



2 October 2023

Electricity Authority  
By email: [consumercareconsultation@ea.govt.nz](mailto:consumercareconsultation@ea.govt.nz)

## **Options to update and strengthen the Consumer Care Guidelines**

Meridian appreciates the opportunity to provide comment on the Electricity Authority's consultation on the next steps for the Consumer Care Guidelines (the Guidelines).

### **Meridian supports the Authority's proposal to redraft the Guidelines as Code obligations**

Meridian supports better outcomes for consumers. Of the options set out in the consultation, Meridian supports the Authority's preferred option (option 3). This option involves a partial codification of the Guidelines, incorporating Parts 2, 6, 7 and 8 into the Electricity Industry Participation Code (the Code).

As Meridian is a strong supporter of the Guidelines and has a track record of full alignment, we would also support option 4 (full codification of the Guidelines). However, this option would take substantial work to translate the less prescriptive aspects of the Guidelines into specific rules suitable for Code. The Authority would also need to ensure that the increased prescription regarding consumer services levels did not stifle retail innovation and the potential for low-cost retail options.

Codified rules governing how consumers should be cared for should be balanced against allowing innovation and evolution in the sector. Not all service models suit all consumers. It is not necessarily better for consumers to have fewer options for service. Increasing costs relating to compliance is likely to result in those costs falling on consumers. There is a balance in providing

for minimum protections while also retaining the benefits of consumer choice, so that the market is able to supply diverse retail offerings to suit different customer needs.

A key part of the problem definition (and therefore motivation for change) is the low alignment with the guidelines across the sector. This means that the level of service for consumers could be variable across the board. However, we also note that the timing of this work means that there is currently only one year of assessment data publicly available, and so it is hard to assess how persistent non-alignment is across the sector.

### **Substantial work will be needed to turn the guidelines into workable Code**

The current Guidelines have been developed for voluntary alignment by retailers, with a degree of flexibility for retailers to achieve that alignment. The explanatory note of the Guidelines states that retailers can align with the guidelines by adopting the recommended actions or taking alternative actions that achieve the purpose and outcomes in Part 1 of the Guidelines. This flexibility comes through in much of the language throughout the Guidelines. For example, as the consultation notes in the discussion under option 2, there are several interpretation issues that have resulted in varying ideas among stakeholders as to how alignment might be achieved.

Many aspects of the Guidelines contain significant ambiguity. Several clauses use language such as “retailers should work towards” certain parameters, as opposed to defining a service standard. These clauses will need to be turned into detailed, specific requirements, made suitable for inclusion in the Code.

We look forward to seeing the draft Code and will provide comment when the draft is out for consultation.

### **The Authority should also ensure that the eventual Code changes are reviewed within a short timeframe**


The original guidelines were developed by industry and were adopted voluntarily by ERANZ members. Codification represents a significant change to the Guidelines.

Meridian recommends that the Authority reviews the eventual Code changes within a short period of time, to assess whether the drafting is working well, whether there are any unintended consequences, and to check whether the policy objectives of codification have been realised.

### **Final comments**

This submission is not confidential and can be released in full. I can be contacted to discuss any of the points made.

Nāku noa, nā

A handwritten signature in blue ink, reading "Evealyn Whittington", written over a horizontal line.

Evealyn Whittington

**Senior Regulatory Specialist**

## Appendix 1: answers to consultation questions

	Question	Meridian comment
1	Do you agree or disagree with our view that the Guidelines are not delivering on their purpose or intended outcomes? Please provide any supporting evidence.	<p>Meridian supports codification as we support better outcomes for consumers. It also seems clear that the Guidelines, as originally drafted by the Authority, were intended to eventually become Code at some point.</p> <p>However, it is difficult to assess how persistent non-alignment is across the sector, as there is currently only one year of assessment data available. Non-alignment may be caused by reasons other than the voluntary nature of the Guidelines (for instance, issues with interpretation).</p>
2	Do you agree the policy objective should be delivering the purpose and intended outcomes of the Guidelines? If not, why not?	Yes.
3	Do you consider the Guidelines' recommendations, purposes, and intended outcomes continue to reflect general industry consensus? Note in this question we are seeking your views on the Guidelines' content; not whether they should be mandatory.	Meridian generally agrees that the recommendations, purpose and intended outcomes reflect general industry consensus. However, we consider there to be several recommendations in the Guidelines that could be improved, and that the existing flexibility of the Guidelines makes consensus easier to achieve.
4	What do you think about our approach to limit options to areas covered by the current Guidelines?	Given that the consultation signals that further work will be done on areas that could be usefully included in the Guidelines (or indeed in the Code), we are comfortable with the current scope of this project.
5	What issues that fall outside of the current Guidelines would you like to see us consult stakeholders on in an issues paper to be released by mid-2024? If	Meridian's view is that given how large and complex the task of turning the Guidelines into Code will be, it would be sensible to stick to the project scope set out in the consultation.

