

Raising consumer awareness of Utilities Disputes and Powerswitch

Decisions and reasons paper

Decision

1 September 2020



Executive summary

Most consumers are not aware of Utilities Disputes and Powerswitch

New Zealand has a competitive electricity market with a variety of choices for consumers. However, Authority research has found most consumers are not aware of Powerswitch and Utilities Disputes.¹ Consumer awareness and understanding is an important aspect of a competitive market. With more information, consumers are empowered to make good choices and with more choice comes increased pressure on retailers to improve their products and services.

The Electricity Price Review (EPR) highlighted limited awareness of both Utilities Disputes and Powerswitch. Utilities Disputes provide a free and independent dispute resolution service to help consumers resolve electricity, gas, and water complaints. This service gives consumers a simple channel through which they can seek support to resolve an issue with their electricity provider. Powerswitch is a free and independent price comparison website which helps consumers work out the best power company and pricing plan for their specific needs.

Utilities Disputes and Powerswitch give consumers simple and accessible channels to get more information about their electricity options. These services empower and enable consumers to make choices and to act. This contributes to a more efficient and competitive electricity industry.

The Authority consulted on a proposal to increase consumer awareness of Utilities Disputes and Powerswitch

Between 21 January and 16 March 2020, the Authority engaged with industry and consumers on a proposal to amend the Electricity Industry Participation Code 2010 (Code) to increase consumer awareness of Utilities Disputes and Powerswitch.

The proposal was to require retailers, and distributors that direct bill consumers, to provide clear and prominent information about Utilities Disputes and Powerswitch on their website and in all consumer communications.

This wording of this proposal aligned with the EPR recommendation.

The Authority has taken into consideration feedback from stakeholders and amended its proposal

The Authority has considered feedback and made changes to the initial proposal. These changes align with the intent of the EPR recommendation, improving outcomes for consumers, while also reducing the costs for retailers and distributors to deliver this change.

The Authority has decided to:

- (a) require all retailers and distributors to provide clear and prominent information about Utilities Disputes:
 - (i) on their website
 - (ii) when responding to queries from consumers
 - (iii) in outbound communications directed to consumers about electricity services and bills

¹ Based on two consumer surveys conducted in March 2020, the Authority estimates consumer awareness of Utilities Disputes is between 11% and 14% and consumer awareness of Powerswitch is between 42% and 48%.

- (b) require retailers that trade at a residential ICP recorded on the registry to provide clear and prominent information about Powerswitch:
 - (i) on their website
 - (ii) in outbound communications to residential consumers about price and service changes
 - (iii) to residential consumers on an annual basis
 - (iv) in outbound communications directed to residential consumers about the consumer's bill
- (c) provide guidance around how participants can comply with these requirements.

This decision acknowledges the views of retailers and distributors who engaged with us throughout the consultation process. We are confident that through this code amendment we will increase consumer awareness of Utilities Disputes and Powerswitch which will result in an empowered consumer base. This will create a more efficient and competitive electricity industry in New Zealand.

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2 Authority's decision

- 2.1 The Electricity Authority (Authority) has decided to amend Part 11 of the Electricity Industry Participation Code (Code). The amendment will:
- (a) require all retailers and distributors to provide clear and prominent information about Utilities Disputes:
 - (i) on their website
 - (ii) when responding to queries from consumers
 - (iii) in outbound communications directed to consumers about electricity services and bills
 - (b) require retailers that trade at a residential ICP recorded on the registry to provide clear and prominent information about Powerswitch:
 - (i) on their website
 - (ii) in outbound communications to residential consumers about price and service changes
 - (iii) to residential consumers on an annual basis
 - (iv) in outbound communications directed to residential consumers about the consumer's bill
 - (c) provide guidance around how participants can comply with these requirements.
- 2.2 Where there are a series of related communications, the participant will only need to provide the information in one of the communications.² (See more in clause 5.12 below.)
- 2.3 There will be a six-month transition period for affected participants to update their systems and documents to comply with these requirements.
- 2.4 A copy of the updated Code amendment is attached as Appendix A.
- 2.5 The net quantifiable benefit over 10 years is conservatively estimated to be between -\$1.13 million, under a high implementation cost / low benefit scenario, to \$750,000, under a low implementation cost / high benefit scenario.³ On the balance of probabilities, we expect the amendment to have a positive net benefit, considering both static efficiency and dynamic efficiency benefits and costs.

² For example, if the information is already clear and prominent in the invoice communication received by the consumer, reminder notices about the invoice will not be required to include information about Utilities Disputes and Powerswitch.

³ At a 6% discount rate.

3 About this paper

- 3.1 On 21 January 2020, we published a consultation paper titled, *Raising consumer awareness of Utilities Disputes and Powerswitch services*.⁴ We consulted on a proposal to amend the Code to require retailers and distributors that direct bill consumers to provide clear and prominent information about Utilities Disputes and Powerswitch on their website and in all customer communication. This consultation aligned with the Electricity Price Review (EPR) recommendation C2
- 3.2 The proposed Code amendment was supported by guiding principles and examples to assist participants to comply with the Code.
- 3.3 The proposed Code amendment sought to address the following problems:
- (a) consumer awareness of Utilities Disputes is low; and
 - (b) consumer awareness of Powerswitch could be higher
- 3.4 The proposed amendment was intended to deliver a sustained increase in the level of awareness of the Utilities Disputes and Powerswitch services. Increased awareness of these services will contribute to improved consumer outcomes and increased consumer confidence in the electricity market.
- 3.5 This paper sets out the Authority's decision to deliver a Code amendment that aligns with the intention of the EPR recommendation and explains the changes to the Authority's position as a result of the January 2020 consultation.

⁴ <https://www.ea.govt.nz/development/work-programme/consumer-choice-competition/raising-consumer-awareness-of-utilities-disputes-and-powerswitch-services/consultation/#c18315>

4 What we consulted on

4.1 The Authority consulted on a proposed Code amendment that would require retailers and distributors who directly bill consumers to provide clear and prominent information on their websites and all customer communications about:

- (a) the dispute resolution scheme identified under clause 3 of Schedule 4 of the Electricity Industry Act 2010 (currently Utilities Disputes).
- (b) the Authority prescribed electricity plan comparison service (currently Powerswitch).

4.2 This proposed Code amendment was supported by guiding principles referred to in the Code. These guiding principles:

- (a) set out the key attributes of the communication (clear, prominent, simple, consistent and appropriate); and
- (b) outlined the situations and examples where participants would need to comply with the requirements of the Code.

4.3 As part of the consultation processes the Authority:

- between 21 January 2020 and 3 March 2020 - ran a formal consultation process seeking feedback on the proposal
- contacted a random sample of 15 retailers who did not make a formal submission, seeking to understand why they did not submit and invited them to provide feedback on the proposal⁵⁶
- between 4 and 16 March 2020 - engaged with consumers via two consumer surveys:
 - a long-form UMR Research survey of 1,000 consumers from an existing UMR consumer panel that is representative of New Zealand
 - a short-form social media survey of 659 consumers using targeted advertising to obtain responses from a selection of consumers targeted to be representative of New Zealand.

Formal consultation

4.4 The Authority received 24 submissions on the proposal. Eleven from retailers, five from distributors, three from switch service providers, three from consumer representatives and two from industry advocates. Large, medium and small retailers were all represented.

⁵ The proposal consulted would impact all 126 registered electricity retailers, not just those retailers that interact with the clearing manager.

⁶ Two retailers provided formal written feedback as a result of this contact. This feedback has been treated as a formal submission.

Table 1: Summary of submitters

Role	Number of submitters
Industry advocate	2
Large distributor ⁷	5
Large retailer ⁸	6
Medium retailer ⁹	3
Small retailer ¹⁰	2
Switch service provider	3
Consumer representative	3

4.5 Two submitters chose to provide written feedback after being contacted directly to help the Authority understand why they chose not to submit on this proposal.

4.6 The consultation paper and submissions can be found on the Authority's website: <https://www.ea.govt.nz/development/work-programme/consumer-choice-competition/raising-consumer-awareness-of-utilities-disputes-and-powerswitch-services/consultation/#c18315>.

4.7 For more information on submitters and the submissions received please refer to the summary of submissions document that can be found on the Authority's website: <https://www.ea.govt.nz/development/work-programme/consumer-choice-competition/raising-consumer-awareness-of-utilities-disputes-and-powerswitch-services/consultation/>

Consumer engagement

4.8 The Authority engaged with consumers via two surveys. A UMR consumer panel survey and a Stickybeak branded survey using social media advertising to target a demographic representative of New Zealanders.

4.9 A dual survey approach was taken to increase the overall number of responses to the Authority and to provide insights into the use of social medial surveys as a tool for consumer engagement. Both surveys were run by UMR Research Limited.

4.10 A combined survey report containing information from both surveys is available on the Authority website at: <https://www.ea.govt.nz/development/work-programme/consumer-choice-competition/raising-consumer-awareness-of-utilities-disputes-and-powerswitch-services/consultation/>

4.11 Insights from the consumer surveys are included in the summary of submissions document that can be found on the Authority's website: <https://www.ea.govt.nz/development/work-programme/consumer-choice->

⁷ Distributors with over 10,000 ICPs

⁸ Retailers with over 100,000 ICPs

⁹ Retailers with between 1,000 ICPs and 100,000 ICPs

¹⁰ Retailers with less than 1,000 ICPs

UMR consumer panel survey

- 4.12 The UMR consumer panel survey was an online survey of a representative sample of 1,000 New Zealanders aged 18 years and over. The survey ran from 6 to 13 March 2020. Consumers were selected from an established UMR consumer panel.
- 4.13 The UMR consumer panel survey consisted of 38 detailed questions across topics important to the Authority. 19 questions focussed on obtaining consumer insights into the levels of consumer awareness of Utilities Disputes and Powerswitch, and views on ways to improve consumer awareness of these services.

Stickybeak-branded social media survey

- 4.14 The Stickybeak-branded survey was online survey of 659 consumers using targeted social media advertising to obtain results from a representative sample of New Zealanders. The survey ran from 4 to 16 March 2020.
- 4.15 The Stickybeak survey consisted of seven questions focussed on obtaining consumer insights into the level of consumer awareness of Utilities Disputes and Powerswitch and how power companies could let consumers know about these services.

5 What changed as a result of consultation

- 5.1 The Authority considered the feedback from stakeholders and consumers which resulted in us amending the initial proposal. The intention of the EPR recommendation is still achieved. More detail on the Authority's response and actions taken as a result of the key themes can be found in Appendix B.
- 5.2 A copy of the updated Code amendment can be found in Appendix A.

The Authority's decision

- 5.3 To improve consumer awareness of Utilities Disputes and Powerswitch the Authority will:
 - (a) require all retailers and distributors to provide clear and prominent information about Utilities Disputes:
 - (i) on their website
 - (ii) when responding to queries from consumers
 - (iii) in outbound communications directed to consumers about electricity services and bills
 - (b) require retailers that trade at a residential ICP recorded on the registry to provide clear and prominent information about Powerswitch:
 - (i) on their website
 - (ii) in outbound communications to residential consumers about price and service changes
 - (iii) to residential consumers on an annual basis
 - (iv) in outbound communications directed to residential consumers about the consumer's bill
 - (c) provide guidance around how participants can comply with these requirements.

