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Proposed Code amendment: saves and early win-backs

Introduction

1. Vector welcomes the opportunity to respond to the Electricity Authority's (Authority) consultation *paper Proposed Code amendment: saves and early win-backs (paper)*, dated 24 June 2014.
2. Vector's contact person for this submission is:
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Vector's comments on the Authority's proposal

3. The Authority proposes to amend the Electricity Industry Participation Code 2010 (Code) to allow "gaining" retailers to opt into protection from "saves" (the protection will be reciprocal, i.e. the protected retailer cannot "save" its customers). It also proposes to prohibit the losing trader from contacting the customer during a period of 10 business days from the switch-date, and to increase monitoring of consumer switching behaviour.
4. The Authority's rationale for the proposal is that "saves" discourage retailer activity and effort to acquire new customers by increasing the costs associated with such activity. Vector considers that although "discouragement" and increased costs may be undesirable consequences of a successful "save" attempt, retailers that initiate a "save" also face increased costs (i.e. the "save" itself is a cost), while consumers overall receive a better outcome through more competitive and attractive offers.
5. Further the Authority states that, "about 2% of consumers are saved in any given year".¹ It also states that the "save" rate has been about 11% since 2010.² These statements are confusing and it is not clear what the save rate

¹ The paper, p 22.

² Ibid, n1, p4.

- is. In any case, we are not of the view that the practice of “saves” is anti-competitive.
6. Therefore, Vector does not support the Authority’s proposal to amend the Code to protect / prohibit some retailers from “saves” and is concerned that the proposal could undermine existing levels of retail competition. In particular, we are not convinced that the proposal is in the long-term interests of consumers or that the current retail climate warrants regulatory intervention - especially as the Authority itself notes that *increased competition* has led to the increased levels of “saves”.³ If increased “saves” are the result of fear of increased consumer switching and competitive counter-offers, we are of the view that this is a positive outcome and evidence of a healthy, competitive market.
 7. Regulatory intervention to prevent certain types of unwanted competitor behaviour is not a light-handed solution, and should be exercised with caution and *only* where there is certainty that it will result in material benefits to consumers in the long-term. In our view, increased marketing costs, ineffective campaigns and decreased profitability do not present a compelling case for amending the Code to prohibit retailers from “saves”, and consumers from receiving the benefit of a “save”, or a better retail offer.
 8. Notwithstanding the above, if any retailers were allegedly abusing an allegedly dominant position we would expect that the appropriate regulator would (at least) formally investigate the situation and consider solutions – which may include regulatory intervention. However, the appropriate regulatory agency for such action is the Commerce Commission, not the Authority.

Vector’s comments on “saves” in other markets

9. The Authority seems to believe that because “saves” are not a feature of many other workably competitive markets, they should not be a feature of the New Zealand electricity retail market. Vector does not believe the comparison with other markets is particularly relevant. The nature of competition will vary between markets depending on the nature of the market itself. While it is true that in many other markets the losing retailer would not receive advance notice that it is losing a customer, this does not mean that utilising this information in a market where it is available to make a customer a better deal is in some way undesirable.
10. The Authority references existing policies prohibiting “saves” in the telecommunications market (see Appendix E). In our view the purpose of the

³ Ibid, n1, p6.

Customer Transfer Code and the prohibition on “saves” is to help facilitate the transfer of telecommunications services, and does not seek to address competition concerns. Thus, we do not consider it helpful to compare such policy with the Authority’s current proposal.

11. Further, unlike in the electricity market there is no central repository of customer data for telecommunications services. In addition, telecommunications retailers often supply and / or wholesale services from multiple providers with different network supply chains.
12. This means that when a telecommunications customer switches its retailer, details of all its services must be shared between the losing and gaining retailer (which requires disclosure of information regarding a package of services). Therefore, if “saves” were not prohibited, the transfer of customer services (which can include crucial services, such as medical alarms) from the losing retailer to the gaining retailer would be at risk - as it is much more difficult to *undo* a switch where multiple providers and supply chains are involved.

Conclusion

13. We **recommend** that the Authority note our views, as expressed above, and reconsider its proposed approach.

Yours sincerely,



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