Electricity Authority
Via email
AwarenessOfUDandPS@ea.govt.nz

10 November 2020

Guidelines for improving consumer awareness of Utilities Disputes (UDL) and Powerswitch

Thank you for the opportunity to provide a submission on the "Guidelines for improving consumer awareness of Utilities Disputes and Powerswitch" (Guidelines). Our answers to the specific consultation questions are attached in Appendix A and we have set out our additional comments below.

Guidelines should contain design principles rather than prescriptive recommendations

Mercury broadly supports the introduction of Guidelines to assist retailers and distributors in the implementation of new clauses 11.30A to 11.30E of the Electricity Industry Participation Code 2010 (Code). We appreciate that the Authority has designed the Code amendments to give retailers flexibility as to how the requirements are implemented. It is therefore essential that the guidelines do not impinge upon retailers' ability to apply the Code with the intended flexibility. This could be achieved by reference in the Guidelines to broad design principles rather than attempting to define exactly what compliance looks like. We suggest for example that the design principles contained at Appendix B should be given greater status and be emphasised at the front end of the Guidelines. Retailers and distributors could use the design principles as the primary reference point when implementing the Code rather than following the more prescriptive text contained in the body of the draft Guidelines. Many of the more prescriptive recommendations could be replaced by principles supported by visual examples.

Utilities Disputes and Powerswitch services must be fit for purpose

In Mercury's submission on the original consultation we expressed our concern that the Authority has underestimated the costs to retailers to implement the proposed changes required. At the time, our internal analysis projected potential costs of more than $200,000 across all Mercury brands.

Whilst the final decision has reduced the number of communications to which the amendments apply, the costs will still be close to our original estimate. Added to these costs are UDL's annual market share and case-based levies and Powerswitch's costs for reports and successful sales. For a retailer such as Mercury, this already amounts to more than $400,000 per annum for services that Mercury customers receive little benefit from. This is due to well-functioning internal complaint resolution processes meaning that UDL deals with only a handful of cases on Mercury's behalf each year and the fact that Powerswitch currently is not capable of comparing non-price services which is where Mercury adds value for its customers.

Given the further commitment of resources that this consultation requires, we would like comfort that UDL and Powerswitch's services will be fit for purpose and that funding for these services will be allocated fairly. Mercury is encouraged by the Consumer NZ initiated review of Powerswitch and look forward to the implementation of new site capabilities that will enable comparison on non-price factors. The issue with UDL's funding structure should be addressed contemporaneously and Mercury intends to proactively engage on this issue.

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Please don't hesitate to contact me on 0212882276 or at jo.christie@mercury.co.nz if you have any queries in relation to our submission.

Yours sincerely

Jo Christie
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Appendix A: Mercury Submission

Question	Comment
Q1 Do you agree or disagree that guidelines to support the implementation of 11.30A to 11.30E are needed?	Mercury agrees that guidelines are desirable to support the implementation of 11.30A to 11.30E. We appreciate that the Authority has designed the Code amendments to give retailers flexibility as to how the requirements are implemented. It is therefore essential that the guidelines do not impinge upon retailers' ability to apply the Code with the intended flexibility. For example, the Code at 11.30A(3)(b) requires retailers and distributors to provide information about UDL when responding to any query from a consumer. "Query" is not defined in the Code and therefore the Guidelines suggest an interpretation that would be acceptable to the Authority as follows: *"A query is: a question, often one expressing doubt about something or looking for information".* Where a consumer is simply "*looking for information"* we do not agree that a retailer should be required to provide information about dispute resolution to that consumer. Having to mention UDL in every uncontroversial communication could lead to a very confused and negative customer experience. On the other hand, if a consumer contacts Mercury to express doubt or dissatisfaction over a Mercury service, we agree that this would be an appropriate time to mention UDL, either during a conversation or as part of a follow up email. This however should be left to retailers to determine. In attempting to define what constitutes a "query" the Authority is effectively prescribing the way in which retailers must apply the Code amendments. We submit that the Guidelines are desirable provided they leave retailers with the flexibility that was intended by the Code amendments.
Q2 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?	Mercury agrees that the Guidelines should include information on how compliance could be achieved and provide visual examples. This will provide a useful tool for retailers to meet the Authority's standards. We reiterate our response to question 1 however that the Guidelines should not contain prescriptive wording that would remove retailers' ability to find innovative solutions that meet the goal of the Code amendments. Reference to broad design principles rather than attempting to define exactly what compliance could look like would be preferable. We suggest for example that the design principles contained at Appendix B should be given greater status and be emphasised at the front end of the Guidelines. Retailers and distributors can use the design principles as the primary reference point when implementing the Code rather than following the more prescriptive text contained in the body of the draft Guidelines. The prescriptive recommendations could be replaced by principles supported by visual examples.

Q3 Are there any additional questions that should be included in the FAQ section?	Mercury suggests the following would be a useful addition to the FAQs: *"I use an app to communicate with customers. Do I have to promote Utilities Disputes and Powerswitch?"* 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.
Q4 Do you have any comments on the proposed guidelines and examples provided?	We would like to make the following suggestions in relation to specific examples provided in the Guidelines: **1. Section 4.3 – Clear and prominent information on bills** Incorporating information about UDL and Powerswitch on Mercury bills will require a complete re-design of our bill template. Changes have already been made to comply with the UDL Scheme rules. Further changes will be required to comply with new Consumer Care Guideline requirements. This is an expensive process and as we submitted in response to the original consultation document, we are not convinced that the benefits to consumers will outweigh the costs of compliance to retailers. **2. Section 6.2 – Definition of a query** As mentioned above at question 1, the broad definition of "query" as suggested by the Authority places an unrealistic burden on retailers to provide information on UDL in almost every customer-initiated communication. At the online workshop that the Authority provided on 15 October 2020 there was discussion about a distinction being made between communications that are transactional and those that are genuine queries. Mercury would support inclusion in the Guidelines of an example that clarified this distinction. We further understood from the Workshop that a retailer will be able to make their own determination in this regard provided that their position is defensible i.e. that it meets the intention of the Code. For example, if a customer calls to ask for his or her bill balance, we would deem this to be transactional and would see no need to provide information about UDL. **3. Section 6.11 – Email queries** Mercury disagrees that UDL and Powerswitch information should be contained in an email signature. This would dilute an organisation's own branding and would be confusing for customers. We would incorporate any information required about UDL and Powerswitch in the body of an email. To this end, we strongly support the design principles contained at Appendix B paragraph B2 and B.3(b) that "messaging does not overshadow the key purpose of the communication". We recommend that these design principles be given more elevated status in the body of the Guidelines to counteract the danger of the Guidelines becoming overly prescriptive.

	4. FAQs question 1 – MEP compliance Often when the MEP contacts a customer on our behalf to arrange a site visit it is done verbally. From the customer's perspective, it will seem out of place and almost non-sensical for that representative to be required to mention UDL and Powerswitch. We submit that a communication such as this falls into the "transactional" category and compliance should not be required.