Summary of key changes made to proposal

- 5.4 Following consultation and consumer engagement the Authority has made key changes to the proposed Code amendment. These changes are expected to improve outcomes for consumers while reducing implementation costs to participants.
- 5.5 These changes are covered below and summarised in Table 2 below.

Table 2: Summary of changes to proposal

Change	Reason
Obligation now applies to a sub-set of communications instead of all communications.	Communication will be focussed on situations where consumers should be made aware of the services. For example, in communications directed to residential consumers about their bill. The obligation does not apply to all communications. For example, when the retailer is sending out a welcome pack to a new customer.
Separate obligations for communication around Utilities Disputes and Powerswitch.	Enables obligations to be set independently of each other and respond to different requirements for each service.
Requirement to provide clear and prominent information about Utilities Disputes will apply equally to distributors and retailers.	The amended scope of the obligation means only distributors communicating directly to consumers about services and bills will be required to include information about Utilities Disputes in the communication.
Requirement to provide clear and prominent information about Powerswitch will only apply to communications to residential consumers.	Powerswitch is designed to support residential consumer switching.
Requirement to provide clear and prominent information about Powerswitch will only apply to contestable connections.	Powerswitch is only relevant for consumers on contestable connections where there is the opportunity to switch retailers.
A revised cost-benefit analysis has been performed.	To more comprehensively assess the impact the changes to the proposal will have on consumers.
Guidance on how to comply with the Code will be less prescriptive.	Participants already need to consider guidance and clarifications when complying with the Code.

Obligation now applies to a sub-set of communications

- 5.6 Submitters raised concerns around the cost and complexity of providing clear and prominent information about Utilities Disputes and Powerswitch across all consumer communications and suggested the scope should be reduced.
- 5.7 The Authority agrees it would be more efficient to limit the requirement to a sub-set of all communications.
- 5.8 The Authority considers it is appropriate to specify the nature of the communication (why the communication is being sent) rather than the form of the communication (such as e-mail, telephone or letters).
- 5.9 The Authority also considers that a communication may extend into a series of related messages or exchange of information between the consumer and participant. In these situations, it is appropriate that the consumer receive clear and prominent information about Utilities Disputes and Powerswitch at least once during the exchange.

The Authority has amended its proposal to specify the nature of the communication

- 5.10 The Authority is limiting the nature of the communication to:
- when responding to queries from consumers
 - outbound communication directed to consumers about price and service
 - outbound communication to residential consumers about price and service changes
 - to residential consumers on an annual basis
 - outbound communication directed to consumers about their bill.
- 5.11 These are split between Powerswitch and Utilities Disputes. This allocation is reflected in the Code amendment in Appendix A.
- 5.12 Where there are a series of communications, the participant will only need to provide the information in one of the communications. For example, if the information:
- (a) is already clear and prominent in the invoice communication received by the consumer, reminder notices about the same invoice will not be required to include information about Utilities Disputes and Powerswitch;
 - (b) has been delivered in a clear and prominent manner in the course of any initial telephone conversation with the consumer, it does not need to be provided again in the course of any further conversations in relation to the same matter.

For simplicity, participants may choose to always include this information in the first (or all) communications.

Separate obligations for Utilities Disputes and Powerswitch

- 5.13 Submitters proposed that different approaches should be taken to address the problems of consumer awareness of Utilities Disputes and Powerswitch.
- 5.14 The level of consumer awareness and reasons consumers will want to access these services differs. Grouping the two services within one obligation is inefficient and may confuse consumers if the messages are combined or if the message is misinterpreted by consumers.

The Authority has updated the requirement to set separate requirements for making consumers aware of Powerswitch and Utilities Disputes

- 5.15 The Authority has re-drafted the Code to set separate requirements for making consumers aware of Utilities Disputes and Powerswitch.
- 5.16 This allows obligations to be set independently for making consumers aware of each service. This will simplify the implementation of changes and reduce the number of communications affected by the Code amendment.

Requirement to provide clear and prominent information about Utilities Disputes will apply equally to distributors and retailers

- 5.17 Some submitters raised concerns that the Code did not require distributors to provide clear and prominent information about Utilities Disputes to the same level as retailers despite both retailers and distributors being required under the Act to be members of the dispute resolution scheme.
- 5.18 Distributors are increasingly engaging with their consumers. There are concerns distributors work to engage more with consumers may generate complaints. Consumers should be aware of the role Utilities Disputes plays in helping resolve these complaints.
- 5.19 The Authority agrees it is appropriate to place the obligation to provide clear and prominent information about Utilities Disputes on retailers and distributors. This is because the reduced scope limits the nature of the communication to billing and service so will primarily impact retailers and distributors that directly bill consumers.

The Authority has updated the requirement to provide prominent information about Utilities Disputes to apply equally to distributors and retailers

- 5.20 The Authority is amending the Code to require retailers and distributors to provide clear and prominent information about Utilities Disputes.
- 5.21 Because the scope of communications has been limited to:
- (i) on their website
 - (ii) when responding to queries from consumers
 - (iii) in outbound communications directed to consumers about electricity services and bills

the Authority does not expect this requirement to be a significant burden for distributors that do not direct bill consumers. This requirement will deliver increased consumer awareness of the Utilities Disputes service.

Requirement to provide clear and prominent information about Powerswitch will only apply to communications to residential consumers

- 5.22 Some submitters considered that the requirement to provide information about Powerswitch should only apply to residential consumers.
- 5.23 The Authority agrees that Powerswitch is currently designed to help inform residential consumers and increasing awareness of this service to non-residential consumers will not increase residential consumer awareness of this tool.

The Authority has updated the requirement to provide clear and prominent information about Powerswitch to only apply to communication with residential consumers

- 5.24 The Authority has updated the requirement regarding the provision of information about Powerswitch to only apply to communication with residential consumers.
- 5.25 This will focus communications to the consumers that will benefit from increased awareness of the Powerswitch.

Requirement to provide clear and prominent information about Powerswitch will only apply to contestable connections

- 5.26 One submitter considered it inappropriate to provide information about Powerswitch to consumers not on contestable connections so are unable to benefit from switching retailers.
- 5.27 The Authority agrees that providing information about Powerswitch to this segment of consumers would be confusing and Powerswitch is only of benefit to consumers who already have a choice of retailer for their connection.

The Authority has updated the requirement to provide clear and prominent information about Powerswitch to only apply to connections recorded on the registry

- 5.28 The Authority has updated the requirement regarding the provision of information about Powerswitch to only apply to communication with consumers who have a connection recorded on the registry.
- 5.29 The registry contains information about all contestable connections in New Zealand and limiting the scope of the requirement to these connections will focus communications to the consumers that can benefit from increased awareness of the Powerswitch.

Obligation to periodically promote Powerswitch

- 5.30 Submitters proposed alternative approaches to the Code amendment identified in the consultation paper.
- 5.31 The Authority considers that periodic promotion, as well as including information on Powerswitch in price and service change notifications, will increase consumer awareness of Powerswitch. The Authority has amended its proposal to include periodic promotion of Powerswitch, and during plan and service change notifications
- 5.32 The Authority is requiring retailers to provide clear and prominent information about Powerswitch:
- on their website
 - in outbound communications to residential consumers about price and service changes
 - in outbound communications to residential consumers about the consumers bill
 - annually¹¹
- 5.33 The Authority expects this will help consumers access Powerswitch when they are most likely to be thinking about changing their power plan or provider.

¹¹ This information can be provided separately or as part of a planned communication such as its annual promotion of the low fixed charge tariff option under clause 12 of the Electricity (Low Fixed Charge Tariff Option for Domestic Consumers) Regulations 2004

A revised cost-benefit analysis has been performed

- 5.34 In the consultation paper the Authority simplified the cost benefit analysis, on the basis that the merits of the proposal were considered during the Electricity Price Review process consultation paper.
- 5.35 Submitters raised concerns that the costs in the proposal were understated, and there would not be any net economic benefit to pursuing the proposal as written.

The Authority has conducted a more comprehensive cost-benefit analysis of the revised proposal

- 5.36 Given submitters' concerns that the original cost-benefit analysis was over-simplified, the Authority has undertaken a more comprehensive cost-benefit analysis for the final decision.
- 5.37 The cost-benefit analysis is covered in section 6 and Appendix C.

Guidance on how to comply with the Code will be less prescriptive

- 5.38 Submitters raised concerns about the prescriptive nature of the guiding principles. The principles were considered confusing and contradicted the Code.
- 5.39 Concerns were also raised with:
- the way "prominent" was described
 - how the Authority was creating documents that would have a legal standing in the Code.
- 5.40 The Authority agrees that the Code should be written in a way that allows regulated participants to achieve the outcomes without specifying the process that participants must follow.
- 5.41 Additionally, the Authority considers that participants should be able to apply a plain English interpretation to the definitions of 'clear' and 'prominent' to communications.¹²

The Authority has updated the requirement to no longer require participants to have regard to any advice provided

- 5.42 The Authority has removed the proposed clause 11.30A(3) that explicitly stated participants must have regard to advice the Authority may publish. This requirement is unnecessary because participants should always have regard to guidance provided by the Authority when considering how to comply with the Code.
- 5.43 The Authority still intends to issue guidance to provide insight into the intent of the Code and to support consistent application and interpretation of it.

¹² The Cambridge Dictionary (<https://dictionary.cambridge.org/dictionary/>) includes a definition of clear as *easy to understand, hear, read, or see*. It also includes a definition of prominent as *something that is in a prominent position, can easily be seen or noticed*

6 Promotion of statutory objective

6.1 The Authority's statutory objective is to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers.

The Code amendment promotes competition and efficiency

6.2 After considering all submissions on the Code amendment proposal, the Authority believes the final Code amendment will promote retail competition and the efficient operation of the electricity industry, for the long-term benefit of consumers.

6.3 The Authority expects the Code amendment will not have a material effect on the reliable supply of electricity.

The amendment's benefits are expected to exceed its costs

6.4 The Authority has assessed the economic benefits and costs of the Code amendment and expects it is more likely than not to deliver a net economic benefit.

6.5 Table 3 summarises the expected economic benefits and costs of the Code amendment that we have quantified. In summary, the present value of the amendment's estimated net quantifiable benefit over 10 years ranges from approximately -\$1.13 million, under a high implementation cost / low benefit scenario, to perhaps \$750,000, under a low implementation cost / high benefit scenario.¹³

6.6 It is reasonable to expect the Code amendment's implementation costs and benefits will fall somewhere in between these two extremes. On the balance of probabilities, we expect the amendment to have a positive net benefit, considering both static efficiency and dynamic efficiency benefits and costs. In our view the benefits from more vigorous competition amongst electricity retailers will have significant dynamic efficiency benefits, which will outweigh any net static efficiency cost associated with implementing the Code amendment and any dynamic efficiency costs from a possible fall in competition amongst comparator websites.

6.7 We have chosen 10 years as a reasonable period over which to assess the benefits and costs of the Code amendment. This is because we expect significant innovation in the retail electricity market over the next decade. This innovation will materially affect the assessed benefits and costs of the amendment. Examples of the type of innovation we anticipate include:

- (a) greater bundling of electricity with other services or products
- (b) increased consumer uptake of emerging technologies such as solar photovoltaics and batteries
- (c) third party agents becoming more prevalent.

¹³ At a 6% discount rate.

