ELECTRICITY AUTHORITY
TE MANA HIKO

Proposed Code amendment – Improving transparency of consumers' electricity charges

Summary of submissions

3 December 2014

Market Design

Contents

1 Introduction

1.1 The Electricity Authority (Authority) has considered how to improve transparency of consumers' electricity charges, particularly when price changes are announced. The Authority proposed to improve transparency at these key times by amending the Electricity Industry Participation Code 2010 (Code) to:

(a) require retailers to provide information to consumers about any price changes in a standard form, so that the nature of and reasons for these changes are clearly presented

(b) require retailers to consult with distributors, and distributors to consult with retailers, about any media releases each party proposes to issue relating to changes to consumers' charges in the distributor's area.

1.2 The primary objective of the proposal was to promote retail competition by:

(a) providing better information about the drivers of price changes – better information increases consumer engagement and will drive firms to deliver what consumers want

(b) promoting accountability across the supply chain by requiring better explanations of the drivers of price changes – this will increase consumers' confidence and engagement in the retail market, which will also drive firms to deliver what consumers want.

1.3 The Authority published a consultation paper 'Improving transparency of consumers' electricity charges' in June 2014.[1] The consultation paper:

(a) explained why the Authority was concerned by the lack of transparency

(b) proposed an amendment to the Code that would address the problem the Authority identified

(c) sought feedback on the proposal.

1.4 This paper provides a summary of the views and points raised by submitters in their submissions.

2 Who made a submission?

2.1 The Authority received 26 submissions on the consultation paper, from the parties listed in Table 1. This summary does not contain the full text of these submissions, but the submissions are published on the Authority's website.[2]

[1] The consultation paper is available from the Authority's website at: http://www.ea.govt.nz/development/work-programme/retail/improving-transparency-charges/consultations/#c12828.

Table 1: List of submissions

Generators and Retailers	Consumers and Consumer representatives	Distributors and Distributor representatives	Other
• Contact Energy • Genesis Energy • Meridian Energy (and Powershop) • Mighty River Power • Nova Energy • Pioneer Generation • Simply Energy • Trustpower	• Consumer NZ • Major Electricity Users' Group	• Auckland Energy Consumer Trust • Counties Power Consumer Trust • Electricity Networks Association (for 31 Distributors)Orion • Energy Trusts of NZ (for 21 energy trusts) • Northpower Electric Power Trust • Price Waterhouse Coopers (for 21 Distributors) • Powerco • The Lines Company • Unison • Vector • WEL Networks	• Transpower • Retail Advisory Group • Citizens Environmental Research Ltd • Electricity & Gas Complaints Commissioner

Scope of representation of some submissions

2.2 Some submissions were made on behalf of multiple parties that were specifically identified, for instance:

(a) Meridian Energy (Meridian) also submitted for Powershop

(b) PricewaterhouseCoopers (PwC) submitted on behalf of 21 listed distributors

(c) Electricity Networks Association (ENA) submitted with the explicit support of its 31 listed members.

2.3 Some submissions were made by a national organisation or representative body, but without specifically identifying them, for instance:

(a) Major Electricity Users' Group (MEUG), an organisation representing a number of major electricity users

(b) Energy Trusts NZ (ETNZ), the national organisation for 21 energy trusts.

[2] Submissions can be found at: http://www.ea.govt.nz/development/work-programme/retail/improving-transparency-charges/consultations/#c12828.

2.4 Two submitters (Auckland Electric Consumer Trust (AECT) and Northpower Electric Power Trust (NEPT)) made their submission by explicitly supporting the submission of another party (ETNZ). Some submitters made their own submission and also explicitly supported the submission of another submitter (in full or in part). For instance, Counties Power Consumer Trust (CPCT) supported ETNZ's submission, and The Lines Company (TLC) supported aspects of PwC's submission.

3 What did submitters say?

3.1 This section provides a high-level summary of the key comments and themes in submissions. The issues raised in submissions are discussed in more detail in the remaining sections of this summary.

Comments on the problem definition

3.2 There were mixed views on the role of transparency in promoting competition:

(a) most submitters supported the importance of transparency at least to some degree, although many of these qualified their support and elaborated further

(b) some submitters rejected the Authority's views on the role of transparency.

3.3 There were opposing views on the Authority's statement of the problem definition:

(a) a few submitters made comments that supported the Authority's problem definition

(b) many submitters expressed only partial or qualified support for the problem definition

(c) a number of submitters rejected the Authority's problem definition.

Comments on the proposal – requiring retailers to provide consumers with information about price changes in a standard form

3.4 None of the submitters expressed support for the proposal as outlined in the consultation paper. Beyond this, there was a mixture of views expressed, ranging from support given some modifications, through to a need for an alternative approach, or a change of focus.

3.5 At a very high level:

(a) The majority of submitters were not convinced that the proposal in the consultation paper was the best way to improve transparency. Suggestions included that the proposal did not capture the right information, and was not clearly focussed on what consumers wanted. A number of submitters did not consider that the consultation paper had drawn the links between the problem, proposal, and the stated benefits.

(b) Distributors were more likely than other submitters to support an approach similar to that proposed in the consultation paper, suggesting it was not an onerous requirement and was relatively low-risk. They were more likely to support separating out the distribution and retail components as a means of clarifying the drivers of price changes. They were also more likely to support using some form of standardisation.

(c) Retailers were more likely to suggest a need for an alternative approach that relied more on market forces. They tended to identify higher costs and risks than were captured in the consultation paper, due to:

(i) mail out costs, call centre costs and system set-up costs

(ii) the loss of flexibility and innovation that a regulated solution can create

(iii) the proposal's potential to influence a retailer's approach to pricing, and negatively impact retail competition

(iv) the difficulties in transparently presenting information that is inherently complex in a standard format, due to repackaging, the variety of tariff structures, and the dynamism of the retail market

(v) the potential for consumers to become disengaged or confused.

(d) The energy trusts all suggested that the proposal in the consultation paper did not go far enough, and that separate itemisation on a single bill was preferable. They suggested this would ensure a regular source of information distinguishing between the different products of retail and distribution.

3.6 Submitters suggested a number of modifications to the proposal. Some submitters suggested that, while they still would not support the proposal ahead of an alternative option, some modifications would make it more palatable. Suggested modifications ranged from relatively minor (eg changes to the details of the standard notification form) to quite significant (eg including sunset clauses, opt-out clauses).

3.7 There was some support for each of the alternative options identified in the consultation paper. Option 4 – for the Authority to prepare an annual report on price trends – was supported as both an alternative and a supplement to the proposal that the consultation paper put forward. Other alternatives that were suggested included:

(a) introducing principles or minimum requirements

(b) modifying existing data sources so that the Authority could summarise and present the data in a meaningful way

(c) further developing Powerswitch

(d) standardising the presentation of all tariffs into a single $/annum charge

(e) relying on market forces and focussing on other issues.

Comments on the proposal – requiring retailers and distributors to consult each other on media releases relating to changes in consumers' charges

3.8 There were opposing views on the merits of the aspect of the Authority's proposal that required them to consult on media releases. Of those that commented specifically on this aspect, responses can be categorised as follows:

(a) support for the proposal in general terms, but with some modification

(b) support for including a requirement to 'notify' rather than the Authority's proposal for a requirement to 'consult'

(c) support for addressing the issue through the Authority publishing regular authoritative information on price changes and price trends

(d) support for addressing the issue by requiring distributors to advise consumers of lines charges

(e) not supporting the proposal or an alternative.

Comments on the regulatory assessment

3.9 There were strong negative views on various aspects of the Authority's regulatory assessment.

3.10 The cost-benefit assessment (CBA) attracted the most response from submitters, almost all of it negative. Whether or not they supported the Authority's proposal, most submitters expressed significant concerns with the Authority's CBA. Most submitters considered that the Authority's CBA:

(a) significantly over-stated the benefits, and/or

(b) significantly under-estimated the costs, and/or

(c) used incorrect information or was based on invalid assumptions.

3.11 There were mixed views about the Authority's statement of the objectives of the proposal.

3.12 Of those that commented on the Authority's assessment against the Code amendment principles, almost all were unsupportive.

3.13 Submitters' views on the remaining aspects of the Authority's regulatory assessment were mixed.

4 Key comments on the problem definition

Most submitters support the role of transparency in promoting competition (Question 1)

4.1 The consultation paper set out the Authority's views that:

(a) transparency plays an important role in promoting retail competition

(b) accurate information is a pre-condition for an efficient and competitive market

(c) for electricity, transparency primarily relates to whether consumers have timely access to enough information for them to understand their bills, see what is driving price changes, make choices about their retailers, and to promoting accountability across the electricity supply chain.

4.2 Most submitters supported the importance of transparency, at least to some degree. For instance:

(a) Nova Energy (Nova) agreed that consumers must have appropriate information available to them if markets are to operate efficiently[3]

(b) Mighty River Power (MRP) agreed that transparency of charges is an important enabler of effective customer engagement[4]

(c) The Lines Company considered that transparency is standard solution for increasing the purchasing power of the consumer and that consumers need greater literacy to make economically sound decisions on uptake of substitutes (battery storage/electric vehicles/solar). TLC also noted that distributors already have transparency obligations in Pricing Principles.[5]

4.3 Some submitters qualified their support and elaborated further:

(a) Vector considered that the benefits of enhanced transparency can only be realised when consumers understand the information and can effectively use it to inform their electricity supply decisions.[6]

(b) Powerco considered that increased transparency is unlikely to directly provide more consumers with the ability to choose the best retailer for them – the most relevant information for the vast majority of consumers is the ability to make total cost comparisons rather than seeing individual pricing components (which are already available).[7]

(c) Trustpower agreed that transparency is important in promoting competition. However it was "far from certain" that increased transparency of what is a

[3] Nova, p3

[4] MRP, p1

[5] TLC, p2

[6] Vector, p2

[7] Powerco, p3

complex industry will lead to increased competition among consumers. Trustpower considered that it could indeed have the opposite effect by confusing customers into indifference.[8] Powerco and Unison expressed similar concerns.[9]

(d) Consumer NZ agreed that price transparency is a necessary precondition for informed consumer choice, but noted:

(i) consumers' ability to respond to price changes is constrained (eg, cannot easily switch to alternative energy sources or reduce use when prices rise without affecting standards of living)

(ii) consumer trust in the institutions and regulations tasked with protecting consumer interests is another important factor driving consumer engagement in the electricity market

(iii) factors that drive consumer trust extend beyond billing transparency to include: whether or not consumers believe the interests of the energy companies are aligned with theirs; and whether or not consumers trust the institutions or regulations put in place to protect their interests.[10]

(e) MEUG agreed transparency is desirable, but noted that deciding what information must be transparent from that which is not essential needs careful analysis.[11]

(f) ETNZ considered that the Authority inappropriately narrowed the scope and timing of transparency just to disclosure of the estimated annual effects of a price change at the time the price change is made. ETNZ expressed the view that consumers also need information on the fixed and variable cost elements of the price consumers pay for a service. This information is crucial to consumers considering the trade-offs between energy supply offers and the opportunities consumers have to modify energy demand and realise benefits from time of use (smart metering) of electricity use. ETNZ also suggested that consumers review the purchase of electricity due to a variety of triggers, some unrelated to electricity price changes. ETNZ argued that providing consumers with information on the fixed and variable components of lines, transmission and retailer charges on their monthly bill would provide consumers with information that is much more likely to be immediately at hand at any time they are considering switching, than the approach proposed by the Authority.[12]

(g) ENA agreed that information about prices is an important feature of a competitive market and that price transparency helps consumers make

8 Trustpower, p10

9 Powerco, p3 and Unison, p5

10 Consumer NZ, p2

11 MEUG, p1

12 ETNZ, p4

useful comparisons of costs of different choices. However, ENA considered that that the Authority has not provided evidence of a problem with transparency of electricity retail prices that affects retail competition. ENA did not believe there is evidence that providing information about the drivers of price changes will make a difference to consumer choices. ENA considered the Authority's own material contradicts this assertion, but did not provide specific references.[13]

(h) ENA also expressed the view that how regulated network costs are structured and passed through to consumers in electricity prices is a matter for the retailer. Retailers are subject to competition and are in the best position to structure prices to meet the requirements of their target consumers.[14]

(i) Unison considered that the Authority has put forward a rational description. However, due to the nature of electricity as a commodity (eg continuous supply, monopoly, and no alternative substitute) there are still likely to be customers who do not act in this way, ie engage effectively. Further, while transparency might assist with promoting competition it will remain limited to the number of consumers who will be engaged enough to take time to assess the options.[15]

(j) Consumers' Environmental Research (CER) considered the Authority had not addressed some aspects such as retailers/distributors offer of other related services and assistance in clarifying each contracts' complete list of services to consumers. CER also noted that consumers fear graduated (TOU) "Time of use", and stated that graduated tariff charges will not have the capability to be gathered on customer billing when TOU charges are implemented.[16]

(k) Pioneer Generation (Pioneer) expressed the view that complexity continues to be a significant barrier to entry and stressed the importance of simplification / less complexity across the whole gambit of the electricity market and rules.[17]

(l) WEL Networks (WEL) did not consider that the proposal would increase consumer understanding as consumers will be unable to compare the proposed template with any other Retailer and it may not match any breakdown on invoices they receive.[18]

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[13] ENA, p5

[14] ENA, p5

[15] Unison, p5

[16] CER, p2

[17] Pioneer, p5

[18] WEL, p4

4.4 The Board of the Electricity and Gas Complaints Commissioner Scheme (EGCC Scheme) made no specific comment on the Authority's views, but did note that transparency promotes trust.[19]

4.5 Some submitters rejected the Authority's views on the role of transparency. Of particular note:

(a) Orion considered that the Authority made no compelling arguments for the proposition that having retailers provide more detail on what contributes to retail prices and price changes will:

(i) help with decisions about choice of retailer, or

(ii) encourage those consumers who currently do not switch retailers based on price to do so.[20]

(b) Orion also considered that the Authority has not explained why having a good understanding of the makeup of prices and the reasons for price changes helps with the other decisions a consumer might make about such things as pricing plans, levels of consumption and investment. It considered these decisions should be based on changes in cost and this only requires retail prices.[21]

(c) Contact Energy supported transparency and enabling consumer choice where it helps consumers to make better decisions, but was concerned that the consumer is missing from this conversation. Contact considered there is no evidence that the Authority's proposal is what consumers want or that consumers will find the information useful. Contact believed greater consumer engagement is required from the outset in order to ensure any solution meets their needs. Without this the proposal not only risks missing an opportunity, but may cause additional confusion for consumers.[22]

(d) Contact Energy also noted that electricity is a low engagement category and considered it presumptuous that greater transparency (that will only further expose consumers to the complexity of the market), will lead to consumer benefit and behaviour change. Transparency, on its own, will not achieve the efficiency gains suggested by the Authority. For price transparency to have positive effects on consumer behaviour, pricing signals that enable consumers to change their behaviour in efficient ways are also needed.[23]

[19] EGCC Scheme Board, p1

[20] Orion, p2

[21] Orion, p2 and p4

[22] Contact, p1

[23] Contact, p3

(e) Meridian Energy/Powershop did not support the Authority's interpretation of the role of transparency in promoting competition nor the proposed solutions that result from this interpretation:[24]

(i) 'Better' information needs to be interpreted from a customer perspective. The UMR report reveals a definition of 'better' focussed around less detail, allowing ease of comparison and decision making and allowing flexibility for retailers to satisfy the different customer preferences for information. Meridian/Powershop were concerned that the Authority is interpreting 'better' as more, detailed and complete.