	possible, please provide any initial evidence on these issue areas.	
<b>6</b>	Are there other interpretation issues or areas of the Guidelines that you consider need to be clarified, that do not significantly amend or extend the Guidelines?	Many of the recommendations in the Guidelines could be further clarified. A broad exercise to clarify uncertainties, improve definitions, and address existing flexibility and ambiguity would be necessary in drafting Code obligations. However, such an exercise may have limited value under an option that retains the voluntary nature of the Guidelines and an ability for retailers to take alternative actions that achieve the purpose and outcomes in the Guidelines. .
<b>7</b>	Do you agree that parts two, six, seven and eight are the parts of the Guidelines preventing the greatest harm to domestic consumers?	Yes.
<b>8</b>	Are there any other options you think we should consider?	Meridian suggests that the Authority also plan to conduct a review of the eventual chosen option, once it has been in place a short time. This will help to ensure that the Guidelines are meeting their intended outcomes (i.e. improving services for consumers) while also avoiding unintended consequences like increasing costs to consumers.
<b>9</b>	Do you agree with our criteria to assess options? Are there any other criteria you think the Authority should use?	Yes. However, within criterion 2 (impact on competition and innovation), we think it would be useful if the Authority acknowledged the impact that the energy transition may also have on the consumer/retailer dynamic. As the economy becomes increasingly electrified, more innovative market solutions may become available. We think it would be helpful if the potential for change and innovation was acknowledged as well as the potential for limitations on such innovation.

<b>10</b>	Do you agree criteria four and five should be weighted less than the first three criteria?	Yes.
<b>11</b>	Do you agree with our assumption that retailers already following the Guidelines should not experience a significant increase in their compliance costs if any part of the Guidelines is mandated?	Similar to other questions, this is difficult to answer without first seeing the draft Code and the ways the Authority intends to address existing flexibility, ambiguity and lack of clarity or definitions. Depending on the drafting decisions made, there may well be increased compliance costs. However, in the main, Meridian does not expect significant increases in our compliance costs under option 3.
<b>12</b>	Do you agree that under the status quo, concerns regarding retailer alignment with the Guidelines are likely to continue?	Meridian believes that this is not necessarily the case. The refreshed Guidelines have only been in place for a short time, and self-assessment has only been through one full yearly cycle (noting also that the Authority is yet to publish the result of the 2023 self-assessment, which makes it difficult to form a view around how entrenched non-alignment may be). At present, a view of alignment or non-alignment is only informed by the 2022 results.
<b>13</b>	What impacts to competition, innovation and efficiency in the retail market would you expect to see for options three and four respectively?	<p>Questions 13 and 14 are very difficult to answer at this stage in the process, without seeing the proposed draft Code. This is because many of the nuances of applying the Guidelines when they are codified will only become clear once the draft Code is out for consultation.</p> <p>However, Meridian thinks that the draft Code should balance prescription and the ability for the sector to innovate and evolve. Service design can and should constantly tailor to customers' diverse needs. This will be especially important in the energy transition. We encourage the Authority to ensure that the</p>

		costs of codification do not exceed the benefits that will come from it.
<b>14</b>	For retailers, broken down by Guidelines part, what would the estimated costs to your business be of codifying parts of the Guidelines under option three or four (for example implementation and compliance costs)?	In the absence of better understanding the drafting decisions that would need to be made to codify each part, Meridian cannot make such an estimate. As Meridian is already fully aligned with the Consumer Care Guidelines, we would hope that additional compliance costs following codification would not be significant. However, that is not necessarily the case and will depend on the drafting decisions that are made.
<b>15</b>	What do you think the benefits to domestic consumers will be under options two to four?	Meridian agrees with the Authority's initial view that option 3 would deliver the greatest benefits to domestic consumers as it would protect the interests of domestic consumers facing financial difficulty, disconnection, or who are medically dependent consumers, while also minimising negative impacts on innovation, competition and efficiency. By comparison, option two is less likely to deliver benefits through the protections noted above. Option four is more likely to negatively impact innovation and competition.
<b>16</b>	Do you agree with our initial assessment of the options against the status quo? If not, what is your view and why?	Yes. As the consultation notes however, some aspects of the assessment are limited by the fact that there is only one year of retailer assessment data available.
<b>17</b>	Do you agree with our preliminary view? If not, what is your view and why?	Yes. Meridian supports the Authority's preferred option (option 3).