Table 3: Summary of the Code amendment's benefits and costs

Benefit / Cost	Present value amount
The benefit from consumers expending less effort to resolve complaints because of improved complaint handling by retailers and distributors	\$230,000 Range: \$210,000 – \$250,000
The benefit, in terms of reduced deadweight loss, from consumers moving to a lower electricity tariff	Negligible benefit (<\$1,000)
The benefit from consumer switching placing downward pressure on electricity tariffs	\$700,000 Range: \$660,000 – \$750,000
The benefit, in terms of reduced deadweight loss, from more consumers having their complaints resolved	No estimate calculated, but expected to range from thousands of dollars (eg, \$1,000 – \$10,000) to many hundreds of thousands of dollars (eg, \$500,000 – \$1,000,000)
Dynamic efficiency benefits from more vigorous competition amongst electricity retailers	Not quantified, but expected to be significant
The cost to implement the Code amendment	\$520,000 to \$1.4 million
Operating costs for retailers and Utilities Disputes from greater awareness of Utilities Disputes	\$570,000 Range: \$520,000 – \$630,000
Operating costs for the Authority from using a consumer advisory council in a review of the Code amendment	\$90,000 Range: \$88,000 – \$92,000
Dynamic efficiency costs from a possible fall in competition amongst comparator websites	Not quantified, but expected to be material, although less material than dynamic efficiency benefits from more vigorous competition amongst retailers
Electricity Authority	Negligible cost (<\$1,000)
Utilities Disputes	Negligible cost (<\$1,000)
Consumer NZ	Negligible cost (<\$1,000)
Calculated net benefit	-\$1.13 million to -\$250,000
Calculated net benefit with addition of reduced deadweight loss from more complaints resolved	-\$1.13 million to \$250,000 – \$750,000

Notes: 1. Upper end of range uses 4% discount rate
Lower end of range uses 8% discount rate.

6.8 A more detailed explanation of the costs and benefits of the Code amendment is available in Appendix C.

Sensitivity testing

6.9 To assess the impact of several assumptions on the cost of the Code amendment, we have considered the following sensitivities:

- (a) Consumers make 11,000 complaints to electricity providers in the first year of the CBA assessment period, rather than 22,000 complaints.¹⁴
- (b) the cost for an electricity provider to resolve a complaint internally is:
 - (i) \$1,500
 - (ii) \$1,000
 - (iii) \$500.¹⁵

6.10 Table 4 shows the effect of each of these sensitivities on the estimated net benefit of the Code amendment.

Table 4: Effect of sensitivities on the Code amendment's estimated net benefit

Sensitivity	Calculated net benefit	Calculated net benefit with addition of reduced deadweight loss from more complaints resolved
Consumers make 11,000 complaints to electricity providers in the first year of the CBA assessment period, rather than 22,000 complaints	-\$0.84 million to \$40,000	-\$0.84 million to \$1.04 million
The cost for an electricity provider to resolve a complaint is \$1,500	-\$1.1 million to -\$220,000	-\$1.1 million to \$780,000
The cost for an electricity provider to resolve a complaint is \$1,000	-\$1.05 million to -\$170,000	-\$1.05 million to \$830,000
The cost for an electricity provider to resolve a complaint is \$500	-\$1 million to -\$120,000	-\$1 million to \$880,000

Notes: 1. Using a 6% discount rate.

The amendment is consistent with regulatory requirements

6.11 The Code amendment is consistent with the requirements of section 32(1) of the Electricity Industry Act 2010.

6.12 The amendment is also consistent with the Authority's Code amendment principles:

- (a) Principle 1: The amendment is lawful.

¹⁴ Refer to paragraphs C.53 to C.56.

¹⁵ Refer to paragraph C.66.

- (b) Principle 2: The amendment will improve the economic efficiency of the electricity industry for the long-term benefit of consumers.
- (c) Principle 3: The Authority has used a quantitative cost-benefit analysis to assess long-term net benefits for consumers.

7 Interdependencies with other EPR recommendations

- 7.1 This decision paper forms part of a wider programme of work to investigate and address recommendations made by the Electricity Price Review.¹⁶
- 7.2 Linkages between the decision to require retailers and distributors to provide clear and prominent information about Utilities Disputes and Powerswitch and related EPR initiatives are covered below.

Letter from minister stating expectations

- 7.3 On 5 December 2019 the Minister of Energy and Resources (Minister) wrote to the Authority setting out the strategic and performance expectations for the Electricity Authority in relation to the 2020/21 financial year and beyond.
- 7.4 The decision in this paper directly aligns with the Authority and Minister expectations that the initial work to address the EPR C2 recommendation to increase consumer awareness of Utilities Disputes and Powerswitch services will be complete by 2020/2021.¹⁷

EPR Recommendation A1: Establish Consumer Advisory Council (CAC)

- 7.5 EPR recommendation C2 make a reference to the CAC. The CAC is intended to strengthen the consumer voice in the electricity sector.
- 7.6 The CAC is being established by MBIE.
- 7.7 The timing of the establishment of the CAC does not align with the delivery of this proposal, and we used alternative forms of consumer engagement to ensure the consumer voice was heard.
- 7.8 Once established there will be an opportunity for the CAC to provide further input into refining the Code (if required).

EPR Recommendation A2: Ensure regulators listen to consumers

- 7.9 The Authority has reviewed and reset its organisational strategy, and this is reflected in the Statement of Intent for 2020 - 2024.
- 7.10 The strategy influences how we engage with household, small business and industrial consumers as well as all industry participants.
- 7.11 This influenced how we engaged with consumers and stakeholders on this recommendation and included:
 - trialling the use of social media advertising and survey tools for consumer engagement

¹⁶ <https://www.mbie.govt.nz/building-and-energy/energy-and-natural-resources/energy-consultations-and-reviews/electricity-price/>

¹⁷ <https://www.ea.govt.nz/about-us/who-we-are/responsible-minister/>

- follow up with some non-submitting retailers to understand reasons for not engaging on the proposal.

EPR Recommendation F2: Give the Electricity Authority an explicit consumer protection function

- 7.12 The Authority is actively engaging with MBIE on the required legislative programme to give the Authority a consumer protection function.
- 7.13 Increasing consumer awareness of Utilities Disputes aligns with the goals of consumer protection as Utilities Disputes can investigate complaints about retailers and distributors, including issues regarding how pricing plans and tariffs are being applied to consumers bills.

EPR Recommendation C1: Merge the Electricity Authority and Consumer NZ price comparison websites

- 7.14 The Electricity Authority and Consumer NZ price comparison websites were merged into Powerswitch in December 2019. The Powerswitch site will be enhanced and developed on an ongoing basis to promote the benefits of comparing and switching retailers.
- 7.15 Increasing consumer awareness of Powerswitch through retailer websites and consumer communications will ensure more customers are aware of and access the Powerswitch site.

8 Implementation and next steps

Code will come into force on 1 April 2021

- 8.1 The Code will come into force on 1 April 2021. This implementation date is approximately six months after the publication of the decision. A 1 April 2021 implementation date gives participants time to make appropriate changes to their systems and printed stock orders as needed.
- 8.2 We expect participants to implement changes necessary to comply with the new Code requirements gradually up until 1 April 2021.

Guidance will be provided to support implementation

- 8.3 The Authority will provide guidance on its interpretation of the Code amendment to support consistent implementation of the requirements across the industry.
- 8.4 This guidance will not replace the need for participants to make decisions on how to implement the Code requirements within their existing systems and processes.
- 8.5 This guidance will step through the aspects of the clauses to help participants understand the Authority's reasons for each aspect of the clause and how compliance could be achieved. The guidelines are expected to cover:
- meaning of clear and prominent
 - provision of information on websites
 - provision of information in consumer communications
 - provision of information annually.

Support from Utilities Disputes and Powerswitch to support implementation

- 8.6 Utilities Disputes and Powerswitch will provide support for the practical aspects of implementing the requirements such as providing standardised digital assets such as logos and standardised text that can be included on websites and relevant communications.

Review of the Code amendment and future enhancements

Monitoring of effectiveness of the Code

- 8.7 The Authority will work with consumers, the CAC and stakeholders to review the effectiveness of this change.
- 8.8 This work will help inform what enhancement (if any) are necessary to achieve the goal of increased consumer awareness of Utilities Disputes and Powerswitch.
- 8.9 Any changes to the Code will follow the standard process for amending the Code.

Monitoring of compliance with the Code

- 8.10 Compliance with the Code requirement will be primarily through the participant audit regime. Auditors will assess participants level of compliance during regular audits.
- 8.11 We also encourage participants to test the effectiveness of their communications with consumers and consumer groups. This will help participants demonstrate they are ensuring the information provided is clear, prominent and achieves the goal of increasing consumer awareness of Utilities Disputes and Powerswitch.
- 8.12 Other monitoring tools such as self-reviews and ad-hoc checks will be employed as necessary.

Appendix A Approved Code amendment

Insert new clauses 11.30A to 11.30E in Part 11 of the Code:

11.30A Provision of information on dispute resolution scheme

- (1) Each **retailer** and **distributor** must provide information in the circumstances specified in subclauses (2) and (3) about the dispute resolution scheme identified under clause 3 of Schedule 4 of the Act.
- (2) The information required by subclause (1) must be clearly and prominently published on any website that—
 - (a) is maintained by, or on behalf of, the **retailer** or **distributor**; and
 - (b) deals with, describes or offers the supply of **electricity** or **line function services** by the **retailer** or **distributor**, or by an agent or related entity of the **retailer** or the **distributor**.
- (3) The information required by subclause (1) must also be clearly and prominently provided—
 - (a) as part of or accompanying any communication personalised for a specific named **consumer** (whether in print, electronic or other medium) from the **retailer** or **distributor**, or by an agent or related entity of the **retailer** or **distributor**, about—
 1. (i) billing or charges to, or payments owed by or made by, the **consumer** for the supply of **electricity** or **line function services**, including any invoice, request for payment or statement of account; or
 - (ii) the terms and conditions for the supply of **electricity** or **line function services** to the **consumer**, including the prices, tariffs, energy plan, price plan, tariff plan and terms of service for the **consumer**; and
 - (b) in association with or in the course of the **retailer** or **distributor**, or any person on behalf of the **retailer** or **distributor**, responding in any form, to any query from a **consumer**, including—
 - (i) in association with or in the course of any telephone call from a **consumer**; or
 - (ii) in any emails.
- (4) A **retailer** or **distributor** may meet the requirement in sub-paragraph (3)(b)(i) by providing the information as part of initial automatic answering systems or call holding systems, provided in each case the information is reasonably likely to come to the attention of the **consumer**.

11.30B Provision of information on electricity plan comparison site

- (1) Each **retailer** that supplies **electricity** at any **ICP** for which the relevant business classification code for the purposes of clause 9(1)(k) of Schedule 11.1 is “000000” or “Residential” must provide clear information in the circumstances specified in subclauses (2) to (4) about the electricity plan comparison website or other platform, as identified on the **Authority’s** website.