(ii) The Authority's interpretation of an engaged consumer includes acting on information by purchasing the good or service that offers the best value. This interpretation of engagement is flawed. An engaged consumer may make an informed choice to take no action based on the fact that the saving is not sufficiently valuable to them or that features other than price are of sufficient value to outweigh any cost saving.

(iii) Vigorous competition requires degrees of freedom for retailers to operate in. Regulation that applies at a detailed level will hamper vigorous competition as it provides little room for differentiation, innovation or the satisfaction of different customer preferences.

Submitters' views on the Authority's problem definition were mixed (Question 2)

4.6 The consultation paper set out the Authority's view that there is a current lack of transparency and that this becomes more evident at 'moments of truth', the most obvious of which is when price changes are announced. The consultation paper went on to state that this is resulting in reduced consumer engagement and reduced confidence in the market. Greater transparency should lead to greater accountability for statements made on or with a consumer's bill (for example, price increase letters) and in media statements.

4.7 Some submitters made comments that supported the Authority's views on the problem definition (explicitly or implicitly). For instance:

(a) Transpower submitted that an ongoing game of blame between different sector participants reflects poorly on the sector, is unconstructive and implies a level of maturity that does not fairly represent the industry.[25]

(b) Pioneer agreed that a lack of transparency at the time price changes are announced is creating confusion for consumers.[26]

(c) The EGCC Scheme Board noted that the EGCC Scheme received at least 15 complaints (out of a total of 192 pricing related complaints) in the last 12

24 Meridian/Powershop, p4

25 Transpower, p1

26 Pioneer, p5

months about the lack of transparency at "moments of truth", specifically about the announcement of a change in price or charges. In addition, the EGCC Scheme received at least 18 further complaints about "confusing" and "difficult to understand" bills. These complaints illustrate that some consumers may not understand the drivers of price changes due to a lack of transparency.[27]

4.8 Some submitters expressed partial support for the problem definition. For instance:

(a) Mighty River Power expressed the view that transparency already exists and is supporting New Zealand's highly competitive retail electricity market - one of the most competitive in the world. Mighty River Power supported the Authority's efforts to improve transparency but considered that the Authority's proposed solution could be refined to deliver better customer outcomes.[28]

(b) Trustpower agreed that there should be more transparency about where the drivers for price changes are coming from, but that more complex price change notification letters is not an effective way to achieve this. Trustpower cited the Authority's 2013 survey of the 'What's My Number' campaign impacts, the Authority's March 2014 price check review, and the UMR research as evidence for this view.[29]

(c) PwC,[30] citing the UMR results, considered that the *"focus of this review should be on what actionable information about electricity charges is missing from the consumer view that will allow them to make informed decisions about their electricity retail options."* PwC considered that:

(i) disaggregation of lines charges on a retail bill is unlikely to provide information that is valuable or actionable in the context of competitive market offerings

(ii) information about the magnitude and justification for changes to charges may be important at the moment of choice, but other factors such as final prices and service levels are more important.

(d) Powerco found it questionable that the stated $267m of potential savings is due directly to inefficient operation of the retail market given that 82% of consumers are aware they can switch and a further 73% believed it was worthwhile to do so. These savings are more likely to reflect a maturing retail market where retailers have been able to provide increased value to

[27] EGCC Scheme Board, p1

[28] MRP, p1

[29] Trustpower, p10

[30] PwC, p2

consumers through improved service offerings rather than competing on price alone.[31]

(e) Transpower noted that there is tension between the various aspects of transparency the Authority cites in its statement “For electricity, transparency primarily relates to whether consumers have timely access to sufficient information for them to understand their bills, see what is driving price changes, make choices about their retailers, and promote accountability across the electricity supply chain.” [32]

(f) Powerco considered that end consumers want easy access to information to allow them to make “apples with apples” comparisons between retailers and not be confused by conflicting messages or additional information on bills.[33]

(g) Consumer NZ did not believe the problem is simply the communication of price changes. For consumers, the more substantive issue is whether the continued price increases are justified. Consumer NZ expressed the view that the failure of regulation to provide reliable information to assess whether tariff increases are justified has contributed to consumers’ lack of confidence. Robust evidence to show these continuing rises are justified has been absent. The information companies disclose about their underlying costs is not easily accessible to consumers. Requirements aimed at increasing price transparency will only be effective at increasing consumer engagement if they are supported by measures that give consumers confidence that the regulation of the sector is sufficient to protect their interests.[34]

(h) MEUG proposed a modified problem definition expressed along the lines of “there may be a problem in providing consumers with sufficient transparency... If this is a problem and it was corrected it would stimulate competition...” [35]

(i) ETNZ considered that the Authority’s problem definition is too narrow and is not supported by the argument the Authority presented in the paper. Consumers review the purchase of electricity due to a variety of triggers, some unrelated to electricity price changes. ETNZ argued that providing consumers with information on the fixed and variable components of lines, transmission and retailer charges on their monthly bill would provide consumers with information that is much more likely to be immediately at

[31] Powerco, p3

[32] Transpower, p1

[33] Powerco, page 3

[34] Consumer NZ, p3

[35] MEUG, p1

hand at any time they are considering switching, than the approach proposed by the Authority.[36]

(j) ENA, citing the UMR Research, considered that consumers were largely satisfied with information received from retailers and there does not appear to be concern about understanding the structure of prices. The transparency of components of bills is not linked to the level of competition in the market, and efforts to separate these when price changes are announced are unlikely to result in changes in the intensity of competition. Citing the Authority's March 2014 "price check review", ENA considered that information in media releases was not conflicting, and while it may have been confusing to consumers and media there was no wrong-doing by distributors not retailers. Nevertheless, ENA considered that the limited proposal for interaction between retailers and distributors prior to media releases being issued and the requirement for break-downs of prices at the point of price changes would not seem to be costly requirements for the industry to meet.[37]

(k) Unison was concerned that the Authority may not be addressing the underlying issues of how consumers make switching and consumption decision. Unison submitted that further consumer-focused research is required to better understand what may influence these decisions – the Authority is only presuming that more information, ie increased transparency, is a key factor. Bundling of charges may reduce transparency – as retailers broaden their range of offering, there is likely to be an increased level of variety and complexity by making these components transparent.[38]

(l) TLC agreed that transparency during moments of truth is critical but disagreed that a price change advice is the "key" moment of truth. The first bill after advice of price change represents a call to action and it is at this stage that customers respond and seek clarity. Unbundling a price change is pointless if bills are left unbundled. TLC also noted that customers want 'relevant transparency' not unnecessary detail.[39]

(m) The Retail Advisory Group (RAG) noted that its review of whether there should be more transparency around consumers' electricity charges was broader in scope than what the Authority consulted on. The RAG suggested that the Authority provide more information about the actions it proposes to take in regard to the other areas covered in the RAG's review.[40]

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[36] ETNZ, p4

[37] Orion, p6-7

[38] Unison, p6

[39] TLC, p2

[40] The RAG, p2

(n) CER expressed the view that there is a lack of other services targeted. For instance, some consumers value ease of reading the meter register themselves to manage their power use, but often find smart meters near impossible to read. These consumers wish to retain analogue register metering for this and other reasons (including health or security concerns regarding electronic metering, ability to receive 100% return on power generation produced from their solar power (PV) flowing back to the grid though standard analogue metering by simply reversing the register).[41]

4.9 Nova expressed mixed views on the problem definition:

(a) In respect of distribution charges, consumers are generally oblivious of the relationship between load and distribution costs (except perhaps in TLC's network region). If transparency can help address that gap, however presented, then more economically rational decisions are likely to be made by consumers. For example, when making investments in alternative energy sources, and in particular PV systems which are directly affected by the structure of electricity distribution charges.

(b) The problem definition ignores the complexity of explaining price changes when there are regulations requiring that some consumers are effectively being subsidised by others.

(c) The Authority needs to demonstrate why the existing Fair Trading Act requirements on retailers are inadequate before it starts proffering additional regulation.[42]

4.10 Some submitters rejected the Authority's problem definition, in particular:

(a) Orion considered that the problem identified in the paper appears to be the opposite of the problem identified in the Authority's "retail price check" enquiry. Orion expressed the view that the paper identifies a problem that the Authority has only recently concluded is not a problem, then proposes a solution to the "problem" that does not address a key aspect – explanation of the drivers of price changes (although Orion considered that is actually a good thing).[43]

(b) Orion expressed its more fundamental concern that trying to create a distinction in consumers' minds between the "non-competitive" and "competitive" parts of the supply chain might inadvertently cause them to lose sight of one of the largest potential sources of cost reduction - choosing a different pricing plan. Nearly all of the material retail price plan

41 CER, p2-4

42 Section 13(g) of the Fair Trading Act states that 'No person shall, in trade, in connection with the supply or possible supply of goods or services or with the promotion by any means of the supply or use of goods or services,… make a false or misleading representation with respect to the price of any goods or services'.

43 Orion, p4

differences are driven by distribution price differences, not "energy" price differences, and this is understandable given the different cost drivers. Orion considered that the idea that consumers can do nothing about the non-competitive component of the bill is simply untrue.[44]

(c) Contact Energy did not believe the problem has been adequately defined, in particular:[45]

(i) what is appropriate or relevant information

(ii) what this means for New Zealand consumers (ie, more information, less information, confusion about distribution/transmission (delivery) vs. retailer (supply of energy) etc).

(d) Contact also rejected the suggestion that retailers may be repackaging line charges to create potential complexity and ultimately confusion. Contact noted that some network tariff rates (both ICP and GXP pricing) cannot be billed without repackaging. Network tariff rates that are not predictable or billable without repackaging will frustrate transparency of charges. It is a retailer‘s role to manage the risk of market fluctuation in price at any given demand level and package that risk into their pricing along with networks. Accordingly, in Contact‘s view a significant first step towards transparency would be to ensure network tariff rates are billable without repackaging.[46]

(e) Meridian/Powershop considered that the problem definition lacks concrete evidence to prove that the factors the Authority cites are in fact substantial issues. The Authority relies on its own view and references a number of articles. Meridian/Powershop considered that the problem definition would be better formulated from an evidence base of what consumers want, and cited the UMR report as the richest recent source of customer based views.[47]

(f) Meridian/Powershop expressed the view that the UMR research supports an alternative problem definition – that consumers do not find it easy to compare charges. Meridian/Powershop supported enabling standardisation at the overall charges level to ensure ease of comparison between different tariffs and retailers.[48]

(g) Simply Energy agreed that pricing is complex, but considered that the problem definition is conjecture and lack supporting evidence. Simply Energy asserted the importance of confidence that an overall market structure is delivering value as opposed to any individual retailer.[49]

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44 Orion, p2

45 Contact, p2

46 Contact, p2

47 Meridian/Powershop, p5

48 Meridian/Powershop, p5

49 Simply Energy, p1

(h) WEL did not accept there is a lack of transparency during moments of truth. The Authority's investigation into each party's pricing disclosures found that all parties' findings were accurate and only differing methodologies and subsets caused the disparities. WEL expressed the view that this indicates there is no problem to resolve.[50]

(i) Genesis supported the principle of greater clarity and transparency for consumers but disagreed with the solutions proposed, believing it is up to individual retailers to develop communications to suit their particular customers. Genesis believed that a standard regulated outcome has the real potential to not meet customers' needs. On all market metrics the New Zealand retail market is highly competitive. Interventions, if not carefully considered in collaboration with retailers, put the consumer benefits of the competitive market at risk.[51]

4.11 Some submitters expressed concerns with the approach the Authority adopted in identifying the problem and/or developing its proposed solutions. For instance:

(a) Genesis considered the Authority is too focused on regulatory interventions at the expense of a broader range of tools to affect change, particularly retailer and consumer led solutions. Such solutions avoid many of the unintended consequences that arise from regulatory interventions, and have successfully dealt with issues that directly affect consumers. Examples of successful retailer and consumer led initiatives include the establishment of the EGCC, the Retailers Voluntary Code of Conduct, and more recently, the Voluntary Practice Benchmark for Electricity Retailer Credit Management. Genesis encouraged the Authority to take a greater role in facilitating such retailer and consumer led solutions when considering how to address potential retail market problems.[52]

(b) Several submitters expressed the view that the Authority should take a more customer-centric approach to identifying problems and exploring possible solutions. For instance:

(i) Unison submitted that more consumer-based research and consultation is needed to further explore the key influences on consumers' decisions, before making a decision on whether to mandate provision of additional information to consumers[53]

(ii) Contact was concerned that the consumer is missing from this conversation. Contact believed that greater consumer engagement is required from the outset in order to ensure any solution meets their needs. Without strong consumer engagement the proposal not only

[50] WEL, p4
[51] Genesis, p1
[52] Genesis, p7
[53] Unison, p1

risks missing an opportunity, but may cause additional confusion for consumers.[54]

5 Key comments on the proposal – part one

Requiring retailers to provide consumers with information about price changes in a standard form

Overall, submitters favoured changes to the proposal, to varying degrees

5.1 The Authority's proposal in the consultation paper would require retailers to provide information to their consumers about any price changes in a standard form, so that the nature and reasons for those changes are clearly presented.

5.2 None of the submitters expressed support for the proposal as it was outlined in the consultation paper.

5.3 Beyond this, there was a mixture of views expressed:

(a) Seven submitters (Consumer NZ, Vector, the RAG, PwC, Powerco, MEUG, Unison) would support the proposal in the consultation paper given some modifications and clarifications. However, Powerco and MEUG were not yet convinced of the *need* to intervene as proposed. Another three (Consumer NZ, Unison and the RAG) did not consider the proposal to be a complete solution.

(b) Five submitters (TLC, AECT, CPCT, ETNZ, NEPT) supported a greater intervention, preferring option 2 (issuing separate bills to consumers) or option 3 (separate itemisation on a single bill).

(c) Three submitters (Genesis, Trustpower, Transpower) expressed support for option 4 (an annual report on price trends) as an alternative to the proposal that was put forward in the consultation paper. A further five submitters (Nova, Orion, ENA, PwC, Consumer NZ) suggested there may be benefit in the Authority pursuing option 4 (or something similar) *in addition to* other options.

(d) Three submitters (MRP, Meridian/Powershop, Simply Energy), while not necessarily convinced of the problem, supported their own suggested alternatives that they considered would better achieve the Authority's aims.

(e) Five submitters (Nova, Orion, Pioneer, Contact, WEL) supported the status quo - ie, option 1, and suggested the Authority should achieve its aims through other means, or turn its focus to other matters.

5.4 Another three submitters (CER, EGCC Scheme Board, and ENA) did not express a firm position, or held mixed views.

[54] Contact, p1

5.5 Many of the submitters that did not support the proposal from the consultation paper suggested modifications that they considered necessary if it were to be further pursued, or that would make it more palatable.

5.6 Generally speaking, at a very high level:

(a) the majority of submitters were not convinced that the proposal in the consultation paper was the best way to improve transparency

(b) distributors were more likely than other submitters to support an approach similar to that proposed in the consultation paper, suggesting it was not an onerous requirement and was relatively low-risk

(c) retailers were more likely to suggest a need for an alternative approach that relied more on market forces, citing higher costs and risks than were captured in the consultation paper

(d) the energy trusts all suggested that the proposal in the consultation paper did not go far enough, and that separate itemisation on a single bill was preferable.

