

10 November 2020

Submissions  
Electricity Authority  
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By email: AwarenessOfUDandPS@ea.govt.nz

## **ERANZ submission on 'Guidelines for Raising consumer awareness of Utilities Disputes and Powerswitch services**

The Electricity Retailers' Association of New Zealand (ERANZ) welcomes the opportunity to provide feedback on the Electricity Authority's (the Authority) 29 September 2020 consultation paper Guidelines for improving consumer awareness of Utilities Disputes and Powerswitch.

We are supportive of the draft guidelines.

- Our general recommendation to the Authority is for the guidelines to be as comprehensive as possible. We have recommended changes to a few sections in the guidelines where we believe additional detail would be useful to retailers.
- ERANZ encourages the Authority to review the guidelines on a semi-regular basis. As methods of communication change, and as new ways of communicating emerge, it will be useful for retailers to be able to refer to the guidelines for up-to-date advice. It may also be that an issue common to multiple businesses arises, meriting inclusion in the guidelines.

This letter provides an overview of ERANZ's attached submission, along with feedback for the Authority on this topic.

### **The guidelines should be comprehensive, including more detail in some sections, and more examples of acceptable and unacceptable practices**

Guidelines supporting the implementation of the Code amendment will help retailers understand their obligations.

To that end, we encourage the Authority to work to make the guidelines as comprehensive as possible. This will help limit confusion on what is in and out of scope—i.e. when a promotion is required, and when it is not.

Some communications will be straightforward, like power bills. Others, like social media and mobile apps, contain a bit more grey area. Although the Authority's expectations are relatively clear in the current draft

of the guidelines, ERANZ has made some suggestions we believe can help make these issues more transparent in response to Questions 2, 3, and 4 in the submission.

The visual examples, and explanatory text in the body of the guidelines, are useful as a reference document showing businesses what is required of them and what meets the Authority's standards. The examples will be particularly helpful for new entrants in the market, or businesses engaging in a new type of communication.

With a mind to making the guidelines more comprehensive, we encourage the Authority to consider including more examples of acceptable and unacceptable practice.

We suggest the Authority includes examples of practice that would not be acceptable, to serve as negative examples. These could be visual, but could also be as simple as a text description of what would not work. We have included an example of this in response to Question 2.

There are also cases where it would be useful for the Authority to spell out explicitly what is expected of businesses, just to avoid any confusion—for instance, revising Section 12.7 so it simply and clearly says promotions are not required in apps except for push notifications. We have included requests for clarification on some issues in response to Question 4.

### **The guidelines should be reviewed semi-regularly**

Related to making the guidelines comprehensive, ERANZ suggests the Authority set a schedule for reviewing the guidelines on a semi-regular basis—perhaps annually.

It may be that they do not need updating—but as new ways of communicating with consumers emerge, or as ways of communicating with consumers change, new requirements may be triggered under this Code amendment that are not presently referenced in the guidelines.

Additionally, there are likely to be questions that arise in the short and medium-term—issues not presently addressed in the guidelines but that businesses might run into and approach the Authority for advice. If questions to the Authority are notable enough to be included in the guidelines, the guidelines should be updated accordingly.

ERANZ suggests the Authority could test minor updates to the guidelines (a minor update might be adding a question to the FAQ section) with key stakeholders before updating the guidelines. Small changes like these should not necessitate another full round of consultation.

### **The guidelines should not become pseudo-mandatory**

ERANZ emphasises the contents of these supporting guidelines should not become pseudo-mandatory. We appreciate the Authority itself noting this in Section 2.18.

The guidelines are useful for retailers, but should not become a prescription of what is expected. It is vital retailers retain the ability to innovate on how promotions for the two services are implemented, and

businesses should be encouraged to take approaches to fulfil their obligations in a way that suits their brand and style of communicating with customers—providing it meets their obligations under the Code.

### **Consumers should be surveyed on this Code amendment to see how effective promotions for the two services are**

As ERANZ proposed during the January 2020 consultation, given the investment required from businesses to make these changes and ensure ongoing compliance with the Code across communications, we suggest the Authority reflect on measuring the effectiveness of this Code amendment and whether these new promotions have resulted in increased consumer awareness of Utilities Disputes and Powerswitch.

While this could be done through MBIE's Consumer Advisory Council, the Authority already conducts an annual consumer survey through UMR that could test whether consumers have picked up on these new promotions.

If they are found to be ineffective, we anticipate the Authority would return to this issue with a view to rethinking its approach to promoting the two services.

Separately, it would be useful to see data on other types of promotions the Authority runs on either service in future, like advertising campaigns or other marketing.

### **The Authority should consider the requirements of this Code amendment alongside other changes required to retailer communications**

ERANZ would also like the Authority to reflect on the requirements of this Code amendment alongside changes required to retailer communications from other ongoing workstreams.

As part of the ongoing Medically Dependent Consumer and Vulnerable Consumer guidelines consultation, it is proposed retailers inform customers on what support is available to vulnerable consumers and where they can find additional help.

These are important additions ERANZ is supportive of—but alongside this Code amendment, there is a risk customer invoices, and notifications become packed full of ancillary information that detracts from the key purpose of the communication. We want power bills to be clear and helpful to consumers, giving them the most important information upfront (what they owe and how to pay) and data for those keen to keep track of their usage. It does not serve consumers for them to start looking cluttered.