- (2) The information required by subclause (1) must be clearly and prominently published on any website that—
 - (a) is maintained by, or on behalf of, the **retailer**; and
 - (b) deals with, describes or offers the supply of **electricity** at any such **ICP** by the **retailer**, or by an agent or related entity of the **retailer**.
- (3) The information required by subclause (1) must also be clearly and prominently provided as part of or accompanying any communication personalised to a specific named **consumer** (whether in print, electronic or other medium) from the **retailer**, or by an agent or related entity of the **retailer**, about—
 - (a) billing or charges to, or payments owed or made by, the **consumer** for the supply of **electricity** at any such **ICP**, including any invoice, request for payment or statement of account; or
 - (b) the terms and conditions for the supply of **electricity** at any such **ICP**, including the prices, tariffs, energy plan, price plan, tariff plan and terms of service for the **consumer**.
- (4) The information required by subclause (1) must also be clearly and prominently provided at least once every calendar year to each customer whose **electrical installation** is connected to an **ICP** referred to in subclause (1).
- (5) If the **Authority** changes the web address of the electricity plan comparison website, establishes a new platform to perform the same purpose, or changes that platform or its location descriptor, each **retailer** must change the information published or provided under clause 11.30A to refer to the new address, platform or location descriptor as soon as reasonably possible and no later than 3 months from the date the change is notified on the **Authority's** website.

11.30C Specific requirements for information provided on websites and by other electronic means

The information provided under clauses 11.30A(2) and 11.30B(2)—

- (a) must be prominently provided on, or linked to, a page or pages of the **retailer's** or **distributor's** website, which a **consumer** seeking information on or in relation to the supply of **electricity** or **line function services**, or on the complaint processes of the **retailer** or **distributor**, is reasonably likely to view; but
- (b) does not need to be provided on every such page or every part, provided a **consumer** seeking such information is reasonably likely to come across the information in the course of visiting the website.

11.30D Limitations on required information disclosure under clause 11.30A or 11.30B

- (1) If a **retailer** or a **distributor** has provided the information required by clause 11.30A or 11.30B to a **consumer**—
 - (a) in a **consumer** communication under clause 11.30A(3)(a) or 11.30B(3), the **retailer** or **distributor** does not need to continue to provide the information in any subsequent **consumer** communication on the same matter; or

- (b) in response to any query under clause 11.30A(3)(b), the **retailer** or **distributor** does not need to continue to provide the information in any further responses to the same or related queries.
- (2) Under subclause (1):
- (a) an invoice and any request for payment, reminder notice, notice of late payment, demand, or disconnection notice in respect of the amount in the invoice are on the same matter; but
 - (b) invoices that apply to different periods are not on the same matter.

11.30E Meaning of “related entity”

For the purposes of clause 11.30A and 11.30B, the term “related entity” has the meaning set out in section 2(3) of the Companies Act 1993, where the reference in that section to “company” is read as if it referred to either a “company” or a “body corporate”.

Appendix B Authority response to key themes from submissions

- B.1 The tables below cover the Authority’s response to the key themes identified in the summary of submissions.¹⁸
- B.2 The consultation paper and individual submissions can be found on the Authority’s website: <https://www.ea.govt.nz/development/work-programme/consumer-choice-competition/raising-consumer-awareness-of-utilities-disputes-and-powerswitch-services/consultation/#c18315> .
- B.3 This Appendix responds to key themes from submissions. This is intended to help submitters understand what the Authority has considered when making its decision.

Theme 1: No pressing need to improve awareness of Utilities Disputes

- B.4 Some submitters believed there was no pressing need to improve the awareness of Utilities disputes. Reasons included a lack of evidence and debate on the need for consumers to know about Utilities Disputes prior to entering a dispute.

Theme	Submitters’ views	Our view	Decision
Current level of consumer awareness of Utilities Disputes is not a problem	<p>Some submitters considered that the current level of consumer awareness of Utilities Disputes is not a problem.</p> <p>Reasons for this included:</p> <ul style="list-style-type: none"> • Insufficient evidence of a problem with the current level of consumer awareness of Utilities Disputes • Submitters believing that the current level of awareness of Utilities Disputes is appropriate. 	<p>Consumer engagement found consumers:</p> <ul style="list-style-type: none"> • have a low level of awareness of Utilities Disputes • would benefit from increased awareness of Utilities Disputes <p>The Authority considers there is a significant segment of consumers that are not contacting Utilities Disputes because they are not aware of the service.</p> <p>This lack of awareness is a problem that the Authority should help resolve.</p>	<p>The Authority has not altered its decision based on this feedback</p>

¹⁸ The summary of submissions document is available at: <https://www.ea.govt.nz/development/work-programme/consumer-choice-competition/raising-consumer-awareness-of-utilities-disputes-and-powerswitch-services/consultation/>

Theme	Submitters' views	Our view	Decision
<p>Promotion of Utilities Disputes is already covered by Utilities Disputes rules</p>	<p>Some submitters raised concerns that the proposal duplicates Utilities Disputes scheme rules. This would mean there are obligations for achieving the same outcome with different enforcement regimes.</p>	<p>The Authority considers that duplication of the Utilities Disputes scheme rules does not create an issue. The Code contains some duplication or reference to the need to comply with other pieces of legislation.</p> <p>The scope of the Authority's requirement differs from the Utilities Disputes scheme rules and information is provided around how to ensure information is clear and prominent.</p>	<p>The Authority has not altered its decision based on this feedback</p>
<p>Consumers should only be made aware of Utilities Disputes when they have an unresolved complaint</p>	<p>Some submitters suggested that awareness should be targeted at consumers who have a valid complaint that has not been resolved by their provider.</p> <p>Concerns were also raised around providing an incentive for the consumer to 'resolution shop' rather than resolve the complaint with their provider.</p>	<p>The Authority considers that there is value in making consumers aware of this service regardless of whether they have an unresolved complaint with their provider.</p> <p>Our consumer engagement found that 39% of consumers had not raised a complaint with Utilities Disputes because they were not aware of this service.</p> <p>We believe that increased general consumer awareness will improve the efficiency of the electricity market. Consumers will be aware of their ability to access Utilities Disputes' service and that this is a free and independent service for consumers. This will empower consumers to make choices and act. This in-turn will increase consumer confidence that the electricity industry is meeting their needs.</p>	<p>The Authority has not altered its decision based on this feedback</p>

Theme 2: Limited support for increasing consumer awareness of Powerswitch

- B.5 Many submitters believe that the Authority should prioritise improving the functionality of Powerswitch over creating regulations to promote the service.
- B.6 Additionally, there was general support for increasing consumer awareness of plan comparison services, rather than specifically Powerswitch.

Theme	Submitters' views	Our view	Decision
Powerswitch is not fit for purpose	<p>Submitters raised concerns that Powerswitch has limited functionality that will not enable consumers to make fully informed decisions as to the total offering.</p> <p>Submitters consider that Powerswitch functionality should be enhanced before implementing regulations requiring retailers to make consumers aware of this service.</p>	<p>The EPR recommended merging Consumer NZ's and the Authority's price comparison websites into a single improved website.</p> <p>These websites merged into Powerswitch in December 2019. This combined site will be enhanced and developed further in the future.</p> <p>The Authority considers that Powerswitch is a necessary tool to empower consumers to make informed decisions.</p> <p>Deferring actions to increase consumer awareness will defer the benefits Powerswitch provides consumers.</p>	<p>The Authority has not altered its decision based on this feedback</p>
The current level of awareness of Powerswitch is appropriate	<p>Submitters did not consider there is a problem with consumer awareness of Powerswitch and the level of intervention proposed is not warranted.</p>	<p>Consumer engagement found moderate awareness of Powerswitch.</p> <p>Our engagement identified that a lack of awareness of Powerswitch was a barrier to using the service and there are benefits to increasing awareness of this service.</p> <p>The Authority agrees intervention is warranted but the level of intervention could be reduced.</p>	<p>The Authority has reduced the scope of communications from <i>all</i> communications to specified types of communications.</p>

Theme	Submitters' views	Our view	Decision
<p>The Authority is 'picking a winner' by mandating Powerswitch</p>	<p>Three plan comparison services submitted that the Authority's proposal will inhibit competition for plan comparison services, stifle innovation and may drive some plan comparison services out of business.</p>	<p>Consumer New Zealand has demonstrated it is able to successfully provide this service in the past and they have the necessary independence to credibly operate a publicly funded switching website. The Minister has requested we work with Consumer New Zealand to action the improvements recommended by the EPR.</p> <p>While there may be reduced competition in plan comparison services, the Authority expects the benefits to consumers, of increased competitive pressure through raised awareness of Powerswitch, will exceed the costs to consumers of fewer plan comparison services.</p>	<p>The Authority has not altered its decision based on this feedback</p>
<p>Consumer awareness of Powerswitch is an incumbent retailer problem</p>	<p>One submitter believed that the proposal should target consumers who have not switched.</p>	<p>The Authority believes that all consumers should be made aware of the tools available so they can make informed decisions about the best plan for their circumstances, this includes consumers who have switched before.</p> <p>These consumers may not have used plan comparison services to make informed switching decisions.</p>	<p>The Authority has not altered its decision based on this feedback</p>

Theme 3: Concerns raised about the validity of the cost benefit analysis

B.7 Submitters raised concerns about the robustness of the cost-benefit analysis and if increasing consumers aware of these services via the proposed mechanism will deliver a net benefit for New Zealanders.

Theme	Submitters' views	Our view	Decision
CBA costs are understated	Submitters raised concerns that the costs to implement the proposal are understated. Submitters raised concerns at the potentially hundreds of communications that would need to be reviewed and updated.	We agree that the scope of the proposed amendment was wide, and this could contribute to higher than predicted costs. We are proposing to reduce the scope of communications covered by the amendment and intend to conduct a revised CBA	The Authority has developed an updated CBA following changes as a result of consultation.
Utilities Dispute costs will be higher due to unresolved complaints	Submitters expect an increase in the number of complaints directed to Utilities Disputes without the provider first having an opportunity to resolve.	Utilities Disputes has reassured the Authority that it is equipped to manage the complaints process and any expected increase in consumer enquiries.	The Authority has not altered its decision based on this feedback
Proposal does not adequately explore alternatives such as a marketing campaign	Alternative mechanisms such as a marketing campaign were not covered by the consultation paper.	We consider that a marketing campaign will not provide a sustained increase in consumer awareness.	The Authority has not altered its decision based on this feedback
It is not clear what an 'adequate' level of consumer awareness is	The Authority did not state what an adequate level of consumer awareness looks like.	The focus of the proposal is on increasing consumer awareness. The Consumer Advisory Council can explore what levels of awareness mean that awareness is no longer a significant barrier preventing consumers from accessing the services.	The Authority has not altered its decision based on this feedback

Theme 4: There is a need to alter the proposal to make it fit for purpose

B.8 Submitters raised concerns that the proposal was impractical, and changes should be made to the proposal.

Theme	Submitters' views	Our view	Decision
<p>Alternative approaches suggested</p>	<p>Multiple specific alternatives proposed including:</p> <ul style="list-style-type: none"> • Awareness campaign • Periodic promotion of Powerswitch • Voluntary guidelines over regulation • Promotion of a portal • Deferring until consumer advisory council established • Longer implementation timeframe 	<p>We note that various alternatives are preferred however we consider that most alternatives will not deliver increased consumer awareness.</p> <p>We note that voluntary guidelines for the promotion of Utilities Disputes have been investigated by Utilities Disputes in the past. However, Utilities Disputes was unable to progress this with their members.</p> <p>Establishing a consumer portal is outside of the scope of this proposal and could be considered in the future.</p> <p>We agree that periodic promotion of Powerswitch, in line with price and plan change notification, is likely to be more effective than aligning with consumer awareness of the Utilities Disputes awareness requirements.</p>	<p>Authority has amended the scope of communications about Powerswitch to include periodic communications about price and service changes and as part of an annual review.¹⁹</p>

¹⁹ Clause 12 of the Electricity (Low Fixed Charge Tariff Option for Domestic Consumers) Regulations 2004 places an obligation on most retailers to annually promote their low fixed charge tariff options to domestic consumers.