Most submitters expressed support for the proposal at some level (Question 3)

5.7 Most submitters expressed support for providing consumers with better and more transparent information about price changes. For example:

(a) Pioneer agreed that transparency and honesty about the drivers of price changes should reduce the degree of confusion felt by consumers at the time retail and distribution price changes are announced[55]

(b) Powerco supported the principle of providing increased information to consumers who value it, in an accessible and user-friendly manner[56]

(c) Nova stated that it fully supported the concept of ensuring that any changes to electricity price tariffs are clearly presented and the causes of price changes are fully transparent[57]

(d) the EGCC Scheme Board identified examples of complaints arising from the ‘blame game’, and suggested that clear and accurate information will help to reduce consumer confusion[58]

(e) TLC agreed that consumers need greater literacy in order to make economically sound decisions on uptake of substitutes (battery storage/electric vehicles/solar).[59]

[55] Pioneer, paragraph 2

[56] Powerco, paragraph 8 of cover letter

[57] Nova, paragraph 1

[58] EGCC Scheme Board, q3 response

[59] TLC, q1 response

5.8 Some benefits of doing so were identified. These included that it could reduce consumer confusion, and improve their ability to make informed decisions. For example:

(a) Vector suggested that the electricity supply chain is complex, and consumers often see final prices that are repackaged, making individual tariff changes indiscernible. Vector therefore considered that better transparency of information will help reduce the likelihood of conflicting messages and confusion among consumers.[60]

(b) Nova suggested that clear, consistent and concise communications of price changes can improve transparency and accountability, and reduces potential for customer confusion.[61]

(c) Powerco suggested that timely access and supporting information to understand bills will assist consumers to make choices through increased confidence in the market.[62]

(d) PwC suggested that each change in the level or structure of charges creates a moment of choice, at which point a consumer may reassess their current retail offering. PwC suggested that information for consumers about the magnitude and justification for changes to charges may be important, and be factors in whether consumers look elsewhere for a new retail offering.[63]

5.9 For some submitters, their express support did not extend much beyond this high conceptual level. For others, distinguishing between distributor and retail components was seen as an improvement over the status quo. For example:

(a) Powerco suggested that providing information about who is making the price changes might help reduce confusion about who is responsible for the changes.[64]

(b) Nova suggested that consumers are generally oblivious of the relationship between load and distribution costs (excepting perhaps in The Lines Company's network region). If transparency can help address that gap, however presented, Nova considered that more economically rational decisions are likely to be made by consumers.[65]

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[60] Vector, p1-2

[61] Nova, q3 response

[62] Powerco, paragraph 4

[63] PwC, paragraph 12

[64] PwC, q1 response

[65] Nova, q2 response

(c) ETNZ suggested that it is important to improve consumers' understanding of the retail portion of their power bill, as this can be changed by switching retailers.[66]

(d) PwC suggested that, while many retailers publish distribution charge components on their bills and notifications, this is not done consistently across retailers and they do not always reflect the reasons for changes in distribution charges. PwC also noted that retailers often rebundle the various inputs to their retail products (including distribution charges) to deliver a certain retail product to consumers. PwC therefore accepted there may be benefit in moving away from the status quo in favour of solutions that promote greater transparency and accountability over changes to electricity charges.[67]

(e) The RAG supported the provision of clearer information about the drivers of electricity price changes by requiring retailers to show the drivers of the price changes at a more granular level than is the current practice. It noted that greater clarity around the competitive and regulated components of electricity price changes should facilitate more informed discussion about the competitiveness of the electricity market.[68]

(f) Vector stated that, given the multifaceted nature of electricity prices, better transparency of information will help reduce the likelihood of conflicting messages and confusion among consumers.[69]

5.10 Six submitters further stated that they see value in some form of standardisation of price change information. For example:

(a) ETNZ suggested that consumers would benefit from regular and consistent advice about the make-up of their electricity service costs.[70]

(b) ENA considered that it may result in greater clarity to have some standardisation of the presentation to consumers to minimise confusion.[71]

(c) Powerco suggested that, in general, it supported the proposal for a standardised template for price notifications.[72]

(d) Unison was generally supportive of requiring retailers to provide information to their consumers about any price changes in a standard form. Unison suggested that it did not seem overly onerous to require retailers to do this,

66 ETNZ, p2
67 PwC, paragraph 18-20
68 The RAG, paragraph 4.1.3(a)
69 Vector, paragraph 6
70 ETNZ, q3 response
71 ENA, q7 response
72 Powerco, q3 response

especially as consumers increasingly receive information through electronic means.[73]

(e) The RAG suggested that mandating a standardised form would lead to greater consistency in the way disaggregated information about price changes is presented to electricity consumers, and that encouraging retailers to present pricing information in a standard way would promote greater simplicity of information shown on electricity bills.[74]

(f) Vector suggested that benefits of better transparency can only be realised when consumers understand the information and can effectively use it to inform their electricity supply decisions. Vector therefore supported the use of a standard form set out in the Code, which disaggregates the components of the electricity price (ie, retail, distribution, transmission, and levies), and illustrates the amount of increase / decrease (in cents and percentage) of each component.[75]

5.11 Three submitters (Orion, ENA and Unison), suggested that a benefit of the proposal in the consultation paper was that it appeared to be a relatively low-cost and/or low-risk solution. Specifically:

(a) Orion suggested that the proposal appears to be a relatively low cost solution, and is consistent with a solution that was previously put forward by the Electricity Commission. Therefore, Orion suggested it is probably an acceptable (though not preferred) approach if the need for intervention is proved.[76]

(b) ENA suggested that, subject to cost, requiring retailers to provide standardised reporting of price change information to consumers, breaking down the source by price change, would not seem to be an overly onerous requirement.[77]

Some submitters were not clear as to how the proposal would address the problem or achieve the stated benefits

5.12 Some submitters did not consider that the specific proposal put forward in the consultation paper was the most appropriate way to address the problems identified around transparency.

5.13 In this regard, a number of submitters referred to one or both of:

(a) The review performed by the Authority following the March/April 2014 price changes and subsequent media coverage. Submitters who referred to the

73 Unison, p2

74 The RAG, p3

75 Vector, paragraph 7

76 Orion, q3 response

77 ENA, q3 response

review (which included Unison, Meridian/Powershop, and the RAG) noted its findings that communications are transparent, and that no misleading or erroneous information was provided.

(b) The UMR survey that supported the work undertaken by the RAG. Submitters that referred to the survey (which included Trustpower, Contact, PwC, ENA, Genesis and Meridian/Powershop), highlighted its findings that:

(i) there is limited interest in receiving more detailed charge related information, with only 3% of consumers rating this information as valuable

(ii) there is solid interest in a standard rate that could be used to easily compare the overall charge across providers

(iii) the segmentation analysis shows that different customer groups have different information needs and preferences.

5.14 Given the findings of these two sources, some submitters (including some who supported it) did not consider the proposal in the consultation paper to be a logical solution to the problems identified. For example:

(a) WEL stated that given the lack of appetite from consumers for more information, as apparent from the UMR survey, the proposal seems unwanted and unnecessary.[78]

(b) Trustpower suggested there should be more transparency about where the drivers for price changes are coming from, but all evidence seems to suggest that more complex price change notification letters is not an effective way to achieve this. Trustpower suggested the Authority has not illustrated that its proposal would therefore solve the problem specified, or especially that its proposal would lead to a net benefit to consumers.[79]

(c) MRP suggested that the proposal has an almost singular focus on individual communications with customers, but that these communications are not the source of confusion, as reflected in the Authority's review.[80]

(d) Transpower suggested that it was not clear that unbundling consumers' monthly electricity bills is wanted by consumers.[81]

(e) Meridian/Powershop stated that the survey results lead to an evidence-based solution set that would enable standardisation at the overall charges level, contrary to the Authority's proposal.[82]

(f) The RAG stated that, given the findings of the Authority review, the Authority should provide more detail about its justification for prescribing a

[78] WEL, paragraph 9
[79] Trustpower, q2 response
[80] MRP, p3
[81] Transpower, p1
[82] Meridian, q2 response

detailed form and full unbundling of tariff information in price change notifications.[83]

(g) The RAG further noted that transparency of what is driving changes in power bills is often a second order issue for consumers. It suggested that if consumers are confident in the underlying competitiveness of the electricity market, they are unlikely to want to delve into detail about the sources of price changes and then seek to find a better deal. The RAG suggested that, if the Authority must resort to making the components of bills very transparent in order to foster competition, this may be a general indicator of a regulatory or market failure elsewhere.[84]

5.15 Furthermore, submitters did not consider that the proposal put forward in the consultation paper was capturing the right information. Specifically:

(a) Some submitters suggested the information was too detail-focussed. For example:

(i) Genesis suggested that the majority of consumers are more interested in the price they pay for electricity including distribution costs, rather than the intricacies of how their retailers manage underlying cost inputs.[85]

(ii) TLC suggested that less detail would be appropriate, as supported by UMR research.[86]

(iii) Meridian/Powershop noted their concern that the Authority is interpreting “better information” to mean: more, detailed and “complete”.[87]

(iv) Pioneer suggested that it has direct experience of providing consumers with more information and receiving negative feedback. Pioneer suggested that, not only were there lots of queries about what the information meant and "why did they have to pay for that", but there were also lots of comments about the complexity of the invoice and suggestions that they should have just one charge. When Pioneer changed to a consolidated metering charge it received positive feedback on how much easier it was to understand the invoice. Pioneer’s impression was that whilst customers like transparency, they also like simplicity.[88]

(v) Trustpower suggested that the UMR survey shows that more complicated bills (or price change notifications) are not what the majority of the public want. Trustpower suggested that the first page on the example form contains all the information necessary for most

83 The RAG, paragraph 4.1.1

84 The RAG, paragraph 8.1.1

85 Genesis, p5

86 TLC, q3 response

87 Meridian, q1 response

88 Pioneer, p2

consumers to be informed of the general source of the price change. The vast majority of customers are likely to be interested only in the percentage change and the dollar change in total charges across the year.[89]

(b) Others suggested that the information should be aimed at allowing for easier comparison between different retailers and offers. For example:

(i) Unison suggested that the proposal may not go far enough to give consumers transparency at times other than price changes, between different retail offerings, and between different tariff options.[90]

(ii) Powerco suggested that, based on the messages it has interpreted from the media, the Authority/RAG work, and throughout its networks, end consumers want easy access to information to allow them to make “apples with apples” comparisons between retailers and not be confused by conflicting messages or additional information on bills.[91]

(iii) The RAG suggested that, if the price of a can of Watties baked beans increases by 50 cents, a consumer is often not interested in whether it is the cost of freight, the price of beans or Watties increasing its profit margin that is causing the increase. Instead, the consumer wants to know the price of alternatives. If these have also risen by 50 cents, the consumer can continue to buy Watties baked beans with some confidence that the price is still reasonable. This scenario is particularly likely if the consumer believes the market for baked beans is competitive.[92]

(iv) PwC considered that the focus of the review should be on what actionable information about electricity charges is missing from the consumer view that will allow them to make informed decisions about their electricity retail options. In PwC’s view, disaggregation of lines charges on the retail bill is unlikely to provide information that is valuable or actionable in the context of competitive markets offerings. Indeed, PwC noted that this information is already available as part of distribution pricing disclosures.[93]

(v) Contact highlighted that the proposal does not require anything to be made available from other retailers so that consumers can compare the information they receive.[94]

(vi) Meridian/Powershop suggested that a price change notification is unlikely to be used to compare offerings from either an existing retailer or an alternative retailer as it provides information on one tariff option only.[95]

89 Trustpower, section 6
90 Unison, p2
91 Powerco, q2 response
92 The RAG, 8.1.1
93 PwC, paragraph 10-11
94 Contact, q8 response
95 Meridian, q3 response

(vii) ENA noted that, when asked how interested they would be in particular types of information being included on their power bills, respondents to the UMR survey identified interest in *"different rates offered by their retailer"*; *"graph showing comparison of power usage"*; and *"retail margin"*. ENA suggested that the Authority's proposals do not address these particular issues.[96]

(c) A number of submitters suggested that a notification letter needed to be able to be compared to previous and future bills so the change can be reconciled and the impact seen.[97]

(d) Consumer NZ suggested that the proposal needed to address the issue of whether price increases are justified. Consumer NZ suggested that requirements aimed at increasing price transparency will only be effective at increasing consumer engagement if they are supported by measures that give consumers confidence that the regulation of the sector is sufficient to protect their interests. [98]

(e) ETNZ suggested that the Authority proposal does not meet consumer needs for either frequency or detail of pricing information. It suggested that the information provided by retailers should include a decomposition of fixed and variable costs, and be provided monthly.[99]

(f) Others suggested that more work was required to identify what information would be most helpful. For example, Unison suggested that the Authority may not be addressing the underlying issues of how consumers make switching and consumption decisions – this needs to be better understood. Unison therefore suggested that before making any decisions, the Authority should undertake more consumer-based research and consultation to further explore the key influences on consumers' decisions and avoid having to speculate about what consumers want.[100]

5.16 Submitters did not consider that the consultation paper had drawn the links between the proposal and the claimed benefits. Specifically:

(a) Submitters considered that making the breakdown of prices more transparent would not have any effect on price signals, was therefore unlikely to result in a change in behaviour, and hence unlikely to have allocative efficiency benefits. Some comments in this regard include:

(i) That making the components of prices more transparent is unlikely to change consumer behaviour. It is the strength of the overall price signal facing the consumer that makes a difference to incentives and

[96] ENA, q8 response

[97] For example, the RAG, paragraph 5.1.4, Pioneer Generation, p3, Meridian, q3 response

[98] Consumer NZ, q3 response

[99] ETNZ, q1 response

[100] Unison, q2 response

the proposal will have no impact on total prices. This benefit of the proposal should be excluded. (ENA)[101]

(ii) That the Authority has not made a credible argument for a causal link between the change in advice to customers and the reduction in network investment. (ETNZ)[102]

(iii) The validity of the secondary objective to promote operational efficiency is questionable given the increased costs that retailers and distributors will face with the increased communication requirements, system changes and consultation which will result from these proposed Code amendments. (Powerco)[103]

(iv) The recoverable revenue is set by the Commerce Commission process and it is difficult to assess what impact better consumer engagement will have on that process. Or whether it will result in a decrease in network costs overall, particularly given that many distribution companies already run public consultation processes to raise public awareness on their cost initiatives. (Genesis)[104]

(v) It does not necessarily follow that the presentation of price changes will accurately reflect changes in the underlying cost of delivering energy to all groups of consumers. As long as distributors and retailers are required as a result of regulations to charge some groups more in order to subsidise others, it is difficult to conclude that the transparency model being put forward will achieve the desired outcomes. (Nova)[105]

(vi) The paper does not explain how having more information about the various elements of retail prices can improve decisions around consumption, investment or retail choice. Prices embody lots of information and convey this as a single value to consumers. This is why prices are powerful. Retail prices provide everything that is needed for consumers to engage effectively. (Orion)[106]

(b) Submitters did not consider that the consultation paper had sufficiently explained how a detailed price breakdown would result in switching and increased retail competition. Some specific comments in this regard include:

(i) WEL questioned how much the proposal will assist in retail competition when these templates will be sent to individuals but they will be unable to assess against other Retailers offers (except at a total charge level) when this information will not be able to be accessed elsewhere.[107]

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[101] ENA, q9 response
[102] ETNZ, q9 response
[103] Powerco, q8 response
[104] Genesis, p4 paragraph 3
[105] Nova, p2
[106] Orion, q1 response
[107] WEL, paragraph 10

(ii) Genesis suggested that, if price transparency reveals new material information to consumers, then it may result in a customer switch. But the requirement for materiality is critical – if the information revealed simply provides more information to consumers on issues that don't add value, it will be discarded.[108]

(iii) Nova suggested that the draft template informs the consumer of the structure of a price change, but it does not give the consumer any sense of what they can do about the change.[109]

(iv) Powerco supported the objectives that the Authority is trying to achieve through the work on increasing the transparency of consumers' electricity charges. However Powerco considered that increased transparency is unlikely to directly provide more consumers with the ability to choose the best retailer for them.[110]

(v) Transpower suggested that the cause of price increases (networks, generators or retailers) is not particularly relevant to whether a consumer could save money by switching retailers ie, assuming accurate and consistent disclosure of cost components is required, it is not clear how this information could help consumers deciding whether to switch retailers.[111]

A number of challenges and uncertainties with the proposal were identified

5.17 Submitters highlighted a number of issues that they did not consider had been adequately considered or dealt with in the proposal put forward in the consultation paper. These included:

(a) Retailer repackaging of distributor tariffs. Some submitters suggested that repackaging of tariffs would always frustrate transparency.