Thank you for your consideration of this letter and our submission.

ERANZ would like to extend its thanks to the Authority for its openness during this consultation. The process has been a constructive one, and we would especially like to recognise the commitment the Authority has made to implementing feedback from the initial consultation on this topic in January 2020. The feedback from submissions has led to a better result that will benefit consumers while maintaining a business' ability to innovate and be creative in delivering their services to customers.

We also recognise the joint commitment from Consumer NZ and the Authority to upgrading Powerswitch. An issue in the initial consultation was the various areas where Powerswitch is currently an insufficient service. Consumer NZ has outlined its roadmap for upgrading Powerswitch, and the future of the service sounds very positive. ERANZ looks forward to working with Consumer NZ and the Authority to strengthen Powerswitch and make it as useful as possible to consumers.

We look forward to continuing our constructive relationship with the Authority on this issue through implementation in 2021 and beyond.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'C Burrows', with a long horizontal flourish extending to the right.

**Cameron Burrows**  
Chief Executive

**Question 1: Do you agree or disagree that guidelines to support the implementation of 11.30A to 11.30E are needed?**

Yes, ERANZ agrees guidelines to support the implementation of the Code amendment are needed.

These guidelines will help businesses understand their obligations under the Code.

We encourage the Authority to work to make the guidelines as comprehensive as possible. This will help limit confusion on what is in and out of scope—i.e. when a promotion is required, and when it is not.

Some communications, like power bills, are straightforward—while there is more grey area in others, like in social media, so to that end, these guidelines should be where businesses look to get a definitive answer on their obligations under the Code.

The draft circulated is looking very promising, and ERANZ has additional points to raise in response to Question 4 below.

Further to making the guidelines comprehensive, we believe the Authority should review the guidelines on a semi-regular basis. It may be that they do not need updating—but as new ways of communicating with consumers emerge, or as ways of communicating with consumers change, new requirements may be triggered under the Code that are not presently referenced in the guidelines.

Additionally, there are likely to be questions that arise in the short and medium-term—issues not presently addressed in the guidelines but that businesses might run into and approach the Authority for advice. If these cases are notable enough to be included in the guidelines, the guidelines should be updated accordingly.

ERANZ suggests the Authority could test minor updates to the guidelines—such as adding a question that helps clarify an issue to the FAQ—with key stakeholders before updating the guidelines, rather than necessitating another round of consultation.

Finally, ERANZ stresses these should remain guidelines and never become pseudo-mandatory.

Having examples of promotions is very useful—but they should not become a prescription of what is expected of a retailer. It is vital businesses retain the ability to innovate on how promotions for the two services are implemented.

**Question 2: Do you agree or disagree these guidelines should include information on how compliance could be achieved and visual examples? If no, what information should the guidelines provide?**

Yes, ERANZ agrees with visual examples and other examples/details to help retailers achieve compliance with the Code should be included in the guidelines.

Examples will guide businesses in implementing promotions for the two services and will be particularly helpful for new entrants in the market or for businesses engaging in a new type of communication (for example, a business that is launching a new app will be able to check the guidelines for their obligations).

It is useful for businesses to have a reference document which outlines what is required of them, and what would meet the Authority's standards.

To that end, ERANZ believes it would be useful to have not only visual examples and text of acceptable promotions but also examples of practice that is not acceptable. This could

be as simple as a new paragraph in the guidelines—for example, in Section 7 of the guidelines on bills, negative examples could be included after 7.7 and 7.8, which currently give positive examples.

Using bills as an example, a useful negative example could be that having a promotion for either service on the fourth page of a bill, at the bottom of the page, in light grey, and in small font size, would not meet the requirements under the Code.

As previously mentioned, visual examples and other supporting information are useful for businesses—but they should not become a prescription of what is expected of businesses. It is vital businesses retain the ability to innovate on how promotions for the two services are implemented.

### **Question 3: Are there any additional questions that should be included in the FAQ section?**

In general, there are some areas where it would be helpful to have more clarity. These could be addressed either as a question in the FAQ section, or there could be more detail added to the relevant section of the guidelines.

To that end, we have reserved most of our feedback to Question 4 and noted there where it might be appropriate to include a question in the FAQ.

ERANZ suggests the following be addressed in the FAQ:

- Broaden Question 2 to be about all bundled utilities, not just broadband, to make it more accurate. Some businesses offer not just broadband, but also phone plans, and gas.
- “I use an app to communicate with customers. Do I have to promote Utilities Disputes and Powerswitch?” As discussed previously with the Authority in the workshop during this consultation, we understand Section 12.7 essentially means the answer to this question is no, but we believe it would be useful to have a clear answer as part of the FAQs.

### **Question 4: Do you have any comments on the proposed guidelines and examples provided?**

**Apps:** As noted in Question 3, we understand Section 12.7 means businesses won’t have to promote Utilities Disputes or Powerswitch in their apps. It would be useful to have this more explicitly spelled out. It could be a simple wording change simply to make this more definite, such as:

“Providing information about Utilities Disputes and Powerswitch is not required in mobile apps, except for a business’ obligations under 12.6. Consumers will have already been made aware of the services via the same communication sent via traditional channels.”

**Direct engagement sales over the phone:** Sections 12.8—12.12 deal with in-person direct sales. It would be useful to have clarity on sales over the phone—if a similar set of expectations apply to phone sales, an additional clause noting this would be useful.