Theme	Submitters' views	Our view	Decision
<p>Obligation should be for a subset of communications not all communications</p>	<p>Many submitters raised concerns that including all communications within scope of the proposal is too broad.</p> <p>Concerns were raised around the effectiveness of an intervention that would saturate consumers with messaging about the Utilities Disputes and Powerswitch services regardless for the reason for the communication.</p> <p>Alternative proposals to limit the scope of communications were provided, including giving the retailer discretion to decide which communications should be within scope.</p>	<p>We agree that including all communications is too broad.</p> <p>The Authority believes the requirement should be defined in terms of the nature of the communication rather than the form of the communication.</p> <p>This will keep the Code flexible in the face of communication changes while limiting the scope to situations where information about the Utilities Disputes and Powerswitch services will be relevant.</p> <p>The Authority does not consider it is appropriate to give retailers the ability to determine when they should be providing information about Utilities Disputes and Powerswitch.</p>	<p>Authority has amended the Code to specify the nature of the communication.</p> <p>This includes when responding to queries from consumers and outbound communications to consumers about service and bills.</p>
<p>Utilities Disputes and Powerswitch should not be grouped together</p>	<p>Some submitters proposed that different approaches should be taken to increase awareness of Utilities Disputes and Powerswitch given the different audience and different levels of awareness of the two services.</p>	<p>The Authority agrees that context is important when deciding which communications should be used to make consumers aware of Utilities Disputes and Powerswitch.</p> <p>The situations where consumers need to be made aware of Utilities Disputes will sometimes differ from the situations where consumers need to be made aware of Utilities Disputes.</p>	<p>Authority has amended the requirement to separately specify when participants need to be made aware of Utilities Disputes and Powerswitch.</p>

Theme	Submitters' views	Our view	Decision
<p>Principle of prominence is impractical</p>	<p>Submitters raised concerns regarding the application of the principle of prominence and how it may overshadow the key message of the communication.</p>	<p>The Authority agrees that the information about Utilities Disputes and Powerswitch should not be more prominent than the key message of the communication.</p> <p>Prominence refers to the position of the information and ability for consumers to find that information rather than simply size. This aligns with the plain English meaning of prominent “can easily be seen or noticed”.²⁰</p>	<p>Authority will develop guidance that is less prescriptive in how information can be made prominent.</p>
<p>Principles are confusing and contradict the Code</p>	<p>Some submitters raised concerns that the principles are confusing and contradict the Code. Concerns were also raised about the overly prescriptive nature of the principles.</p> <p>From the wording of the principles several submitters were not clear on if all distributors were in scope or only those that direct bill consumers.</p>	<p>The Authority agrees that the principles were not as clear as they were intended to be and guidance to support consistency within the industry could have been viewed as overly prescriptive.</p>	<p>Authority has simplified the Code requirement and removed the need to have reference to the principles.</p> <p>Guidance will be provided to help participants understand the intent of the Code.</p>

²⁰

<https://dictionary.cambridge.org/dictionary/english/prominent>

Theme	Submitters' views	Our view	Decision
<p>Requirements should apply equally to retailers and distributors</p>	<p>Two submitters raised that the requirements should apply equally to distributors and retailers.</p> <p>The rationale for this focussed on the fact distributors are increasingly engaging with consumers and this may generate complaints that may require Utilities Disputes support to resolve. There was also a proposal that this requirement should apply to Transpower.</p>	<p>We agree that distributors should be providing information about Utilities Disputes when they are communicating with consumers. This is appropriate with the changes to reduce the scope of communications proposed.</p> <p>We do not consider there is strong evidence of a need for Transpower to be covered at this time, however this should be reviewed by the consumer advisory council once it is established.</p>	<p>Authority has amended the requirement to provide information about Utilities Disputes, so it applies equally to retailers and distributors.</p>
<p>Obligation should only apply to residential consumers</p>	<p>Some submitters considered that the obligation should only apply to residential consumers.</p>	<p>We agree that providing information about Powerswitch should be limited to residential consumers. This is because residential consumers are the target audience for the Powerswitch service.</p> <p>The Authority considers that providing information about Utilities Disputes should not be restricted to residential consumers as Utilities Disputes can help resolve complaints about power companies regardless of the type of consumers involved.</p>	<p>Authority has amended the requirement to limit the scope of providing information about Powerswitch to residential consumers.</p>
<p>Powerswitch promotion should only apply to contestable connections</p>	<p>One submitter raised concerns that the obligation to provide clear and prominent information about Powerswitch will apply equally to contestable and non-contestable connections.</p> <p>This would result in consumers being made aware of a service that does not apply to their specific situation.</p>	<p>We agree that it is inefficient for retailers to be providing information about Powerswitch to consumers on non-contestable connections.</p>	<p>Authority has amended the requirement to limit the scope of providing information about Powerswitch to contestable connections.</p>

Miscellaneous observations and suggestions

Observation	Submitters' views	Our view	Decision
Some retailers may not engage with customers due to regulations	A perverse outcome of the proposal may be to incentivise some providers to avoid communicating with consumers in order to avoid drawing their attention to Powerswitch.	We do not consider this is a reason to alter our proposal. Changes made to the scope of communications should address these concerns.	The Authority has not altered its decision based on this feedback
EA should acquire Powerswitch brand	The Authority should acquire rights to Powerswitch because it will give the Authority ownership of the brand and enable it to oversee the independence of the service and regularly tender for the provider.	This proposal is out of scope of the Code amendment proposal.	The Authority has not altered its decision based on this feedback
Some UDL members are not following the UDL scheme rules	A 'mystery shopper' campaign in 2017 found 17 of 30 providers did not follow UDL rules and notify the 'shopper' of the existence of UDL when prompted.	The concern regarding participants compliance with the Utilities Disputes scheme rules is noted. We agree that incorporating similar requirements into the Code will align with the existing requirements.	The Authority has not altered its decision based on this feedback
Proposal overlaps with the Fair Trading Act	The proposal overlaps with the Fair Trading Act (FTA) and overlap would create uncertainty as to who enforces the obligation.	Noted. There are a range of matters in the Code that overlap (including with the FTA). This is not a reason to alter our proposal, and having a choice as to the enforcement agent is of benefit to consumers.	The Authority has not altered its decision based on this feedback
Problem is not as described, problem as an oligopolistic market	The underlying problem is the market is not fully competitive, with some consumers unaware or wary of the opportunities to switch.	We do not consider that the problem of consumer awareness is driven by a market that is allegedly not fully competitive. We consider the problem is that there are not effective mechanisms in place to improve consumer awareness of these services.	The Authority has not altered its decision based on this feedback

Observation	Submitters' views	Our view	Decision
It is misleading to call UDL a 'free' service	It is more accurate to say that the cost of UDL is spread across all consumers so is available at no additional charge.	This concern is out of scope of the Code amendment proposal and the statement is based on how Utilities Disputes promotes its service. ²¹ Any concerns regarding information provided as part of the promotion Utilities Disputes should be referred to Utilities Disputes or the Commerce Commission.	The Authority has not altered its decision based on this feedback
Incorporating principles into the Code creates quasi-regulation	Failing to have regard to the guiding principles would be a Code breach, however changes to the principles are not subject to the same rigour as the Code.	Noted. This concern is similar to the themes around the principles being overly prescriptive. While there are several examples of where external detailed requirements have been referred to in the Code (such as the reference to the FTR allocation plan, registry functional specification or clearing managers prudential methodology) the Authority has decided to make the guidance less prescriptive. Even if it is not explicitly stated in the Code guidance and clarifications provided by the Authority should be considered when complying with the Code.	The Authority has set specific requirements in the Code. The Authority will provide guidance to help participants understand the intention behind the obligations.
Adult literacy is a limiting factor in consumer education.	The principle of prominence requires a level of literacy that will disadvantage those New Zealanders that struggle with literacy.	Disagree. Adult literacy is an existing challenge that retailers and distributors already overcome when communicating with consumers. Requiring retailers and distributors to provide information about Utilities Disputes and Powerswitch will enable retailers and distributors to use existing mechanisms to ensure the message is clear and prominent.	The Authority has not altered its decision based on this feedback

²¹ https://www.utilitiesdisputes.co.nz/UD/About_us/UD/About_us_home.aspx

Appendix C Detailed analysis of costs and benefits

The Code amendment's benefits

C.1 The Authority has assessed the following categories of economic benefits under the Code amendment:

- (a) Static economic efficiency benefits, broken down into allocative and productive efficiency benefits, where—
 - (i) Allocative efficiency is achieved when the mix of goods and services produced in an economy matches what consumers want, with the marginal value that consumers place on a product or service equalling the marginal cost of producing the product/service, so that the total of individuals' welfare in the economy is maximised.
 - (ii) Productive efficiency is achieved when products are produced at minimum cost. That is, the costs of production equal the minimum amount necessary to produce the output. A productive efficiency loss results if the costs of production are higher than this because the additional resources used could instead be deployed productively elsewhere in the economy.
- (b) Dynamic economic efficiency benefits, which are achieved when firms innovate and invest in order to reduce their production costs over time, including through developing new processes and business models, thereby lowering the relative cost of products and services over time.

Productive efficiency benefits are expected from retailers and distributors operating more efficiently

C.2 We expect the Code amendment will deliver a productive efficiency benefit through retailers and distributors improving their complaint handling. The main anticipated drivers behind this improvement are:

- (a) the incentive to avoid an increase in complaints resolution costs brought about by Utilities Disputes considering more complaints
- (b) greater clarity around retailer and distributor obligations in relation to promoting Utilities Disputes
- (c) the Authority actively monitoring and enforcing compliance with the amendment.

C.3 The first driver relates to the greater likelihood of complaints being put to Utilities Disputes because of increased consumer awareness. This places a stronger incentive on electricity providers to resolve consumer complaints before they are referred to Utilities Disputes, thereby avoiding Utilities Disputes' complaint handling fees.²²

C.4 Experience is consistent with the presence of this incentive effect. A 2017 independent review of Utilities Disputes²³ noted approximately half of all deadlocked complaints were settled within the first 24 hours of it reaching Utilities Disputes. During this 24-hour period

²² A three-tier fee structure applies to deadlocked complaints considered by Utilities Disputes, with the cost incurred by electricity providers dependent upon how long Utilities Disputes takes to resolve the complaint:

- Level 1: \$500—up to 8 hours or 20 days for Utilities Disputes to resolve the complaint
- Level 2: a further \$500—an additional 8 hours or 20 days for Utilities Disputes to resolve the complaint
- Level 3: a further \$1,000—more than 16 hours or 40 days for Utilities Disputes to resolve the complaint.

²³ McBurnie, G, and Gill, C., 2017, Independent Review of Utilities Disputes Limited – 2017, p.52.

Utilities Disputes does not charge a fee to an electricity provider if the provider settles the complaint.