(i) Nova suggested that the problem definition ignores the complexity of explaining price changes when there are regulations requiring that some consumers are effectively being subsidised by others. The Low Fixed Charge Tariff option for domestic consumers makes it necessary for retailers and distributors to subsidise a section of low user domestic consumers and recover the costs of doing so by charging more to other consumers. This makes it inevitable that changes to pricing for the non-subsidised groups can be expected to move by more than the underlying direct expenses.[112]

(ii) Contact expressed a number of concerns about unwinding tariffs in the price change notification form. Contact noted that retailers do not repackage to create complexity, rather they repackage because some network tariff rates cannot be billed otherwise. This issue applies to

108 Genesis, p3-4

109 Nova, q7 response

110 Powerco, point 3

111 Transpower, p2

112 Nova, p1

both ICP and GXP pricing. Network tariff rates that are not predictable or billable without repackaging will frustrate transparency of charges.[113]

(iii) Contact further suggested that complex loss factors have a similar impact. For regulated transparency of charges to be effective it is Contact's view that there should be a regulated obligation on distributors to publish distribution and transmission tariff rates (at least for mass market consumers) that are billable and able to be passed through without repackaging.[114]

(iv) Genesis noted the proposal will require retailers who choose not to pass on price increases to show this decision as a decrease in retailer rates (and vice versa). Genesis suggested that this will be sometimes difficult for retailers to achieve, as the distributor's segmentation of customers may be different from that applied by retailers.[115]

(b) The need to estimate the effect on a consumers' bill over the next 12 months was considered by some to be a challenge. Specifically:

(i) Pioneer suggested a need for guidance about how a retailer is to inform a customer it has had for less than 12 months about the annual impact of the distribution and/or retail price changes. Pioneer suggested the Authority might consider if a methodology for this situation should be standard.[116]

(ii) Contact suggested that, if a recent monthly bill was multiplied by 12, a winter price change would be completely misleading as a result of seasonal differences. However, if it were estimated for each consumer in the same way as for Low User communications, then Contact was not clear how the changes for the 20-25% of customers with less than 12 months of history would be calculated.[117]

(c) The inherent complexities in the market. Specifically:

(i) Nova suggested that, given the costs and difficulty in assigning charges on the basis of capacity and peak load, it is not surprising that there should be considerable debate over how increased retail charges are attributed to different groups of consumers. The debates around the Transmission Pricing Methodology illustrate the complexities. [118]

(ii) Orion suggested that, for an explanation about price changes to be compelling, it would need an enormous amount of detail and / or links to other material, particularly where there is a change in the distributor's price structure. But even where there is no such change, a good explanation would be very complicated. For example a key

113 Contact, q2 response

114 Contact, q3 response

115 Genesis, p5

116 Pioneer, p4

117 Contact, q3 response (near end of)

118 Nova, q5 response

determinant of the "non-competitive" components of retail prices is WACC, about which books can be and have been written, and on which there are legitimate material differences of view.[119]

(iii) The RAG believed that the multitude and complexity of electricity tariffs is a key issue relating to the transparency of consumers' electricity charges. [120] Unison suggested that even with a clear statement around price changes, consumers will still have relatively complex criteria to assess what is the best deal for them.[121]

(d) An observation by Transpower that, to mitigate commercial incentives to 'spin' any disclosure, it seems inevitable that a requirement to unbundle charges would need to be accompanied by clear instruction/rules, and translate between different units of measure. However, that prescription would cut across retail tariff innovation and may have other unintended consequences.[122]

(e) A suggestion that the proposal in the consultation paper may not be structured in a way to adequately deal with the variation and complexity in some tariff structures. Specifically:

(i) Contact suggested that the template does not appear likely to accommodate peak or capacity charges, and so may not be suitable for C&I (commercial and industrial) consumers. Indeed, Contact suggested that it was unclear whether the obligation is intended to include C&I consumers.[123]

(ii) Simply Energy questioned how more complex distributor charges (GXP pricing, congestion charges, losses, power factors etc) would be taken into account, and how they could be forecast over a 12 month period. Simply Energy suggested that the price change notification form that is presented may be simple to apply for vanilla tariffs with a daily charge and a kWh charge, but raises many questions and appears impractical where more complex charging is used.[124]

(iii) Pioneer noted that it has a policy to pass through third party charges at cost. This means it cannot just multiply a distribution volume charge by a consumer's annual volumes to estimate the change in the annual bill, as this would not take into account peak period volume charges by some distribution companies. In line with its policy, Pioneer would have to estimate/forecast for each customer what the customer's peak demand volumes might be, which would be a significant burden.[125]

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[119] Orion, q7 response

[120] The RAG, 7.1.1

[121] Unison, q2 response

[122] Transpower, p1

[123] Contact, q3 response

[124] Simply Energy, p1-2

[125] Pioneer, p3

(iv) Transpower suggested that a matter to address would be the representation of different units of measures and cost allocation mechanisms. For example, how the costs of transmission which are allocated through three different charges would be accurately represented.[126]

(v) TLC requested assurances that the proposal was not intended to restrict pricing to be in c/kWh.[127]

(f) A number of uncertainties were highlighted regarding the requirement to align with Part 4 of the Commerce Act. Specific comments include:

(i) The disclosure requirement is quite generic and not intended to explain why price A has increased by X%. It is therefore not clear if aligning with the pricing methodology disclosure requirements will help (Orion)[128].

(ii) Currently the majority of the pricing information referenced in the information disclosures refers to the publication of the pricing methodology. This only needs to be disclosed before the start of the pricing year. Therefore any price change notification produced 30 days prior to a price change will not be able to be consistent with a yet-to-be-published pricing methodology (Powerco).[129]

(iii) Whether it is possible for retailers to align with Part 4, given the need for them to repackage tariff rates (Contact).[130]

A number of risks of unintended consequences were also identified

5.18 Submitters identified a number of risks to consumer pricing. Specifically:

(a) Genesis suggested that, if not done carefully in collaboration with all retailers, the imposition of a standard form for price changes could inadvertently lead to the standardisation of prices, at the expense of innovation and future diversity of customer offerings. Genesis suggested that the requirement to reveal underlying pricing strategies will lead to all retailers adopting a consistent pass-through approach to distribution costs because:

(i) Competing retailers will be able to readily identify campaign pricing and make assessments of the ability of a retailer to sustain this pricing. This means competing retailers will be more able to make assessments about whether to react competitively to prices at all.

(ii) Revealing cost allocation on a per-region basis will make inter-regional price comparisons easier. This will lead to a common expectation from consumers in the approach that retailers should take with all

[126] Transpower, p2
[127] TLC, p1 and q7 response
[128] Orion, q3 response
[129] Powerco, q3 response point 4
[130] Contact, q3 response

> customers – at the expense of a retailer's ability to price competitively in a region.[131]

Genesis suggested that a standardised approach will further reduce any incentive for consumers, as well as retailers, to participate in the regulatory process for establishing network costs.

(b) Nova suggested that the proposal is likely to slow down tariff rationalisation and changes aimed at reducing cross-subsidisation. Nova suggested this is because, by putting any changes under the spotlight, consumers due to lose a benefit are always vastly more vocal than those expected to gain. For this reason, Nova expected distribution companies will be incentivised to maintain the status quo, or implement any changes very slowly.[132]

(c) Nova also suggested that, by expanding the processes required to work through prior to making price changes, the amount of time and resources required to make those changes is increased. This means that price setting is likely to occur earlier in the planning cycle, and as such, is less likely to be responsive to changing market conditions. Margins will also tend to be increased to take into account the increased risks of changing market conditions in the interim.[133]

(d) Trustpower suggested that the natural outcome of the proposal is that many retailers will be forced to change their prices on 1 April (when network price changes generally take effect), instead of being spaced through the year, in order to minimise confusion for customers.[134]

(e) Pioneer suggested that the proposal creates a regulatory burden across retailers, which increases the cost to serve residential consumers. Pioneer suggested that even in New Zealand's highly competitive retail market, these costs can be expected to end up in the price paid by consumers.[135]

(f) Orion suggested that requiring retailers to show a decrease in the retail component if they do not pass through a distributor price change is not good information to put before consumers. Orion suggested that, on the face of it, this would prohibit retailers from "passing through" distributor price changes while leaving the competitive component unchanged, resulting in higher prices overall.[136]

(g) Powerco suggested that there is the possibility that increased transparency may actually reduce competition due to the increased complexity and costs

[131] Genesis, p1 and p4
[132] Nova, q3 response
[133] Nova, q10 response
[134] Trustpower, paragraph 5.2.5
[135] Pioneer, p3
[136] Orion, q3 response

associated with the provision of additional material about a consumer's bill.[137]

(h) Powerco also suggested that, even if a distributor provides the retailer with sufficient notice that the tariffs for one of their consumers are changing, the actual change will be contingent on retailers providing sufficient notice to their customers. This provides perverse incentives for retailers to intentionally postpone the issuing of notices to avoid a distributor applying new tariffs.[138]

(i) TLC sought assurances that the proposal would not preclude lines companies from setting tariffs that signal the economic costs of service provision.[139]

5.19 Some submitters expressed concern over the potential loss of flexibility and innovation that a regulated solution can create.

(a) Genesis suggested that a standard regulated outcome has the real potential to not meet the needs of the customers, and a less prescriptive approach is needed. Genesis believed it is up to individual retailers to develop communications to suit their particular customers.[140]

(b) MRP discussed its current pricing communications. MRP suggested the information it provides may change over time as customer desires change and as the competitive environment changes. MRP suggested that this demonstrates retailers are already working to provide transparent information which is presented in a format which customers want, and that a prescriptive format will restrict their ability to do that.[141]

5.20 Retailers suggested they would experience much higher costs than the Authority had accounted for. There costs would be associated with:

(a) Developing the notifications:

(i) Pioneer identified increased costs arising from resourcing the data extraction and filling in the forms (either by setting up a data structure or a more manual process), and checking the validity of the data before sending it to consumers.[142]

(ii) Simply Energy estimated the costs of developing the price change notifications in the form prescribed to be in the order of $50K of establishment cost. Simply Energy suggested that this cost increase would represent a significant cost barrier to entry of new competition,

137 Powerco, q1 response

138 Powerco, q3 response, point 3

139 TLC, p1

140 Genesis, p1

141 MRP, p1-2

142 Pioneer, p3

as retailers can only afford a small proportion of their budget to be spend on IT and compliance.[143]

(b) Sending out the notification:

(i) Trustpower suggested that if notifications are to be sent every time there is a change in the make-up of the bill, regardless of whether or not this change is passed through to the customer, or how small the change actually is, this will result in an excessive amount of notifications being sent. In terms of cost, more price change notifications will have to be direct mailed to customers than the Authority has accounted for. Even if only 10% of customers who are currently mailed their bills had to be direct mailed one extra time per year (at $1 each), that would increase total industry costs by a minimum of around $150k p.a.[144]

(ii) Orion suggested that the requirement to provide 30 days' notice of price changes, particularly when combined with the distribution price change trigger, means that nearly all consumers will receive a notification on or shortly before the start of March each year. Orion suggested that if this is not aligned with the retailer's price change timetable, then the retailer will incur the communication cost twice.[145]

(c) Call centre costs. A number of submitters highlighted these. Trustpower provided detailed discussion of the impact on call-centres for retailers.[146] Trustpower suggested that:

(i) There would be a spike in calls over a 4-5 week period after letters go out, particularly if notifications are concentrated in the lead-up to 1 April each year. Trustpower estimated that it would require an extra 80-90 staff for this period to manage peak call volumes.

(ii) There would likely be a second wave of calls when consumers receive their first bill post-notification.

(iii) It is not easy for call centres to be scaled up and down as the Authority has assumed, particularly outside of the major metro centres. Some retailers' standard customer service representative training processes take a number of weeks.

(iv) Retailers account for the expected load on their call centres when they optimise the timing of price changes. This results in some retailers currently staggering their price changes through the year, in order to reduce the burden on their call centres. This could not be done if notifications are required even when there is no change in the overall prices that consumers are charged.

(d) A need to vary UoSAs or make Code changes. Contact suggested that the additional work required for retailers to produce the proposed form

[143] Simply Energy, p2

[144] Trustpower, section 7.3

[145] Orion, q3 response, bullet point 3

[146] Trustpower, section 7.6

(additional data analysis, checking, mail production time) may not be covered by the timeframes that distributors have to notify retailers. Contact therefore suggested that the notice period that distributors provide retailers (under UoSA) may need to be increased from 40 business days to 60 business days, in order for retailers to undertake the additional work.[147]

5.21 It was suggested that there would be implications for distributors. Orion noted that distributors are not generally resourced to take large numbers of calls, and including their contact details on notification could result in an influx of calls from consumers that they are unable to manage.[148]

5.22 Meridian suggested that there would be potential legal implications for retailers that need to be considered. Meridian suggested that if a retailer were to incorrectly calculate (with the best of intentions) the required information, it would breach the Fair Trading Act. Meridian suggested the Authority would therefore be forcing retailers into a much higher risk situation.[149]

5.23 There were suggestions of unintended consequences for consumers. Specifically, submissions suggested that:

(a) The information would be confusing for consumers. A number of submitters suggested this. The reasons for the confusion were summarised by Pioneer who suggested that:[150]

(i) the information provided will only be an estimate as it is based on historic information

(ii) the information could create expectations for consumers, who then query why it proved to be inaccurate compared to their actual consumption

(iii) the information in the form may still include a different message to that in any public statements of both retailers and distributors, because of repackaging

(iv) the proposal to split out changes in charges for the retail and distribution components will create confusion for consumers where their bill only has a single charge – that is, the retailer is charging a single rate which fully bundles up all retail and distribution components.