- C.5 A second driver behind improved complaint handling by electricity providers stems from clarifying providers' obligations around the promotion of Utilities Disputes under rule 12a of the Energy Complaints Scheme (1 April 2019). This rule requires electricity providers bound by the Scheme rules to promote the Scheme on any invoice to customers and in other relevant customer information. The wording "other relevant customer information" is open to differing interpretations.²⁴
- C.6 Differing interpretations by electricity providers are expected to result in unevenness of effort to promote Utilities Disputes. This tends to reduce, rather than increase, the promotion of Utilities Disputes, since profit-maximising firms rationally seek to minimise costs associated with regulatory obligations considered a net cost to the firm. Less promotion of Utilities Disputes limits consumers' awareness of Utilities Disputes, which weakens the incentive on providers to improve their complaint handling.
- C.7 Therefore, clarifying providers' obligations improves the promotion of Utilities Disputes, which strengthens the incentive on providers to improve their complaint handling.
- C.8 A third driver stems from the Authority's compliance framework making it more likely that enforcement action will be taken against electricity providers in breach of the Code than is the case for electricity providers in breach of the Scheme. This is because of the lower transaction costs associated with enforcing the Code compared with enforcing the Energy Complaints Scheme.
- C.9 A greater likelihood of enforcement action increases the incentive on electricity providers to promote Utilities Disputes, which strengthens the incentive on providers to improve their complaint handling.
- C.10 Improved complaint handling by retailers and distributors reduces complaint resolution effort required of consumers—for example, effort associated with searching for and understanding their rights and options for redressing complaints, and effort associated with gaining a resolution to their complaints.²⁵
- C.11 We assume the complaint resolution effort required of electricity providers does not change with improvements in complaint handling processes. It is difficult to say for certain whether more, or less, effort will be needed. On the one hand, improved complaint handling can increase the effort on providers. For example, a provider internalises what was previously a cost borne by a consumer—being referred to multiple points of contact in the provider's organisation. On the other hand, improved complaint handling can reduce the effort on providers. For example, greater empowerment of frontline staff to decide a resolution to a complaint reduces the involvement of other staff and the time taken to resolve a complaint.

²⁴ The Scheme rules used to provide more context around the meaning of "other relevant customer information" by referring to consumer contracts and websites in addition to invoices—see, for example, the Electricity and Gas Complaints Commissioner Scheme (1 October 2012).

²⁵ We expect complaint resolution timeframes would also shorten, which should be beneficial (eg, reduced stress/anxiety for consumers seeking resolution of an issue). For the purposes of quantifying the benefits of the amendment, we focus only on savings in effort.

Reduced complaint resolution effort for consumers

- C.12 Based on findings in the 2018 New Zealand consumer survey undertaken by the Ministry of Business, Innovation and Employment (MBIE),²⁶ we estimate a consumer spends a weighted average of four hours effort trying to resolve an issue with their electricity provider.
- C.13 MBIE's survey drew its sample from the New Zealand electoral role, meaning the survey is of residential consumers. We believe it is acceptable to apply the survey's results to non-residential consumers for the purpose of estimating the benefit from the Code amendment reducing complaint resolution effort for consumers. Doing so is more likely to understate, rather than overstate, the estimated benefit. Non-residential consumers with complaints would be expected to usually spend more time resolving an issue with their electricity provider than residential consumers. This is because the non-residential consumers' power arrangements (e.g., pricing, metering, contractual) are usually more complex. Therefore, a saving in the time to resolve a complaint will, on average, be less if we use residential data.
- C.14 We have no data to point to in estimating the saving in effort for complainants due to retailers and distributors improving their complaint handling. We note Federated Farmers' experience that improved dispute handling by companies reduces "the cost impact on the customer to see the issue properly addressed".²⁷ This implies that improved complaint handling by electricity providers delivers a non-trivial benefit for consumers in terms of reduced effort resolving their complaint. In addition, there is the reduction in effort expended by consumers searching for and understanding their rights and options for redressing complaints.
- C.15 Given these considerations, we assume improved complaint handling by retailers and distributors under the Code amendment will reduce by half an hour (12.5%) the complaint resolution effort expended by each consumer who has lodged a complaint with Utilities Disputes.
- C.16 We assume only consumers who would have lodged complaints with Utilities Disputes anyway, regardless of the Code amendment, expend less effort in complaint resolution under the Code amendment, to be conservative in estimating this benefit. This is despite consumers whose complaints are resolved with their electricity provider also benefitting from the improvement in providers' complaint handling.
- C.17 As we are interested in the incremental benefits and costs of the Code amendment, we do not apply this saving in effort to any additional complaints lodged with Utilities Disputes because of the amendment. (Refer to our analysis of the amendment's costs.) Instead we apply this saving in effort to a pre-Code amendment baseline—being the estimated mean number (2,210) of electricity-related complaints made annually to Utilities Disputes and the Electricity and Gas Complaints Commissioner over 2011–2019.

²⁶ Ministry of Business, Innovation and Employment, 2018, New Zealand consumer survey 2018—Summary findings, p.48 (refer to Figure 33), available at <https://www.mbie.govt.nz/dmsdocument/5709-nz-consumer-survey-2018-report-pdf>. To calculate a weighted average, we use the following midpoints for information provided in Figure 33 on the amount of effort a consumer spends trying to resolve a problem: 0.5 hours, 2.5 hours, 7.5 hours and 12.5 hours.

²⁷ Federated Farmers of New Zealand, 2 March 2020, Submission: Consultation Paper – Raising consumer awareness of Utilities Disputes and Powerswitch Services, p.1.

- C.18 We have estimated 2,210 using the average ratio of electricity-related deadlocked disputes to all energy-related deadlocked disputes over 2011–2019.²⁸ This is a good proxy for the average ratio of electricity-related complaints to energy-related complaints.²⁹ We consider it is appropriate to use the 2011–2019 timeframe, as this reduces the effect of ad-hoc industry events that materially influence the level of complaints received by Utilities Disputes (e.g., a major retailer implementing a new billing system).
- C.19 We assume consumer effort is valued at \$28 / hour, per the ‘CBAX’ tool published by NZ Treasury.³⁰
- C.20 The present value of this benefit is estimated to be approximately \$230,000.

Allocative efficiency benefits are expected, from increased consumer switching and more complaints being resolved

- C.21 The Authority expects the Code amendment will deliver allocative efficiency benefits, due to:
- (a) Greater awareness of the Powerswitch website amongst residential consumers, which will lead to more visits to Powerswitch and more residential consumers being encouraged to compare alternative retail offerings to see what the best power deal is for them. Note that competitive pressure arises from consumers shopping around for better deals—switching retailers is not strictly necessary.
 - (b) Greater knowledge and confidence amongst residential and small-to-medium enterprise (SME) consumers³¹ that they can easily seek redress for any issues they encounter with their electricity provider, making it more likely that these consumers will try a different retailer.³²
 - (c) More consumer complaints being resolved.
- C.22 The more vigorous the competition between electricity retailers, the more the expected competitive pressure on retail prices.³³ This results in more electricity being available to consumers at prices they are willing to pay, which represents an allocative efficiency gain and an increase in consumers’ economic wellbeing.

The benefit from consumers moving to a lower electricity tariff

- C.23 We have looked at the effects of the “What’s My Number?” campaigns since 2011, to estimate the extra number of residential consumers comparing and switching retailers and moving to a lower (more economically efficient) tariff under the Code amendment.
- C.24 In our analysis we use the average increase in visits to Powerswitch outside of winter during “What’s My Number?” campaigns over the period 2011–2018. The average

²⁸ I.e., the number electricity-related deadlocked disputes as a percentage of the combined number of electricity-related and gas-related deadlocked disputes.

²⁹ Over the period 2016–2019, for which we have obtained data on the ratio of electricity-related complaints to energy-related complaints, the difference in the two measures is 0.16%.

³⁰ New Zealand Treasury, September 2019, CBAX Spreadsheet Model, Impacts Database, line 137—time use: citizen compliance burden, available at <https://treasury.govt.nz/publications/guide/cbax-tool-user-guidance>.

³¹ Being the consumer groups serviced by the Powerswitch website.

³² Sapere, October 2015, Understanding the value of the Electricity and Gas Complaints Commissioner, p.19.

³³ That is, the more the expected pressure on retailers to set their retail prices equal to the marginal cost of supply.

increase is 10,000.³⁴ Excluding the winter months of June, July and August makes our estimate of the benefits of the Code amendment more conservative by:

- (a) excluding the period of each year when consumers have a higher propensity to switch electricity retailers (because of the higher power bills they are facing)
- (b) excluding the very large increase in visits to the Powerswitch website during the 2011 “What’s My Number?” campaign.³⁵

C.25 We use 10,000 as an upper bound on the expected increase in visits to the Powerswitch website over the Code amendment’s first year of operation. For years 2–10 of the CBA assessment period we use 2,500 as an upper bound on the expected increase in visits to the Powerswitch website. This is to allow for consumers becoming accustomed to the reference to Powerswitch in retailer communications and consequently taking less notice of the reference and not acting on it.

C.26 The reasons for using the “What’s My Number?” figures as our upper bound are:

- (a) The more targeted and active “What’s My Number?” advertising campaigns are likely to result in more consumer response than the relatively passive promotion that will occur under the Code amendment.
- (b) We assume one person per ICP will typically see and register the reference to Powerswitch on electricity providers’ communications. In contrast, “What’s My Number?” campaigns were equally visible to people with and without responsibility for managing the purchase of electricity services. So, one would expect more visits to the Powerswitch website during the “What’s My Number?” campaigns since 2011 than will occur under the Code amendment.

C.27 To add further conservatism to our analysis, we assume a lower bound of zero for the increase in visits to the Powerswitch website under the Code amendment, for the duration of the CBA assessment period. This lowers our mid-point estimate, possibly by thousands of visits.

C.28 A 2018 evaluation of the economic impacts of the “What’s My Number?” information campaigns³⁶ estimated that, on average, 1,000 more visits to the Powerswitch website led to:

- (a) 36.8 more initiated switches
- (b) 34.6 more completed switches (this equated to an average 0.1% increase in switches for each 1% increase in combined visits to the “What’s My Number?” and PowerSwitch websites).

C.29 The estimated allocative efficiency benefit associated with each switch was estimated at two dollars,³⁷ meaning the present value of this benefit under the Code amendment is a little under \$1,000.

³⁴ Rounded from 10,070.

³⁵ We consider a large portion of this increase reflected the novelty of the “What’s My Number?” campaign and the then relatively low level of public awareness of the benefits of switching between electricity retailers.

³⁶ Sense Partners, 2018, Impacts of the What’s My Number? Campaign—Consumer switching, retailers’ responses & benefits to consumers, available on the Authority’s website at <https://www.ea.govt.nz/dmsdocument/25187-evaluation-of-the-wmn-campaign-pdf>.

³⁷ The remainder of the saving for a consumer from switching was a wealth transfer from producers to consumers.

The benefit from consumer switching placing downward pressure on electricity tariffs

- C.30 A greater propensity for consumers to switch leads to increased competitive pressure in the retail electricity market. This results in downward pressure on electricity prices.
- C.31 The 2018 evaluation of the “What’s My Number?” information campaigns estimated—
*“...that, on average, a 6.6% increase in switch initiation is associated with a 4.9% reduction in posted prices, across the market...

The effects of this percentage change in prices amounts to an average annual reduction in retail bills of \$137 per year (excluding GST) for an average household in an area with average levels of retail competition (measured by average numbers of competitors and average rates of saves and win-backs).”³⁸*
- C.32 To quantify this effect, we assume additional switches occurring because of the Code amendment realise this general price effect—i.e. 346 switches in year 1 and 87 switches in each of years 2–10. To be conservative, we assume this effect applies only to these additional switches rather than being a general price effect.
- C.33 The present value of this benefit is estimated to be approximately \$700,000.

The benefit from more consumers having their complaints resolved

- C.34 There is obviously a benefit to a consumer from having their issue with an electricity provider resolved. The economic value of this benefit may or may not equal the value of the settlement with the electricity provider. The settlement may include a wealth transfer from the retailer or distributor to the consumer, with this reversing an earlier wealth transfer from the consumer to the retailer / distributor. For example, a meter may be over-recording a consumer’s electricity use, or a consumer may be on an ‘uncontrolled’ tariff when their hot water is in fact being controlled by one or both of the consumer’s retailer and distributor.
- C.35 We have insufficient data to calculate an estimate of the economic benefit to the additional consumers who have their complaints resolved because of the Code amendment. However, we can get an idea of the possible range of this benefit.
- C.36 We assume 77% (108) of the estimated additional 140 complaints lodged with electricity providers over the next 10 years because of the Code amendment are resolved by the provider (see paragraphs C.60 to C.65 in the discussion below on costs). We can also assume Utilities Disputes resolves 90% (275) of the additional 305 complaints it considers over the next 10 years because of the Code amendment. This assumption is based on approximately 10% (9.66%) of cases considered by Utilities Disputes over 2014–2019 being withdrawn.³⁹
- C.37 The benefit per complaint, in terms of reduced deadweight loss could range from several dollars to several thousand dollars, depending on the monetary value of the settlement of the complaint. Therefore, in aggregate, the reduction in deadweight loss from the additional 450 or so complaints resolved because of the Code amendment could be measured anywhere between thousands of dollars and many hundreds of thousands of dollars.

³⁸ Sense Partners, 2018, Impacts of the What’s My Number? Campaign—Consumer switching, retailers’ responses & benefits to consumers, p.28.

³⁹ Refer to Utilities Disputes annual reports over this period.

Dynamic efficiency benefits are expected from more vigorous competition amongst retailers

- C.38 The Code amendment is expected to deliver dynamic efficiency benefits. More vigorous competition amongst retailers provides them with an incentive to innovate and invest in new products and services over time. As noted in paragraph C.1(b), this increases retailers' productivity, including through developing new processes and business models, and lowers the relative cost of products and services over time.
- C.39 The Authority has not quantified the Code amendment's estimated dynamic efficiency benefits because it is hard to do so accurately. However, we expect more vigorous competition amongst retailers to result in material dynamic efficiency benefits.

The Code amendment's costs

- C.40 The Code amendment will have implementation and ongoing costs. It could also have dynamic efficiency costs.

The Code amendment will have implementation costs

- C.41 Under the Code amendment:
- (a) electricity retailers and distributors will incur implementation costs to provide clear and prominent information about Utilities Disputes—
 - (i) on the retailer's / distributor's website
 - (ii) in outbound communications directed to consumers about services or bills
 - (iii) when responding to queries from consumers
 - (b) retailers supplying electricity to domestic premises will incur implementation costs to provide clear and prominent information about Powerswitch—
 - (i) on the retailer's website
 - (ii) in communications to their customers at domestic premises about bills or the terms and conditions for the supply of electricity
 - (iii) to their customers at domestic premises on at least an annual basis.
- C.42 To estimate these implementation costs under the Code amendment, we have drawn information from the following sources:
- (a) submissions on our 21 January 2020 consultation paper
 - (b) informal feedback from retailers on an exposure draft of the above obligations
 - (c) informal cost estimates provided by marketing and communications providers, including an advertising agency, a website agency, and a mail house.
- C.43 Table 5 summarises the estimated costs to implement the Code amendment. We assume all parties put in place arrangements that avoid the need for anything more than negligible ongoing costs in relation to providing clear and prominent information about Utilities Disputes and Powerswitch.

Table 5: Summary of implementation costs across all electricity providers

Parties incurring an implementation cost	Cost
5 large retailers (>200,000 ICPs)	\$200,000 to \$300,000
5 medium-sized retailers (from 20,000 ICPs to 200,000 ICPs)	\$150,000 to \$250,000
6 small retailers (from 1,000 ICPs to 20,000 ICPs)	\$6,000 to \$120,000
21 retailers with less than 1,000 ICPs	\$10,500-\$105,000
1 direct bill distributor (The Lines Company – 23,600 ICPs)	\$20,000 to \$30,000
7 local networks with more than 90,000 ICPs	\$70,000 to \$175,000
21 local networks with 90,000 or less ICPs	\$42,000 to \$315,000
44 secondary networks	\$22,000 to \$110,000
Electricity Authority	Negligible cost (<\$1,000)
Utilities Disputes	Negligible cost (<\$1,000)
Consumer NZ	Negligible cost (<\$1,000)
Total implementation costs	\$520,000 to \$1.4 million

Notes: 1. We have treated as four retailers the following four groups of retailers:

- Group 1: Genesis Energy and Energy Online
- Group 2: Mercury Energy, Glo-Bug and Bosco Connect
- Group 3: Meridian Energy and Powershop
- Group 4: Nova Energy, Hunet Energy and Wise Prepay Energy.

This is on the assumption that the most efficient approach is for the respective groups of entities to share common systems and processes affected by the need to provide clear and prominent information about Utilities Disputes and Powerswitch.

The Code amendment will have ongoing costs

C.44 We estimate the Code amendment will have ongoing costs over 10 years with a present value of approximately \$660,000, comprising:

- (a) \$570,000 of additional complaint handling costs for retailers and Utilities Disputes, from higher volumes of complaints due to greater awareness of Utilities Disputes
- (b) \$90,000 of operating costs for the Authority, from a planned post-implementation review of the Code amendment, which will involve using the yet-to-be-established consumer advisory council.

Ongoing operating costs will arise due to greater awareness of Utilities Disputes

C.45 Greater consumer awareness of Utilities Disputes is expected to increase the number of complaints that electricity providers and Utilities Disputes must consider each year. This will increase the operating costs of electricity providers and Utilities Disputes.

- C.46 We have estimated this cost increase by following three steps:
- (a) Step 1: estimate how many consumers have an issue with their electricity provider each year
 - (b) Step 2: estimate how many of these consumers do not have their issue resolved each year
 - (c) Step 3: estimate how many of these consumers would raise their issue with electricity providers and Utilities Disputes under the Code amendment.

Step 1: How many consumers have an issue with their electricity provider?

- C.47 We have used the following information sources to estimate how many consumers have an issue with their electricity provider each year:
- (a) MBIE's 2018 New Zealand consumer survey
 - (b) MBIE's 2016 New Zealand consumer survey⁴⁰
 - (c) the Authority's March 2020 survey
 - (d) Water New Zealand's national performance reviews over the period 2016–2019⁴¹
 - (e) complaints reported to Utilities Disputes, and before that to the Electricity and Gas Complaints Commissioner, by electricity retailers and distributors
 - (f) the Authority's EMI website.
- C.48 MBIE's 2018 New Zealand consumer survey found that 12% of survey respondents who purchased utility services such as water, gas or electricity in the *previous two years* experienced a problem. This was a slight fall from 13.4% in 2016.⁴²
- C.49 The Authority's March 2020 survey found 23% of survey respondents have *at some point* had an issue with their electricity company.
- C.50 Based on the information in paragraphs C.48 and C.49, we estimate that each year 6% of consumers experience a problem with their water, gas or electricity.
- C.51 We note MBIE's surveys and the Authority's survey were of residential consumers. However, we believe it is acceptable to apply the survey's results to non-residential consumers for the purpose of estimating the increase in the volume of complaints under the Code amendment. We expect the incentive on residential and non-residential consumers to be similar when it comes to raising complaints. While non-residential complainants may often have more money at stake in absolute terms than residential complainants, it is reasonable to expect that, on average, the budgetary impact in percentage terms will be similar across both consumer types. The propensity of a person to complain in their domestic capacity should be similar to the propensity of a person to complain in their business capacity.
- C.52 Over the period 2016–2019, the annual average number of complaints recorded for water supply systems was approximately 36,000 across New Zealand's local

⁴⁰ Ministry of Business, Innovation and Employment, 2016, National consumer survey 2016—Summary findings, available at <https://www.mbie.govt.nz/dmsdocument/305-ncs-final-report-summary-findings-pdf>.

⁴¹ Available at <https://www.waternz.org.nz/NationalPerformanceReview>.

⁴² Ministry of Business, Innovation and Employment, 2016, National consumer survey 2016—Summary findings, p.30.

authorities.⁴³ We have used the 2018–2019 figure of 41,134, rounded to 41,000, for the purposes of this CBA, because of the material increase in complaints between 2016 and 2019 (from 30,907 in 2016–2017). In its National Performance Review 2018–2019, Water New Zealand noted that, rather than being linked to a change in customer dissatisfaction, this increase was more likely to be the result of a gradual maturation of complaints-recording systems. Local authorities have only been required to report complaints data in their annual reports since the 2015-16 fiscal year.⁴⁴ Therefore, we consider the most recent figure is more appropriate than the average.

- C.53 Over the period 2015–2019 electricity retailers and distributors received, on average, approximately 11,000 complaints from consumers each year, while over 2016–2019, gas retailers and distributors received, on average, approximately 5,800 complaints from consumers annually.⁴⁵
- C.54 Based on the information in paragraphs C.52 to C.53, we estimate that, of the problems with utility services reported in the 2018 MBIE consumer survey, approximately 20% of the problems relate to electricity services.⁴⁶
- C.55 Combining this figure with our estimate that each year 6% of consumers experience a problem with their water, gas or electricity, we estimate that approximately 1% of consumers have an issue with their electricity provider each year. Given there are approximately 2.18 million ICPs at present,⁴⁷ this implies approximately 22,000 consumers will experience an issue with their electricity provider this year. This is double the average number of complaints self-reported by electricity providers to Utilities Disputes over the past five years.
- C.56 In our analysis we use 22,000 complaints in year 1 of the assessment period. The use of the higher number of complaints is to be conservative in estimating the additional complaint handling costs for retailers and Utilities Disputes, from higher volumes of complaints under the Code amendment.

Step 2: How many consumers do not have their issue resolved?

- C.57 MBIE’s 2018 New Zealand consumer survey indicates that approximately 6.5% of survey respondents who purchased utility services such as water, gas or electricity in the *previous two years* and experienced a problem did not have the problem resolved to their satisfaction.⁴⁸

⁴³ There were 1,466,511 properties in New Zealand serviced with reticulated water during 2018–2019.

⁴⁴ Under the Department of Internal Affairs Non-Financial Performance Measure Rules (2013).

⁴⁵ Electricity and gas retailers and distributors self-report to Utilities Disputes the number of complaints they receive each year. Note, the number of complaints for 2016 are not included in the average for gas complaints, because the source data was not easily accessible at the time of preparing this CBA.

⁴⁶ 11,000 complaints to electricity providers as a proportion of the combined number of complaints made to water, gas and electricity providers (57,800).