Transpower suggested that unbundled information could make electricity bills even more confusing for consumers and potentially frustrate consumer engagement and switching.[151]

[147] Contact, q9 response

[148] Orion, q7 response

[149] Meridian, q3 response

[150] Pioneer, p1 (section 1)

[151] Transpower, p2

(b) Consumers would have to expend greater effort:

(i) Trustpower suggested that the proposal would result in increases in consumers' time spent reviewing on two occasions: first when they received the notification; and secondly when their first bill arrived with the new rates in effect and they attempt to reconcile the two, particularly if the bill contains significantly less granular information than on the notification.[152]

(ii) Contact made a similar suggestion, stating that consumers will spend additional time reading and understanding the price change notification information. Once consumers have that information from their retailer, there is nothing required to be made available from other retailers to compare this information to, so they have to work even harder to understand something more complicated than they currently do.[153]

(iii) Powerco suggested that the increased complexity created by the proposal will potentially result in reduced consumer engagement through an increased perception of difficulty associated with any tariff offer.[154]

(iv) MRP suggested that large numbers of customers choose to engage very little or not all – and this choice is perfectly valid for them. MRP suggested that for all customers, but particularly those who choose a lower level of engagement, a prescribed industry practice to send an annual price change analysis (which in their eyes will be boring, annoying and a demonstration of a wasteful business) will serve to reinforce an image of an industry that has failed to move into the modern era and understand its customers. MRP suggested that it is working hard to counter such an image, and therefore needs to let customers apply their own filter to what they do and do not engage on.[155]

(c) Distracting from a key source of cost savings for consumers:

(i) In trying to create a distinction in consumers' minds between the "non-competitive" and "competitive" parts of the supply chain, Orion suggested that the proposal might inadvertently cause consumers to lose sight of one of the largest potential sources of cost reduction - choosing a different pricing plan. Orion suggested that nearly all of the material retail price plan differences are driven by distribution price differences, not "energy" price differences, and the idea that consumers can't do anything about the non-competitive component of the bill is simply untrue.[156]

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[152] Trustpower, paragraph 7.4.2

[153] Contact, q8 response

[154] Powerco, q1 response

[155] MRP, p2

[156] Orion, paragraph 13

Submitters suggested modifications to the Authority's proposal

5.24 A number of submitters suggested that they would support the proposal set out in the consultation paper, given a number of modifications. Others suggested that while they still would not support the proposal ahead of an alternative option, some modifications would make it more palatable.

5.25 However, not all submitters suggested the same modifications, and some suggestions were in conflict with others.

5.26 Vector's submission suggested some of the more minor changes. Vector's recommendations included[157]:

(a) Separating out transmission from distribution in the standard form. Vector suggested that if these are not split, it would risk curtailing the transparency and accuracy the Authority is trying to achieve, and may end up resulting in confusion and mixed messages if transmission and distribution price changes are made at the same time.

(b) Not prescribing which component (ie, either retail or distribution) the "metering rate" is placed under in the form, as it varies between different retailers and distributors. The proposal should allow the flexibility for metering to be captured under which-ever component it best fits under.

(c) A need for clarity around what is meant by the requirement to *"align the notification with the information that the distributor is required to publicly disclose for the purposes of a determination under Part 4 of the Commerce Act"*. Vector suggested that:

(i) the Authority specify which provisions a notification would need to align with, noting that Part 4 is subject to amendments from time to time, with the potential to lead to future clashes between the Code and Part 4

(ii) some pricing-related information in the disclosures may not be available in time for alignment with price change notifications to be possible.

5.27 These (or very similar) suggestions were common amongst other submissions. However:

(a) Contrary to Vector's suggestion under 5.26(a) above, some submitters preferred that transmission remain bundled within distribution. Specifically:

(i) Orion was amongst these submitters, and suggested that separating out transmission would require retailers to separately monitor and analyse distribution and transmission prices, which Orion doubted many do. Regardless however, Orion highlighted the inconsistent approach to transmission in the form.[158]

[157] See p2 of Vector submission – paragraphs 8, 9, 10-11

[158] Orion, q7 response

(ii) PwC supported transmission being disclosed separately, but noted that it may be misleading as there are also transmission charges in the retail component (HVDC and generator connection charges).[159]

(b) Further to the point in 5.26(c)(ii) above, Contact suggested that retailers cannot comply with draft Clause 11.40 in circumstances where a distributor‘s tariff rate is not billable to a consumer without repackaging. In such circumstances the distributor will disclose the distribution and transmission tariff rate charged to retailers, and this will be quite different to what the retailer builds into its retail pricing to recover the estimated network costs for the tariff rate.[160]

5.28 Submitters variously suggested a number of other relatively minor changes to the details of the proposal in the consultation paper. Specifically:

(a) A number of suggested changes to the structure or specific detail included in the standard are discussed later in section 5.44

(b) There was a suggestion to remove the requirement to notify consumers about changes in prices that are not passed through. Specifically:

(i) As discussed in paragraph 5.20 above, submitters (including retailers and PwC) suggested that this would increase the costs for retailers, as they would have to notify consumers both when the distributor increased their prices, and again when they themselves passed that cost through. This would have costs in terms of mail-outs, but also in terms of increased call centre loads. Further, some distributors change their charges more than once in a year – once for the distribution component and once for the transmission component. If retailers choose to pass these through at another time, then the proposal would require the customer to receive three separate notifications.[161]

(ii) Trustpower suggested that more than one notification in a year will confuse customers, particularly if it is for the same (single) change in lines charges (initially not passed through and then passed through). Trustpower suggested that in its experience, multiple notifications to consumers regarding price changes, regardless of how well they are constructed, creates the impression of multiple price increases. Adopting this approach will have significant consumer impact, and is likely to negatively impact the industry's reputation.[162]

(iii) PwC expressed a concern that this aspect of the proposal creates undue complexity. PwC suggested that receiving such a notification would create a 'moment of confusion' for the consumer rather than a 'moment of truth'.[163]

[159] PwC, paragraph 24e

[160] Contact, q3 response

[161] Trustpower, section 5.2

[162] Trustpower, section 5.2

[163] PwC, paragraph 28

(iv) Powerco disagreed with this aspect of the proposal, stating that retailers package and offer services to consumers in a competitive market. If they have chosen to absorb a distributor price move and not change their prices they should not be required to notify consumers as this is a commercial decision. Additionally, this potentially will only cause confusion for consumers and drive increased costs for retailers for minimal resulting benefit to consumers.[164]

(v) Contact suggested that it would be unreasonable to require retailers to incur the cost of notifying consumers of a change to the distribution and/or transmission tariff rate if the pricing to the consumer is not changing.[165]

These submitters suggested it would be more effective for retailers to send price change notifications only when final consumer charges change. PwC suggested that the retailer could explain that distribution charges changed at an earlier date but the retailer elected not to pass these through at the time.

(c) A number of submitters recommended changes to the 30-day notice period. Specifically, it was suggested that:

(i) The 30-day period does not align with the requirements on distributors under Part 4 of the Commerce Act to provide 20 business days' notification, which may create unnecessary complexity. It may therefore be appropriate to change the requirement to 20 business days (PwC).[166]

(ii) Any reference to a 30-day notification period should be removed, and instead reference made to the notification period stipulated in each retailers' prevailing terms and conditions. Powerco noted that retailers typically have varied terms and conditions across different consumer groups in regards to notification of price changes and suggested that it therefore seems unnecessary to mandate a 30-day notification period.[167]

(iii) The 30 day period does not provide sufficient time for retailers to incorporate a notification into their normal billing cycles, potentially requiring a separate notification, with associated costs.

Trustpower suggested that the real "moment of truth" for consumers came when they received their first bill, and that it may be more appropriate to include a price change notification with the first bill that uses the new pricing. Trustpower suggested that doing otherwise may create confusion, as consumers may struggle to join-the-dots between the advanced notification and the price increase – essentially creating two "moments of truth".[168]

[164] Powerco, q3 point 1

[165] Contact, appendix a, point 3a

[166] PwC, paragraph 30

[167] Powerco, q3 response point 2

[168] Trustpower, section 5

TLC also suggested that the first bill after advice of price change represents a call to action and it is at this stage that customers respond and seek clarity.[169]

For similar reasons, Orion suggested that requirements around price notification may be better in a form such as: "Within 'x' days of price changes becoming effective".[170]

(d) Some submitters understood the consultation proposal to require retailers to notify consumers of price changes even where the distributor directly bills customers. Submitters did not support such a requirement. Specifically:

(i) Contact stated that where the distributor is direct billing line charges to a consumer, the distributor should be obligated to notify the consumer of the changes in the distributor's tariff rate. Contact suggested the argument that requiring the retailer to notify reduces transaction costs and confusion by avoiding duplication of effort does not stack up. For example, the distributor's tariff rate may be a non-standard tariff rate that is not transparent to the retailer, or the distributor and retailer could be billing on a different cycle.[171]

(ii) PwC suggested that the issues raised about transparency are resolved where a distributor directly bills its consumers. PwC suggested this is because retailers and distributors already notify changes to charges separately, so there should be no confusion over who is responsible for the change. Accordingly, PwC recommended that retailers and distributors be excluded from the proposal where the distributor directly bills consumers.[172]

(e) A few submitters (Orion, Genesis) suggested that contact details for distributors should not be included in the price change notifications. Those submitters considered that:

(i) Under interposed contractual arrangements, managing calls from consumers about price changes was not their responsibility. Orion suggested that in an interposed situation retailers are responsible for all of the elements of retail prices and must be able to explain what they have done. Orion suggested that retailers are not, in terms of their contracts with distributors, "passing on" distributor pricing, and are not in a position to comment on the ICP specific calculations that retailers have provided via the template.[173]

(ii) Distributors are not equipped to field a large number of calls from consumers, as they do not have the resource or facilities available to manage the likely influx.[174]

[169] TLC, q2 response
[170] Orion, q3 response
[171] Contact, q3 response
[172] PwC, paragraph 26
[173] Orion, q3 response
[174] Orion, q7 response

(iii) There is little benefit in providing customers with the address and contact details of their distribution company as part of the price update. Genesis suggested that any information is more likely to be effective if it is succinct and focused. Genesis considered that address information for the relevant distributor is not necessary and should not be mandated.[175]

5.29 There were also a number of suggestions for more significant changes to the Authority's proposal in the consultation paper. These included:

(a) Three submitters (Contact, Trustpower and the RAG) suggested a materiality threshold may be appropriate, similar to that contained in the Authority's model terms and conditions for domestic electricity contracts. That model requires separate notification to consumers of price changes greater than 5%, either in a single fee or service charge, or the total invoiced price. These submitters suggested a similar threshold may be appropriate, although the RAG and Trustpower also noted that 5% may be too high.[176]

(b) That consumers are provided with some flexibility over how much of the information they receive. For example:

(i) Trustpower suggested that the content on the first page of the proposed standard form could be mandatory, but that the rest could be "opt-in". Trustpower suggested that consumers that were interested in a more detailed breakdown of the increase could be directed to the retailer's website, which would provide more detail.[177]

(ii) Contact suggested that an exclusion be allowed for customers that already receive unbundled bills, as well as for other customers that wish to opt-out.[178]

(iii) Orion recalled an option from a previous consultation: that retailers be required to maintain the component information on their websites (some already do). This would be considerably lower cost than the proposal, and would allow customers to opt in.[179]

(iv) MRP suggested that a customer could be sent an alert in a mobile phone app from their energy provider, which the customer has chosen to install on their phone, and the alert simply tells them their prices have changed and they can go to a website to get more detailed information.[180]

(v) Consumer NZ supported publication of price increases online, but as an addition to, rather than replacement for, the standard form

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[175] Genesis, p6

[176] The RAG, paragraph 9.1.4. Trustpower, q6 response, Contact, q3 response

[177] Trustpower, section 6,

[178] Contact, Appendix A

[179] Orion, q5 response

[180] MRP, p2

notifications. Consumer NZ considered that publication of price increase information on the web would provide an opportunity for independent scrutiny of the information.[181]

(c) That the proposed notification requirements should specify the information to be included rather than the format, so that retailers are provided with flexibility in how they present and deliver the price change notifications. For example, they could be allowed to take advantage of different technologies (eg, mobile and web applications), or present the information in graphical format. Specifically:

(i) PwC suggested that retailers and distributors be given discretion to modify the design and presentation of information (ie by showing it in graphical format) so long as all of the required information is included.[182]

(ii) MRP noted that acceptable channels for price change communication should include online, apps, mobile, email and any other future communication method which helps to better reach customers and should allow use of “customer pull” methodology (ie, rather than “retailer push”).[183]

(d) Suggestions of changes to the information that should be provided in price change notifications, including:

(i) A suggestion from Consumer NZ that the template should also include details of price changes that have occurred over the preceding 3-5 year period. Consumer NZ suggested that this would help consumers compare pricing trends between retailers offering similar plans.[184]

(ii) A suggestion from Trustpower that calculations relate to a ‘representative’ consumer, to avoid the need to have to forecast consumption over a 12 month period, noting that retailers may not have representative historic information to inform such a view.[185]

(iii) A suggestion by MEUG that a sensitivity scenario also be included that shows what their costs would be if their annual consumption increased or decreased by 5%. MEUG suggested that with this information, a consumer would understand how the relevant fixed and variable components of the line and energy components work, and the value of various decisions.[186]

(iv) Information that would allow consumers to compare their price increase and resulting annual costs with those of different retailers, as discussed in section 5.15(b) above.

[181] Consumer NZ, q6 response

[182] PwC, paragraph 25

[183] MRP, p2

[184] Consumer NZ, q7 response

[185] Trustpower, various, but q5 response as an example

[186] MEUG, response to q3 (c)

(v) Unison submitted that more contextual information could be provided to consumers in the new Schedule 11.6 about how electricity prices are constructed (eg, the difference between the regulated part – distribution and transmission – and the competitive part, retail). This would signal to consumers the components of the price that would not change (regulated) and the components that could change if they switched (competitive).[187]

(e) A suggestion by MEUG that the proposal include a sunset clause, due to likely improvements in retail competition. MEUG suggested that as competition increases the market will reward suppliers that provide information consumers want, and should hence be left to decide levels of transparency. MEUG therefore suggested that the proposed Code requirements should cease at some pre-determined point, possibly based on a Herfindahl-Hirschman Index (HHI) level or a specified review date.[188]

Submitters identified approaches that might better achieve the proposal's intent (Question 5)

5.30 A number of suggestions were made that were similar to the consultation proposal in terms of intent, but quite different in approach. These suggested options included:

(a) A suggestion from Simply Energy in which:[189]

(i) Additional fields are added to the AV-120 files that retailers are currently required to submit monthly to the Reconciliation Manager. These report out of their financial system the kWh volumes they have sold to their customers aggregated by NSP.

(ii) Additional fields could allow this information to be aggregated by Network, NSP, Category (Distribution vs Retail vs Metering), ANZSIC Code and post discount amounts charged.

(iii) This dataset could then be aggregated and presented to the public to show, month-by-month, the actual kWh, discounted amounts invoiced and cents per kWh paid across the country in a simple and robust format.

(iv) This as-billed metric would be current, show trends, be free of confusion from discounts and arguably displace the current spending on 'switch me' by pointing customers to the cheapest retailer in each region (NSP). Furthermore this report would require no additional ongoing cost than already incurred by retailers.

[187] Unison, q7 response

[188] MEUG, response to q3 (b)

[189] Simply Energy, p2

(b) A suggestion from MRP and Genesis that the Authority prescribe minimum requirements for the information retailers must provide to consumers, but not how that information should be presented or delivered. Specifically:

(i) Genesis suggested that if the Authority decides that some form of standardisation is required, then Genesis considered it is preferable to set out principles for price notifications rather than detailed requirements. Retailers can then decide to what degree they elaborate on this base level information.[190]

(ii) MRP suggested that the draft Price Change Notification does not allow retailers the flexibility to deliver an experience which fulfils customer desires and changes in these desires through time. To resolve this issue MRP recommended that the Authority take an approach which is less prescriptive on format, but instead sets some minimums for what information is made available to customers at a price change, of which MRP made some specific suggestions.[191]

(c) A suggestion from Meridian/Powershop to standardise how charges are referred to, not just in price change notifications, but in all places where tariffs are quoted (eg, Powerswitch, What's my Number). They suggested price information be presented as a single dollar value, including GST and any discounts. They suggested this has the benefit of being in a unit (dollars) that all consumers understand and allows the potentially confusing detail to be dealt with by the party who understands it. They suggested that it provides a standard way of presenting data in understandable terms so customers can compare charges within and across providers and it allows flexibility for retailers to tailor their information provision beyond the total charge level to customer preferences.[192]

(d) A suggestion by Powerco that the Authority consider engaging Consumer NZ about making changes to the Powerswitch website to incorporate the individual components that make up retail charges. This is an example of where customers have taken the time to consider potential alternative retailers and the provision of additional information may be advantageous to the customer's decision making. This is an established resource that a lot of people already access and the opportunity should be taken to build on the platform. Unison made a similar suggestion.[193]

(e) A suggestion by Contact that retailers could be required to respond to individual requests for a network/retailer charge breakdown within a set

[190] Genesis, p6
[191] MRP, p1
[192] Meridian, q3 response
[193] Powerco, q5 response

period (for example within one month) where distributor pricing enables full transparency.[194]

(f) Unison considered that the EA's Retail Data Project may also have an impact on improving the transparency of information on electricity charges for consumers. Unison suggested that it would be useful for the EA to analyse the net benefits (and costs) of the two projects together, as the combined positive impact on the market may be increased.[195]

(g) A suggestion from MRP[196] that distributors be required to make their own notifications of changes in distribution and transmission pricing, and that retailers should have no part in that process. MRP suggested that this would remove confusion in the reporting of price changes, allow customers the transparency they require in order to hold distributors and regulatory decision makers to account over pricing decisions, and would also improve transparency over the competitive energy component of the bill. MRP disagreed with the assessment the Authority made in discounting direct distributor notifications, suggesting that:

   (i) the Authority could seek leave of the Commerce Commission to regulate in this area, or seek that the Commerce Commission regulate in this way itself

   (ii) the potential conflict with the Commerce Act is only a *potential* conflict, and would therefore only be an issue if a distributor objected to notifying its customers of network price adjustments. However, MRP would not expect distributors would oppose the suggestion, and requested the Authority provide any information it might have that suggests otherwise.

Others consider that one of the alternative options is preferable

5.31 There was some support for each of the four alternative options that were presented in the consultation paper.

5.32 Option 4 – for the Authority to prepare an annual report on price trends - was supported as an alternative by three submissions (Genesis, Trustpower and Transpower).[197] A further five (Nova, Orion, ENA, PwC, Consumer NZ)[198] considered that the Authority should prepare some form of annual price reporting alongside, or regardless of, any other approach it takes.

[194] Contact, q5 response
[195] Unison, p3
[196] MRP, p3
[197] Genesis p6, Trustpower q4 response, Transpower p2
[198] Nova p2, Orion q4 response, ENA q4 response, PwC paragraph 22, Consumer NZ q4 response

5.33 Those submitters made a number of comments about the benefits of option 4, including:

(a) Consumer NZ suggested that the proposal is a necessary but not sufficient response to existing problems. Consumer NZ supported combining the proposed standard disclosure with Option 4.[199]

(b) ENA suggested that this type of report could provide an independent and authoritative source that explains pricing trends and their drivers. ENA considered that the information in the report should be prepared on a consistent basis which would help the media and consumers to understand price increases and the main drivers.[200]

(c) Genesis suggested that an annual report offers an easier comparison between retailers and regions, and delivers a more authoritative response from the sector on price drivers. Genesis considered that the annual report approach avoids many of the concerns raised by the standardised approach. In particular, it reduces the incentive for retailers to standardise pricing structures as there is no requirement to follow a standard form when calculating price changes. It also avoids the significant implementation cost on retailers from updating and recalculating price change notifications.

Furthermore, Genesis considered that an annual report would be comparatively easier and more cost effective to implement, with an identified establishment cost of $150,000 and $100,000 annual operational costs.[201]

(d) Trustpower suggested the report should be the go-to resource for the media. The Authority should be positioning itself to educate the media and the public on the workings of the industry, and to enhance public understanding of the mechanisms that drive changes in electricity prices. This can be demonstrated at a macro level, rather than through individualised notifications.[202]

(e) Orion did not consider that option 4 is really an *option*. Orion regarded it as a desirable approach irrespective of what happens with retailer communications under any other option. Orion suggested that only an independent well-resourced agency like the Authority can undertake analysis that explains price changes in anything like a comprehensive way.[203]

[199] Consumer NZ, q4 response
[200] ENA, q4 response
[201] Genesis, p6
[202] Trustpower, q4 response
[203] Orion, q4 response

(f) Transpower suggested that the most useful and least cost intervention is for the Authority, as a neutral party, to extend its existing role in informing consumers about underlying trends and costs.[204]

5.34 Submitters also suggested changes that could be made to make the annual report more relevant, such as:

(a) Consumer NZ stated that it does not support limiting the information in such a report to that which is publicly released by the companies. Consumer NZ disagreed that the purpose of the report should only be to inform the media and commentators, noting that the authority's role is to protect consumers, thus communicating effectively with the public should be the minimum the Authority requires of any reports it commissions.[205]

(b) Trustpower suggested that:[206]

(i) In contrast to what was presented in the consultation paper, the Authority would not have to speculate about future price drivers. The proposed notifications by retailers are not predicting future price trends, and the need to do so has not been demonstrated in the problem definition. Trustpower suggested that all the report needs to do is report on recent and/or impending movements, based on data provided by network companies and retailers, which requires no speculations.

(ii) A simple diagrammatic representation of the electricity industry would be useful (eg, wholesale/generation; transmission; distribution; metering; retail; regulation), along with a pie chart showing where charges on bills are going (and a short description of how and why charges have changed). A description of the regulated and competitive segments of the market would also be useful.

(iii) The Authority could also explain to the public when major transmission investments are made and the expected effects this would have on prices.

(c) Similarly, Orion suggested that the Authority needs to be careful in commenting on future price movements in anything more than a generic way, for example that "distribution prices within a regulatory period are likely to increase in line with CPI", or "PV is likely to drive changes in the way distributors price over the medium term". Orion suggested the idea that any party can comment usefully about prospective changes in the balance of fixed and variable, or capacity and volume, is optimistic at best.[207]

(d) Nova suggested that the Authority consider deriving and reporting on the effective peak load charges being paid by various sectors within each

[204] Transpower, p2

[205] Consumer NZ, q4 response

[206] Trustpower, section 3.2

[207] Orion, q4 response

distribution region. By making this data transparent there might be greater pressure on distributors to reduce any cross subsidies where they have the scope to do so.[208]

5.35 Some submitters ruled out option 4, as they did not consider that it would be useful for consumers. However, there were some suggestions that there may still be a role for the Authority in this area. For example:

(a) PwC suggested that an annual report on price trends is unlikely to be read by consumers. However, PwC suggested that there may be a role for the Authority to focus more on price trends in its market reporting and to effectively convey these messages to media outlets to provide confidence in the sector.[209]

5.36 Option 3 – requiring unbundling of consumer bills – was supported by all of the energy trusts as well as TLC. Suggestions were that:

(a) Until this is done, a consumer is unable to compare retailers, and is therefore forced to rely on retailers' sales persons' 'promises, and cannot make an informed decision to switch (CPCT).[210]

(b) Consumers need a readily accessible supply of relevant information (ETNZ). This requires a breakdown of the components contributing to their total electricity bill, to allow them to isolate and establish the "variable" costs (retailing); and a general indication of the way various causative components are moving, to provide a simple (and regular) indication of the drivers of the overall size of the electricity bill for wider purposes including possible investments.[211]

(c) Unbundling a price change is pointless if bills are left bundled. The difference between tariff structures should not be seen as a deterrent. So long as the Authority is willing to acknowledge a difference in product (retail/distribution) there should be no real deterrents to the unbundling of these charges (TLC).[212]

[208] Nova, p2
[209] PwC, paragraph 22
[210] CPCT, p2
[211] ETNZ, p3
[212] TLC, q2 and q4 response

5.37 However, option 3 was dismissed by all others that commented specifically, and these submitters generally agreed with the assessment of the option that was included in the consultation paper. They suggested that it would be at odds with the findings of the UMR survey, would not be appreciated by consumers, and can be provided as a competitive offering by retailers if they see value in it. For example:

(a) Nova agreed with the Authority's assessment that forcing separate invoicing or split details on invoices will be expensive and will not achieve a great deal.[213]

(b) Orion suggested that, as established by the Electricity Commission and as supported by previous Authority consultations on this subject, *requiring* separation on the bill is not a good approach. On the other hand, and as the consultation paper noted, a number of retailers already show some separate components on bills so this has become a point of difference for those consumers that value more information.[214]

(c) Unison suggested that Option 3 (separate itemisation on a single bill), has merit in that some consumers may find it useful to know the components of the electricity charges that can be changed (the competitive part - retail), and what cannot (the regulated part – distribution and transmission). However, the UMR research stated that 78% of consumers did not want more information on their bills.[215]

5.38 Option 2 – requiring separate billing - only received support from one submitter, TLC.[216] TLC identified a number of benefits of separate billing based on its own experience. These can be found in detail in their submission. At a high level, TLC suggested:

(a) A separate bill for distributor and retailer allows both parties to utilise pricing methodologies that reflect actual cost drivers.

(b) Tariff development can respond quickly to opportunities afforded by changing technologies such as meters and substitutes.

(c) Customers need to be able to calculate the "cost" of a solar unit. This will be difficult while distribution/transmission and retail charges are bundled together. There is a cost of connection and this cost is obscured while charges are bundled together.

[213] Nova, p2
[214] Orion, q4 response
[215] Unison, q4 response
[216] TLC, q4 and q11 responses

5.39 Again, other submitters said they agreed with the assessment of this option as set out in the consultation paper. Specific comments included:

(a) Powerco stated its support for the Authority's decision to reject the options of issuing separate bills or having separate itemisation on a single bill (options 2 and 3). Powerco considered both would require considerable costs that outweigh any potential benefits.[217]

(b) Orion did not believe option 2 was sensible, or a plausible option, at least not without turning the industry on its head. Orion suggested that for any distributor that operates on a contractually "interposed" arrangement, there is no basis for them to invoice end-consumers rather than retailers without the consumers' consent. There is also the technical matter that no such distributor will be in a position to bill all its customers separately in terms of data, systems, customer care and credit management. The duplication of costs alone would run into the tens of millions per annum across the country. It would also require years of transition.[218]

(c) Unison did not believe this option was viable or realistic. This would be confusing for consumers and inefficient.[219]

5.40 Five submitters (Nova, Orion, Pioneer, Contact, WEL) supported the status quo - ie, option 1, and suggested the Authority achieve its aims through other means, or turn its focus to other matters. Other submitters further expressed a preference for an approach that is *more like* the status quo, or were unconvinced that the status quo was not a valid option. Specifically:

(a) Contact believed that Option 1 is just as likely to achieve the proposed solution's objectives – particularly as the proposed solution does not offer any success criteria to be measured against. Given the uncertainty of benefits in the proposed solution, as well as its higher costs, Contact believed that the status quo, while testing the proposed solution with consumers through qualitative research, is a more appropriate next step.[220]

(b) Orion suggested that the status quo is certainly a valid approach, as the Authority's own "retail price check" established: retailer communications about price changes are transparent and informative. Retailers are indeed already taking different approaches to transparency both on their bills and in their communications. Orion suggested that this is good because it allows consumers to choose what is important to them.[221]

[217] Powerco, paragraph 5

[218] Orion, q4 response

[219] Unison, q4 response

[220] Contact, q4 and q11 responses

[221] Orion, q4 response

(c) Meridian/Powershop considered their suggestion of standardising total charges to be a “modified option 1”. They strongly disagreed with the suggestion in the consultation paper that there is little incentive for retailers to get their communications with customers right, and that the benefits of the status quo are under-stated. They suggested that a failure to honestly connect and communicate with customers around price change notifications has dire consequences for retailers not just in complaint levels but in customers choosing to switch away and Fair Trading Act liability.[222]

(d) Powerco suggested that, when considering the alternative options to the Authority’s proposal as detailed in the consultation, Powerco was surprised that the Authority discounted market forces as an option without clear justification. Powerco suggested that if the Authority believes that market forces in the competitive retail market will not incentivise increased transparency in response to customer wants, then the question of customer demand for increased transparency remains unanswered.[223]

5.41 However, some also suggested the status quo may not be sufficient. For example:

(a) Unison believed that the market did not deliver under this option and the investment required in the “PowerSwitch” campaign is evidence of this. However, Unison noted that there has been increased competition and innovative approaches to pricing during this time, eg Flick Energy.[224]

Some submitters suggested the Authority focus on other things

5.42 Submitters suggested there were other things the Authority should focus on to achieve the desired benefits. Specifically:

(a) Nova suggested that, with the roll-out of AMI metering, more distributors will be able to charge on the basis of load rather than energy demand. The Authority should look to mechanisms to encourage that development as it will lead to better energy management, reduce capital investment and provide consumers with a better understanding of the differences between energy distribution and energy retailing.[225]

(b) Contact suggested a number of changes to tariffs that it considered could improve transparency more effectively than the Authority’s proposed solution, including:[226]

(i) requiring all network tariff rates for mass market consumers to be billable at an ICP level without requiring repackaging

[222] Meridian, q4 response
[223] Powerco, paragraph 6
[224] Unison, q4 response
[225] Nova, q5 response
[226] Contact, q5 response

(ii) requiring all distributors and retailers to provide consistent descriptions of tariff rates

(iii) the Authority providing standardised, plain English descriptions of tariff rates to be used by retailers and distributors where appropriate to assist with consistency

(iv) a more standardised network pricing structure for mass market consumers which supports transparency of charges with common tariff rate descriptions where possible thus making the complex simpler for consumers.

(c) The RAG suggested the Authority consider introducing mandatory tariff names for common tariff types (for example, low user controlled load, standard user controlled load, low user anytime). This could remove a source of confusion for consumers comparing retail offerings, and give consumers confidence that they are making ‘like-with-like’ comparisons.[227]

(d) WEL noted that it had recent experience with a retailer adding its charges (metering and administration etc) into a separate area of its invoice with WEL’s name just above, making it appear that it was not the retailer’s charges. WEL suggested the Authority ensure that the current information a customer sees is clear and a true reflection of the pricing and charges attributable to the correct party.[228]

(e) Unison observed that the Authority may need to take a step back from transparency and address the broader question of what actually influences consumers’ switching and consumption decisions. The Authority should avoid speculating about what consumers want and test actual proposals with a broad range of consumer types, as the RAG did with the UMR research in its consultation process.[229]

(f) CER suggested that more consultation is required, toward greater resolution of consumer requirements. CER’s customers have a particular interest in the ability to retain analogue meters, and the feed-in rate they receive for solar export. CER suggested that consumers require more choice of services.[230]

Some specific concerns with the Code drafting were highlighted (Question 6)

5.43 In addition to Code amendments that would reflect the suggestions covered in the above discussion, some specific changes to the Code drafting were put forward. Some of these suggestions were detailed in appendices in the relevant

[227] The RAG, section 7
[228] WEL, paragraph 5-7
[229] Unison, p1
[230] CER, q2 response

submissions. They are identified and briefly summarised here where possible. Full details are set out in the relevant submissions.