⁴⁷ 2,175,806 ICPs as at 31 May 2020—refer to the Authority’s EMI website: <https://www.emi.ea.govt.nz/Retail/Reports/>.

⁴⁸ Ministry of Business, Innovation and Employment, 2016, National consumer survey 2016—Summary findings, p.48. In calculating this percentage, we:

- exclude problems that were still in progress at the time of the survey
- assume all 21% of the consumers who experienced an issue but did not take action to deal with the issue did not consider the issue resolved to their satisfaction at the time of the survey.

- C.58 The Authority’s March 2020 survey indicates that approximately 5.75% of survey respondents *who at some point* had an issue with their electricity company did not have the issue resolved to their satisfaction.⁴⁹
- C.59 To be conservative, we use 1.3%⁵⁰ as our estimate of the percentage of consumers who experience a problem related to electricity services in the previous two years and do not have the problem resolved to their satisfaction. This equates to 0.65% on an annual basis, which we then apply against 22,000 complaints in year 1 of the assessment period, growing at 1% per annum thereafter to approximate growth in consumer numbers. This gives a figure of approximately 1,500 consumers who purchase services from an electricity provider over the 10-year assessment period and do not have a problem resolved to their satisfaction.

Step 3: How many additional consumers would raise an issue with their electricity provider and Utilities Disputes?

- C.60 Of the approximately 1,500 consumers who do not have a problem with their electricity provider resolved to their satisfaction, we estimate the Code amendment might, over the 10-year assessment period, result in:
- (a) an additional 140 consumers raising a complaint with their electricity provider
 - (b) an additional 305 consumers raising a complaint with Utilities Disputes.
- C.61 The additional 140 consumers estimated to raise a complaint with their electricity provider represent 25% of consumers who would not otherwise make a complaint to their electricity provider but for the proposed Code amendment.
- C.62 Table 6 summarises how we calculate the estimated number of additional consumers raising a complaint with their electricity provider over 10 years because of the Code amendment.

Table 6: Summary of calculating additional complaints to electricity providers under the Code amendment

A	10%	of respondents to MBIE’s 2016 and 2018 surveys who purchased utility services such as water, gas or electricity in the previous two years experienced a problem
B	10%	of respondents to MBIE’s 2018 survey who purchased utility services such as water, gas or electricity in the previous year and experienced a problem did not take action to deal with the problem
C	20%	is the % of all electricity, gas and water complaints that relates to electricity
D	25%	is the assumed % of consumers who ordinarily would not take action to deal with a problem with their electricity provider, but would do so if the proposed Code amendment went ahead

⁴⁹ In calculating this percentage, we treat the following survey responses as indicating the consumer did not consider the issue resolved to their satisfaction at the time of the survey:

- 13% escalated the complaint to someone else
- 11% indicated their issue was not resolved
- 3% switched electricity providers.

⁵⁰ 20% of 6.5%—ie, multiplying the percentage of electricity-related utility services problems by the percentage of utility services problems in the previous two years that were not resolved to the consumer’s satisfaction.

E	22,000	is the estimated number of consumers experiencing an issue with their electricity provider in year 1 of the CBA assessment period
		F = A x B x C x D x E
F	13	consumers who experience an issue with their electricity provider in year 1 of the CBA assessment period raise a complaint with their electricity provider because of the Code amendment
	1%	is the annual scaling factor applied to each year's complaints number
	140	consumers who experience an issue with their electricity provider over the 10-year CBA assessment period raise a complaint with their electricity provider because of the Code amendment

C.63 Key assumptions underpinning the use of 25% in our calculation are:

- (a) Most consumers who experience an issue with their electricity provider choose not to take action to deal with the issue, because they think it would not be worthwhile. The 2018 MBIE survey (p.40) said 50% of consumers who did not take action chose not to act because they did not think it would be worthwhile (e.g., could not be bothered, the product or service was not worth the money, it would have cost more to resolve the issue). So, we believe our assumption of 25% is conservative. It more likely than not underestimates the percentage of consumers who may proceed with their complaint if they have better knowledge of the process and the availability of an independent dispute resolution service at no extra cost.
- (b) 12.5% of consumers who experience an issue but do not act would be willing to if they knew they could go to an independent dispute resolution provider at no extra cost (other than their time). Informing this percentage estimate are the following observations from the 2018 MBIE survey (p.40):
 - (i) 72% of consumers who did not act to resolve a problem with their purchase of utility services were impeded by a barrier, such as lacking time, or knowledge of where to go
 - (ii) 50% of consumers who did not act chose not to because they did not think it would be worthwhile (e.g., could not be bothered, the product or service was not worth the money, or it would have cost more to resolve the issue)
 - (iii) 30% of consumers who noted their problem as having a less-than-severe impact on their everyday life took no action, while 15% of consumers who noted their problem as having a 'severe' impact on their everyday life took no action.

C.64 Table 7 summarises how we calculate the estimated number of additional consumers raising a complaint with Utilities Disputes over 10 years because of the Code amendment.

Table 7: Summary of calculating additional complaints to Utilities Disputes under the Code amendment

A	20%	of the 1,500 consumers who purchase services from an electricity provider over the 10-year assessment period and do not have a problem resolved to their satisfaction raise their issue with Utilities Disputes
B	77%	of the additional 140 complaints raised with electricity providers over the 10-year assessment period because of the Code amendment <u>are resolved</u> by the electricity provider
C	20%	of the 32 additional complaints raised with electricity providers over the 10-year assessment period because of the Code amendment that are <u>not resolved</u> by the electricity provider are raised with Utilities Disputes
		D = A + C
D	305	consumers who experience an issue with their electricity provider over the 10-year CBA assessment period raise a complaint with Utilities Disputes because of the Code amendment

C.65 Key assumptions additional to those in paragraph C.63 that underpin the extra 305 consumers estimated to raise a complaint with Utilities Disputes under the Code amendment are:

- (a) approximately 20% of consumers who have not had an issue with their electricity company resolved to their satisfaction raise their issue with Utilities Disputes. Informing this percentage estimate are the following observations from the 2018 MBIE survey (p,40):
 - (i) 11% of consumers who acted to resolve a problem with their purchase of utility services considered it unlikely to be resolved
 - (ii) 32% of consumers who acted to resolve a problem with their purchase of utility services considered the problem was not resolved to their satisfaction.
- (b) 77% of the additional complaints raised with retailers and distributors are resolved by the electricity provider.⁵¹

C.66 Based on the average cost for Utilities Disputes to consider complaints in recent times,⁵² we estimate a \$1,750 cost for each additional complaint received by Utilities Disputes due to the Code amendment. We use the same cost for each additional complaint considered by retailers and distributors. In doing so, we may be overstating the cost of additional complaints considered by retailers and distributors,⁵³ because complaints reaching Utilities Disputes typically require more effort to resolve than complaints resolved by a retailer or distributor.

⁵¹ This percentage is taken from the Authority's March 2020 survey.

⁵² The cost per case was \$1,717 in 2018-19, \$1,846 in 2017-18, and \$1,770 in 2016-17.

⁵³ If we assume similar wages and overheads across electricity providers and Utilities Disputes.

A post-implementation review of the Code amendment is planned

- C.67 The EPR recommended establishing a consumer advisory council for electricity, to strengthen the consumer voice in the electricity sector. MBIE is in the process of establishing this.
- C.68 Once the consumer advisory council has been established,⁵⁴ we will use this body to assist us in assessing the effectiveness of the Code amendment and identifying opportunities for improvement.
- C.69 We estimate we will incur a cost of approximately \$90,000 (present value) doing this. The estimated cost comprises:
- (a) \$50,000 for a survey of consumers and engagement with the consumer advisory council
 - (b) \$25,000 for a possible Code amendment proposal (being an estimated actual cost of \$50,000 multiplied by a probability of 0.5)
 - (c) \$15,000 for consultation with stakeholders on any proposed Code amendment (being an estimated actual cost of \$30,000, multiplied by a probability of 0.5).
- C.70 We have assigned a probability of 0.5 against the Code development and associated stakeholder consultation because, at this time, we consider it reasonable to assume a further Code amendment is just as likely as no further Code amendment. The current Code amendment provides flexibility over how participants meet their obligation to provide information about Utilities Disputes and Powerswitch. This flexible approach raises the possibility of participants complying with the Code amendment, but in such a way that the desired consumer outcomes are not achieved. If this occurs, further refinements to the Code may be needed to achieve the intended consumer outcomes.
- C.71 The \$50,000 for a possible Code amendment includes consultancy and legal fees. The \$30,000 for stakeholder consultation on any such Code amendment proposal assumes 25 parties each incur, on average, \$1,200⁵⁵ of incremental internal cost (e.g. incremental administrative, analytical and legal costs) making a submission.

The Code amendment could have dynamic efficiency costs

Competition amongst comparator websites could fall

- C.72 The Powerswitch website operates in a competitive marketplace. Several other comparator websites offer electricity tariff comparison services for residential consumers—for example, SwitchMe, Glimp, CompareBear⁵⁶ and NZ Compare.
- C.73 By promoting only the Powerswitch website, the Code amendment is likely to divert potential users of these other websites to the Powerswitch website. In this way the Code amendment could result in the Powerswitch website “crowding out” other actual or potential comparator websites. The owner of the Glimp and CompareBear comparator websites has said “(i)f the Authority goes forward with this proposal it could literally end our service, which we have built up since 2016 with no reliance on public funding”.⁵⁷

⁵⁴ For the purposes of this CBA, we assume our post-implementation review will occur one year after the Code amendment is implemented.

⁵⁵ To provide context, this equates to three days of effort by one person on an annual salary of \$104,000.

⁵⁶ The Glimp and CompareBear websites are owned and operated by Glimp Limited.

⁵⁷ Glimp Limited submission on the Authority’s 21 January 2020 consultation paper ‘Raising consumer awareness of Utilities Disputes and Powerswitch services’, p.1.

- C.74 Such crowding out of comparator websites would:
- (a) deliver an economic benefit if it removed a market failure—in particular, consumers receiving poor quality advice on the best electricity deals available
 - (b) impose an economic cost if it led to poorer service delivery and reduced innovation by comparator websites.
- C.75 Currently, there appears to be no evidence of a market failure caused by comparator websites in New Zealand giving poor advice about electricity deals. This is unsurprising. In a small, competitive market such as New Zealand's retail electricity market, an energy services firm's reputation is an important regulator of its behaviour. This is particularly the case for smaller firms looking to establish themselves in the market and build a customer base.
- C.76 Assuming the current behaviour of comparator websites continues to be governed by the importance of an excellent reputation, it is reasonable to consider that any crowding out of comparator website services under the Code amendment would be unlikely to deliver an economic benefit.
- C.77 Instead, it is reasonable to expect that such crowding out would have an economic cost, in the form of poorer service delivery and less innovation. From a dynamic efficiency standpoint, innovation in comparator website services is important. The retail electricity market has become increasingly innovative over the past decade as competition amongst retailers has intensified. Consumers are now often deciding whether to switch electricity retailer based on considerations other than the price and non-price elements of the retailer's electricity service offering. The bundling of services (e.g. electricity, gas, broadband, phone) is becoming more prevalent. Some newer comparator websites are innovating to meet this changing consumer dynamic. The crowding out of such websites would reduce the Code amendment's benefits to consumers.