(a) Meridian/Powershop identified a number of inconsistencies, drafting that requires clarity, terms that need to be defined, and technical changes to the draft Code. They also identify the potential for perverse, inadvertent outcomes in the drafting that would prevent a retailer from talking to a customer.[231]

(b) Powerco suggested alternative drafting to overcome issues arising from the fact that pricing methodologies under Part 4 may not be available when price change notifications need to be sent out.[232]

(c) TLC suggested using “billing provider” as a generic term instead of “retailer”.[233]

(d) Contact suggested changes that would clarify the relationship between distributors and retailers under interposed arrangements, exclude retailers from sending notifications to consumers that are direct-billed for lines services, and exclude retailers from having to explain a distributor’s tariff rate change if it cannot be passed through without repackaging.[234]

Some specific comments on the template form were proposed (Question 7)

5.44 There were a number of suggested changes to particulars on the form. Some of these have been covered by previous discussion. Further suggestions are notified and briefly summarised here where possible. The reader is referred to the relevant submissions for further detail. The Meridian, Orion, Contact submissions included particular detail on this question.

5.45 Suggested changes to the form content included:

(a) The treatment of the metering charge. There were a number of views on this:

(i) Pioneer suggested that metering costs should be separately identified on page 1 of the form. Pioneer was concerned that metering services are now supplied in NZ by basically two organisations. While metering costs are only a small component of the overall cost of supplying customers Pioneer was concerned that the cost of metering services may rise disproportionately reflecting the limited competition in provision of this service.[235]

(ii) Contact noted that the form appears to suggest a metering rate would have to be maintained and separately notified. Contact noted that

[231] Meridian, q6 response
[232] Powerco, q6 response
[233] TLC, q6 response
[234] Contact, Appendix A
[235] Pioneer, p4

retailers typically build average metering costs into their retail prices as metering costs vary significantly across and within New Zealand‘s many networks, so it is not practicable to reflect the actual metering cost for each consumer.[236]

(iii) A number of submitters (ENA, Orion, Vector, WEL, Unison) suggested that “metering” has erroneously been attributed to distributors, but this is actually a retail function, or at least different for different networks. Similar arguments were made regarding “billing and admin rate” and “invoice delivery rate”. WEL suggested it is key, should this be mandated, that the information disclosed is clear and reflective of each party’s charges imposed.[237]

(b) There was a suggestion that there should be a separate category for the Authority levy.[238]

(c) The approach to GST. Orion suggested prices should be presented as GST exclusive, as it is not a cost component that can be controlled. Similarly, PwC suggested it be included as a separate item to make prices more comparable with existing information, as distributors publish prices on a GST exclusive basis since they are wholesalers.[239]

(d) Orion suggested the headings might be better as “competitive” and “non-competitive”. [240]

5.46 Some submitters (Meridian, Unison) suggested that customers’ views on the form need to be canvassed, to determine if they would find the information and layout useful. There was also some suggestion about the format of the template. For example, Nova suggested that the template conflicts with retailers’ corporate communication styles and branding.[241]

5.47 There were also a number of queries as to how specific situations or circumstances would be accommodated by the form. For example, these included:

(a) how prompt payment discounts or other competitive pricing incentives are to be included, noting that discounts are generally applied to the full bill, but distributors do not typically apply such discounts to their prices (Contact, Meridian, PwC)[242]

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[236] Contact, q3 response
[237] WEL, paragraph 8
[238] Orion, q7 response
[239] Orion, q7 response
[240] Orion, q7 response
[241] Meridian, q7 response
[242] Contact q3 response, Meridian q7 response, PwC paragraph 24d

(b) whether spot charges would be exempt, how contracts-for-differences would be treated, and how wash-ups would be treated (Simply Energy)[243]

(c) it is not clear how restructuring of tariff rates is to be disclosed, eg, when a distributor‘s price category is closed and consumers are migrated to one or more new price categories (Contact)[244]

(d) it is not clear what is expected of network tariff rates that cannot be passed through without repackaging (Contact)[245]

(e) how the low-user regulations should be considered (Meridian).[246]

[243] Simply Energy, p1-2
[244] Contact, q3 response
[245] Contact, q3 response
[246] Meridian, q7 response

6 Key comments on the proposal – part two

Requiring retailers and distributors to consult each other on media releases relating to changes in consumers' charges

Addressing the 'blame game' problem

6.1 The consultation paper set out the Authority's view that how retailers and distributors present price changes in the media is important. The confusion and diminishing of consumer confidence arising from retailers' and distributors' inconsistent presentation indicates that regulatory intervention is required to introduce greater accountability and improved transparency on parties responsible for the price changes.

6.2 The Authority proposed requiring retailers to consult with distributors, and distributors to consult with retailers, about any media releases each party proposes to issue relating to changes to consumers' charges in the distributor's area. The reasons the Authority advanced for this included: [247]

(a) reducing the potential for miscommunication by retailers and distributors

(b) placing sufficient incentives on participants to not provide confusing and potentially misleading statements to the media

(c) providing the Authority and the Commerce Commission with more transparent information so they can hold participants to account regarding their statements.

Submitters' views on this aspect of the proposal were mixed

6.3 Of those that commented specifically on this aspect of the Authority's proposal, responses can be categorised as follows:

(a) support for the proposal in general terms, but with some modification

(b) support for including a requirement to 'notify' rather than the Authority's proposal for a requirement to 'consult'

(c) support for addressing the issue through the Authority publishing regular authoritative information on price changes and price trends

(d) support for addressing the issue by requiring distributors to advise consumers of lines charges

(e) not supporting the proposal or an alternative.

[247] The other aspect of the Authority's proposal – requiring retailers to provide information to their consumers about price changes in a standard form (refer previous section) – would also assist by providing an authoritative source of relevant information.

Some submitters supported the proposal but with modifications

6.4 Meridian/Powershop, Powerco, PwC and Vector supported the proposal. Reasons submitters gave in support include:

(a) the proposal could help mitigate the risk of confusion created by inconsistent or inaccurate price change messages[248]

(b) it is undesirable for consumers or the media to be presented with inadvertently misleading or conflicting price change explanations[249] as it can harm the reputation of the industry and result in inefficient and costly outcomes

6.5 All of those supporting the proposal qualified their support by proposing modifications:

(a) Vector suggested that the requirement to consult be extended to letters and advertisements, noting that consumers probably pay more attention to letters about their prices than to media releases.[250]

(b) Powerco suggested the Authority explore options for how deadlocks would be dealt with before the Code amendment took effect (eg, managing such situations within use of system agreements or through independent Authority mediation). Powerco also made several suggestions relating to the Code amendment:[251]

(i) extend the requirement in clause 11.41 to include responses to media queries, thereby closing a loop-hole that could potentially be exploited, undermining the proposal

(ii) clarify that the annual pricing disclosure as required under section 2.4.18 of the Electricity Distribution Information Disclosure Determination 2012 does not constitute a media release under clause 11.41

(iii) modify clause 11.40 to require retailers and distributors to provide each other with advance copies of tariff rate change explanations before these are sent to customers.

(c) PwC considered that the Code amendment needs to:[252]

(i) recognise the limited role of this consultation in discussing and agreeing the magnitude and causes of retailer and distribution price change

(ii) recognise the need for timely release of media statements and that consultation should not hold up price changes

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[248] Vector, p3

[249] Vector, p3

[250] Vector, p3

[251] Powerco, p4-6

[252] PwC, p6

(iii) require that media statements mentioning distribution or transmission prices are consistent with pricing disclosures made by these businesses (ie, under the Information Disclosure Determination).

6.6 Meridian/Powershop supported the proposal for increased retailer and distributor interaction around price change notifications as a process improvement but noted the potential still exists for 'conflicting' information in the media. They noted, however, that the requirement for retailers and distributors to consult (or notify) on media releases may help the two parties to understand how each other's numbers are calculated, to articulate the different customer subsets they have used and to not publicly blame each other, but it is unlikely to change the different numbers each party uses. The requirement to consult or notify would need to take into account the tight timeframes involved in notifying customers of price changes and the significant costs of any delay, therefore the consultation needs to be managed within specified timeframes.[253]

6.7 It is important to note that most of those supporting the proposal expressed concerns with the regulatory assessment, particularly the cost-benefit assessment. This is addressed in section 7 of the paper.

Some submitters would support a requirement to 'notify' rather than 'consult'

6.8 Genesis, ENA, Orion, the RAG, Unison and Trustpower expressed concerns about the proposed requirement to 'consult' but said they might support a requirement to 'notify'. Reasons presented for this alternative included:

(a) A requirement to notify is sufficient to create a dialogue between retailers and distributors around media statements that concern price changes.[254]

(b) Consultation between retailers and distributors would generate a very large amount of consultation over a very short period of time (29 distributors * (say) 12 retailers = around 350 consultations in each direction). Consultation implies consideration of feedback in a reasonable timeframe, which may not be practical for this volume of consultations.[255]

(c) A duty to consult carries corresponding procedural requirements (implicit or explicit) on retailers. This requires retailers to allow sufficient time for submitters to respond, and to consider the responses. These are unacceptable delays in a competitive market environment. Retailers need to be able to respond to regional price trends very quickly if they are to remain competitive and keep their customers. A requirement to consult with distributers will significantly decrease this flexibility.[256]

[253] Meridian/Powershop, p7

[254] Several submitters implied this

[255] Orion, p5-6

[256] Genesis, p7

(d) Publicly listed retailers have obligations that affect how and when they release information material to the company. This means that publicly listed retailers need to be careful about consulting with parties before releasing information to the public.[257]

(e) A requirement to consult with distributers about media briefings will interfere and delay retailers' ability to respond to market prices and customer issues.[258]

(f) It is not the role of retailers to align, justify or tell the 'story' of lines companies.[259]

(g) An obligation to provide copies of media statements regarding price should be easy for most participants to comply with. Some considered that this it is current best practice in any event.[260]

(h) Notifying is less costly, less complex and less time-consuming than consulting.[261]

(i) Consultation potentially confuses accountability: each party must be responsible for what it says and the potentially serious consequences where statements are misleading.[262]

(j) Little if any change in content of the statements would result from consultation, as there would be no requirement on either party to accept any suggested changes to statements.[263]

(k) True consultation is likely to be unworkable, particularly given the requirement for price change notification to be provided to consumers at least 30 days prior to the price change occurring.[264]

(l) Prior notification of media releases would mean both parties are aware of the potential for increased media scrutiny, and would also allow the other party opportunity to provide context around calculations and time to consider responses if necessary.[265]

(m) A requirement to consult (or for timely notification) between retailers and distributors over media statements will not change the different methodologies and different subsets of consumers used in calculations, but will impose unnecessary costs on industry participants. A 'timely notification'

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[257] Genesis, p7
[258] Genesis, p1
[259] Genesis, p1
[260] Genesis, p7
[261] implied by a number of submitters proposing this alternative
[262] Orion, p6
[263] Unison, p7
[264] Unison, p7
[265] Unison, p7

requirement would provide for errors to be identified without the more stringent requirements of consultation set out in New Zealand case law.[266]

6.9 Orion too expressed concerns with the practicalities of the proposal and stated that, if there must be a requirement around sharing such statements, then a requirement to inform is more appropriate than a requirement to consult. Orion also noted that confusion about price changes is most likely when a distributor changes the structure of its pricing. Any such change would be the subject of specific and separate consultation with retailers over a material timeframe, so there should be no surprises.[267]

6.10 ENA noted that its members do not have a consensus view on the merits of consultation relative to a notification requirement and that these points would be addressed in individual member submissions. Nevertheless, ENA noted that its members generally support at least a requirement for notification of media releases and price change letters between retailers and distributors prior to release. This would mitigate the risk of misunderstanding and disputes through media.[268]

Some submitters considered the Authority should provide authoritative reference material (option 4 and variants)

6.11 Some submitters did not support the obligation to consult, preferring instead the Authority's option 4 (or a variant of it) – that is, for the Authority to publish regular and authoritative reports and/or reference material that explain price trends and their drivers. Key submissions on this option included the following:

(a) ETNZ considered that the Authority has overstated the confusion and disengagement caused by conflicting media statements. Such statements will always be partisan general comments. In ETNZ's view, confusion could be addressed by the Authority being more active in sorting out differences and providing authoritative reference material that could be a basis for comparison with the individual consumer's statement of charges for electricity actually purchased. If the Authority pursues with implementing an obligation to consult on media releases, then clarification should be provided on the Authority's expectations for the form, duration and result.[269]

(b) AECT, CPCT and NEPT all supported the ETNZ submission.

One submitter considered that lines companies, not retailers, should notify consumers of changes in distribution and transmission prices

6.12 MRP expressed the strong view that lines companies should notify consumers of changes in distribution and transmission prices and retailers should take no part

[266] The RAG, p3 and 4

[267] Orion, p6

[268] ENA, p8

[269] ETNZ, p5-6

in that process (except, perhaps, for facilitating the sending of individual communications on behalf of the lines companies). MRP's reasoning for this approach is that it would:

(a) remove confusion in the reporting of price changes

(b) allow customers the transparency they require in order to hold distributors and regulatory decision makers to account over pricing decisions

(c) improve transparency over the competitive energy component of the bill – until there is better transparency of the regulated and competitive components, consumer visibility of the competitive energy market (which creates consumer confidence and is a core objective of the Authority) will be very limited.

6.13 MRP did not accept the Authority's reasoning for rejecting this option (that is, the Authority cannot implement the change under the Electricity Industry Act 2010 because of the precedence taken by the Commerce Act 1986). MRP suggested the Authority could seek the leave of the Commerce Commission to regulate in this area, or seek that the Commerce Commission regulate in this way itself. Further, MRP suggested that the potential conflict with the Commerce Act is just that – a potential conflict – and would therefore only be an issue if a distributor objected to notifying its customers of network price adjustments.

Some submitters rejected the proposal or remain unconvinced of the net benefits pending further analysis

6.14 Some submitters rejected the proposal and made no suggestion of an alternative. These included the following:

(a) TLC expressed the view that consultation with retailers (and vice versa) on announcements is pointless and more so if bills are unbundled. Consultation suggests there is room to negotiate a price change but this is unlikely.[270]

(b) WEL noted all parties were found to have been correct in their disclosures earlier this year and only differing methodologies and subsets caused the confusion.[271]

(c) Contact considered that the obligation to consult would not necessarily result in any change to messaging.[272]

(d) Nova presented several reasons for rejecting the proposal:[273]

(i) the process of gaining agreement with around twenty eight different distributors is unwieldy

[270] TLC, p1
[271] WEL, p4
[272] Contact, p6
[273] Nova, p2

(ii) the media has the liberty of presenting the information provided in any form they wish

(iii) while public debate over responsibility for price changes might be considered unseemly, it can result in more informed disclosure and greater insights for the public than having a ‘deal struck behind closed doors’ and carefully crafted communication designed to not compromise either party’s position.

6.15 Pioneer and MEUG expressed doubts about the effectiveness and/or net benefits of the proposal:

(a) Pioneer noted that retailers have their own methodologies for converting distribution charges into tariffs for their customers. The detail on the prescribed form will be the retailers’ distribution charges (as opposed to the tariffs announced by the distribution companies). Therefore, despite the requirement to consult with each other, the percentage changes announced by a distribution company will differ from those disclosed by each retailer on that network on the prescribed form sent to their consumers.[274]

(b) Pioneer also noted that the Model Use of System Agreement suggests distributors consult with retailers regarding their proposed price changes and the Guidelines for consulting on distributor tariff structure changes mean that distributors already have an opportunity to discuss / explain the reasons for price changes with retailers. Pioneer considered therefore that this aspect of consultation on any media statements should be relatively straightforward.[275]

(c) MEUG considered that the case for requiring retailers and distributors to consult prior to making media releases is unclear. MEUG was not convinced the incremental mandatory compliance costs will remove observed historic problems. MEUG noted that it’s not just individual distributors that make comments, but also their industry association, ENA, or owners of distributors and their spokespeople such as Trust Chairmen. The proposed Code amendment does not apply to those parties and there would still be scope for misinformation to be used by other parties not covered by the Code obligation.[276]

(d) MEUG went on to note that parties that make misleading or unbalanced statements run the risk of being caught out and having their credibility damaged. This risk is high for retailers but low for monopolies and owners of monopolies. MEUG suggested that, as competition improves, retailers will not wish to put their credibility at risk and the problem may diminish for retailers but not for monopolies. On the basis of the analysis in the paper

[274] Pioneer, p2
[275] Pioneer, p7
[276] MEUG, p2

MEUG did not support inclusion of the obligation to consult. MEUG suggested the Authority determine the incremental costs and benefits of proposed new clause 11.41 before agreeing it should be part of the package.[277]

Some submitters did not specifically comment on this aspect of the proposal or expressed mixed or unclear views

6.16 Some submitters did not explicitly comment on this aspect of the Authority's proposal. These included Transpower, CER and Simply Energy.

6.17 The submission of the EGCC Scheme Board did not express explicit support or otherwise for this aspect of the proposal. The EGCC Scheme Board did note, however, that from the complaints it received in the past 12 months, several were about the communication by retailers and distributors around price increases, specifically complaints that relate to the "blame game" problem. Some examples of complaints of this nature included:

(a) A complaint where the retailer "blames" the distributor for a price increase.

(b) A complaint where the retailer provided the complainant with "misleading information" about a price increase by saying the distributor is responsible for the increase. The complainant, after speaking to the distributor, said this is untrue.

6.18 The EGCC Scheme Board expressed the view that clear and accurate information will reduce consumer confusion.[278]

6.19 Consumer NZ commented on the Authority's proposal in its entirety, and it was not clear if the comments specifically related to the "requirement to consult" aspect of the proposal. Consumer NZ considered the proposal is a necessary but not sufficient response to existing problems. Consumer NZ agreed the proposal will improve price transparency to the extent that consumers will be able to see the proportion of a price increase attributable to the retailer and the proportion attributable to the distributor. However, the issue of whether price increases are justified remains. The requirement to "consult" does not necessarily imply consensus will develop. Conflicting information may still be supplied to the public.[279]

7 Key comments on the regulatory assessment

7.1 Questions 8 to 13 in the consultation paper related to the Authority's regulatory assessment of the proposal, including the statement of objectives, CBA and assessment against the Code amendment principles. The questions asked:

[277] MEUG, p2

[278] EGCC Scheme Board, p2

[279] Consumer NZ, p3

(a) *Do you agree with the statement of the objectives of the proposal? Please explain your answer.*

(b) *Do you agree with the assessment of the costs and benefits of the proposal?*

(c) *Are there any other costs or benefits that should be included in the assessment?*

(d) *Do you agree with the evaluation of the alternative options? If not, why not?*

(e) *Do you agree with the assessment of the proposed amendment against the requirements of section 32(1) of the Act? If not, why not?*

(f) *Do you agree with the assessment against the Code amendment principles? If not, why not?*

Significant level of concern regarding the Authority's CBA

7.2 The CBA was the aspect of the Authority's regulatory assessment that attracted the most response from submitters, almost all of it negative.

7.3 Whether or not they supported the Authority's proposal, most submitters expressed significant concerns with the Authority's CBA (questions 9 and 10). Submitters considered that the Authority's CBA:

(a) significantly over-stated the benefits, and/or

(b) significantly under-estimated the costs, and/or

(c) used incorrect information or was based on invalid assumptions.

<u>Many submitters considered the benefits were over-stated</u>

7.4 Many submitters focussed on the Authority's estimate of $53m for the present value of benefits from increased allocative efficiency of network usage. Amongst those that commented, there was a strong consensus that the estimate was significantly over-stated and lacked credibility. Many submitted that this aspect of the benefits should be removed in its entirety from the CBA.

7.5 Of particular note on the benefits assessment:

(a) Orion commented that *"the benefits assessment follows the now well-trodden path of estimation by assumption using big numbers. In this particular case the big number is distributor capex, and the idea that the proposal will lead to reductions in it. Henry V would be impressed with such a long bow being drawn."* [280]

(b) Unison noted that virtually all of the expected benefits of the proposal are through reduced network investment (86%) and this seems to rely on distributors being able to signal to consumers how to reduce their demand

[280] Orion, p9

and change behaviour to delay investment.[281] Many submitters (including Unison, Genesis, Orion, Powerco, Meridian/Powershop, Trustpower, ETNZ, ENA, Vector, TLC), raised significant objections around this aspect of the benefits assessment.

(c) Meridian/Powershop summarised its view of the CBA by stating that the benefits listed in the paper are not attributable to the Authority's proposal and that the true benefits of the proposal are likely to be very small or non-existent.[282] The establishment and ongoing costs have been underestimated, and the benefits of the proposal do not outweigh the costs. Several submitters expressed similar overall views on the Authority's CBA.

7.6 Submitters' specific comments on the key aspects of the benefits assessment included the following:

(a) The proposal will not deliver material benefits to allocative efficiency of network investment decisions:[283]

(i) the Authority has not made a credible argument for a causal link between the change in advice to customers and the reduction in network investment[284]

(ii) the allocation of costs is being distorted by regulation (eg, low fixed charge tariffs), further weakening the link between transparency and allocative efficiency[285]

(iii) the Authority's "retail price check" established that there is no link between existing inefficiency in distribution pricing with the way prices are communicated[286]

(iv) the key driver of efficiencies in network investments is incentive regulation that encourages distributors to be efficient and to seek out least-cost solutions (the effect of transparency of network charges on consumer behaviour is likely to be small in comparison)

(v) increasing the clarity of distribution price signals will not necessarily encourage consumers to respond to them

(vi) many distribution companies already run public consultation processes to raise public awareness on their cost initiatives[287]

(vii) in most areas of NZ there is little or no population growth so it is likely much of the proposed $500 million in investment would be in replacing existing assets[288]

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[281] Unison, p10

[282] Meridian/Powershop, p12

[283] Vector, p3-4. A number of other submitters make similar points.

[284] ETNZ, p7. Orion (p9), WEL Networks (p5) and Nova Energy (p5) expressed similar views.

[285] Nova Energy, p5

[286] Orion, p9

[287] Genesis, p4

[288] Unison, p10

(viii) with approximately 50% of a consumer's power bill being derived from the retailer, price signals are somewhat diluted[289]

(b) Drawing on the effect of CPI-X regulation on Victoria distribution expenditure is inappropriate, in particular because: [290]

(i) the reduction in network investment in Victoria was at least in part due to a change in the regulation of network companies under political pressure [291]

(ii) the Authority's proposal is regulation of price information to be supplied and not CPI-X regulation

(iii) savings in Victoria were opex (not capex) and therefore unlikely to be relevant to pricing signals

(iv) the example given is one where the regulatory arrangements *prevented* price signals getting to consumers – the Authority has learned the wrong lesson from this example.[292]

(c) Network pricing signals are a significant barrier to delivering network investment efficiency benefits:

(i) network investment efficiency cannot increase without networks moving to more cost-reflective pricing, and retailers passing those signals on to consumers who then change their behaviour in response[293]

(ii) it is unclear how the claimed network investment efficiency benefits will materialise given the relatively limited real-time information that customers will receive of network pricing signals and the lack of existing economic pricing signals across the vast majority of distributors.[294]

7.7 Other concerns regarding over-stated benefits included:

(a) Distribution charges are already disclosed to consumers under Part 4 regulation and many retailers' invoices, suggesting that any incremental benefits are likely to be lower than the Authority estimates.[295]

(b) Non-price factors have a significant influence on consumers' choices, and this is not mentioned in the Authority's discussion of switching benefits. [296]

(c) Information provided on the linkage between the change in the provision of information and likely changes in customer behaviour or transaction costs is

[289] Unison, p10
[290] Vector (p3-4) and PwC (p6-7) and Orion (p9)
[291] ETNZ, p7
[292] Orion, p9
[293] Trustpower, p8-9
[294] Powerco, p7
[295] PwC, p6
[296] Trustpower, p13

sparse. It seems that the Authority is arguing that providing information to consumers on price changes will encourage them to engage with their supplier to secure a better service without for the most part needing to switch suppliers.[297]

(d) A dis-benefit might occur as more information can lead to increased confusion.[298]

(e) Retailers do not have to provide any information on unbundled pricing to non-customers, so consumers will not be able to compare their price change notification to anything from other retailers.[299]

(f) Consumers will have to expend more effort in understanding this additional information – economic theory (and marketing theory) suggests that making consumers work harder in order to reach a purchase decision will not result in a greater number of purchase decisions.[300]

(g) Genesis considered the assessment of switching benefits to be ambitious, and reliant on an implicit assumption that increased transparency of price make-up will lead to increased switching. If the information revealed simply provides more information to consumers on issues that don't add value, it will be discarded. Genesis cited the UMR study, particularly the apparent lack of interest from consumers in price breakdown information.[301]

(h) Contact considered that transparency by itself would be unlikely to achieve the efficiency gains suggested by the Authority, and that for price transparency to have tangible effects, pricing signals would have to be in place that enable consumers to change their behaviour in efficient ways. Contact provided an example of how pricing signals might contribute to avoid network expenditure on Orion's and Powerco's networks.[302]

7.8 Some submitters suggested additional or alternative means of delivering the benefits the Authority claims will flow from its proposal:

(a) The Lines Company expressed the view that the Authority's proposal *plus* changes to Low Fixed Charge regulations *plus* mandated unbundling of bills *may* generate such efficiencies.[303]

(b) Meridian/Powershop suggested that the widespread introduction of time of use tariffs for residential customers (with associated time of use or peak

[297] ETNZ, p7

[298] Powerco, p7. Several other submitters also commented that increased information may be detrimental.

[299] Contact, p10

[300] Contact, p10

[301] Genesis, p3-4

[302] Contact, p11

[303] TLC, p4

demand network tariffs) or the additional step of real-time price signals are significantly more likely to result in the change in behaviour the Authority attributes to its proposal.[304]

(c) MEUG considered that a mandatory distribution pricing methodology would achieve similar if not substantially higher benefits, and noted that the Authority is to commence a review of distribution pricing later in 2014/15. MEUG expected changes will arise from this review such as accelerating the shift towards more of a capacity basis and less use of c/kWh charges. MEUG expressed the view that improved transparency of changes in distribution pricing for each customer at an ICP will be helpful to avoid misinformation being circulated undermining these expected changes in pricing structures.[305]

(d) Consumer NZ considered that the benefits of the proposal would be limited in the absence of other reforms, that is, introducing measures that give consumers confidence that the regulation of the sector is sufficient to protect their interests. Consumer NZ proposed combining the Authority's proposal with option 4, an independent agency releasing an annual report documenting and explaining electricity price trends.[306]

(e) Contact suggested possible options for delivering the efficiency gains described by the Authority could include:[307]

(i) requiring retailers and distributors to agree on network price structures that signal the future costs on each network, and requiring retailers to pass through those network prices, and then to separately itemise bills

(ii) mandating particular categories of network charges that signal investment needs, and requiring retailers to pass through those network prices, and then to separately itemise bills.

Many submitters considered the costs were under-stated

7.9 A number of submitters expressed the view that Authority had under-estimated the costs of the proposal (one-off and/or on-going). Concerns regarding under-stated costs included:

(a) The up-front system development costs have been underestimated by at least a factor of 10, and the proposal will prove challenging to implement under many retailers' systems.[308]

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304 Meridian/Powershop, p12

305 MEUG, p4

306 Consumer NZ, p4

307 Contact, Appendix B

308 Trustpower, p1

(b) The number of notifications and associated costs have been under-estimated:

   (i) More price change notifications will have to be direct mailed to customers than the Authority has accounted for and the mail-out costs will be higher than estimated.[309]

   (ii) Where the timing of distribution and retail charge changes differ, the cost of notifications for some retailers is potentially doubled.[310]

(c) Costs to consumers of reviewing notifications have been under-estimated.[311]

(d) The costs of increased call centre volumes and associated costs has been significantly under-estimated:[312]

   (i) Distributors on interpose contracts do not have call centres and would likely incur high set up costs for resolving queries (ie, the Authority's assumption that calls to distributors will be offset by less calls to retailers is invalid).[313]

   (ii) Trustpower estimated that each notification mail-out will result in a spike of call-centre activity over a 4-5 week period. As resourcing cannot easily be scaled up and down nor dedicated only to responding to notification queries, Trustpower estimated an extra 80-90 staff would be required for those peaks. Training a single customer service representative can take several weeks. It considered the proposal to be impractical to execute.[314]

   (iii) Trustpower estimated the proposal will result in a 30% increase in call-centre volume, increasing its call centre costs by about $0.5 M per annum for each notification, excluding the costs for maintaining extra staff during peaks.[315]

   (iv) There will likely be a second wave of calls following each notification once customers receive their first bills post notification and seek to reconcile the information.[316]

(e) The estimate does not include the costs of embedded network operators consulting with retailers around price changes on their networks, and vice versa estimates.[317]

[309] Trustpower, p7
[310] PwC, p7
[311] Trustpower, p7
[312] Orion (p10) and Nova Energy (p5) expressed similar views
[313] PwC, p7
[314] Trustpower, p8
[315] Trustpower, p8
[316] Trustpower, p8
[317] Trustpower, p8

(f) Other implementation costs (such as the costs of reconfiguring billing systems, tariff re-design, and customer education) are likely to be non-trivial.[318]

(g) The Authority may have under-estimated its own compliance and monitoring costs, which TLC estimates to be $10k pa.[319]

7.10 Orion inferred from the discussion on retail costs that the proposal will require retailers to implement “retail” and distributor price changes separately (at different times) even though the template is designed to handle both components changing at the same time. Communication of retail price changes is an expensive and time-consuming process, and it will be twice as expensive if it is done twice a year. Orion considered there is no reason in principle to believe that any gross benefit will be achieved, but even if it is achieved it would be less than the increased postage cost alone of about $500k per year.[320]

7.11 Genesis Energy expressed the view that the proposal will adversely impact on retailer innovation and flexibility. The Authority acknowledges this cost in the consultation paper but does not quantify it nor incorporate it in the CBA. Genesis suggested three approaches: historical comparison, international retail market comparison and other relevant industry comparisons.[321]

7.12 Nova noted that the increased time and resources that would be required to make prices changes would mean that price setting is likely to occur earlier in the planning cycle. As such, is less likely to be responsive to changing market conditions. Margins would also tend to be increased to take into account the increased risks of changing market conditions in the interim.[322]

7.13 Contact provided quantitative information on the costs it estimated it would face:[323]

(a) A cost of $500k-$1m up front, and then $500k p.a. on an ongoing basis.

(b) Each retailer would have to individually maintain its own network pricing database at a sub-charge level, for all tariff rates, and repackaged distributor‘s tariff rates if not exempted, in all network regions. Contact would have to build this as a standalone database, at a cost of $500k-$1m, with $300k p.a. of ongoing maintenance cost.

(c) The proposed additional retailer costs appear to be understated:

(i) The cost to Contact of adding the additional form to its price change letter is $80-$100k p.a. (just for print production costs).

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318 Transpower, p2

319 TLC, p4

320 Orion, p10

321 Genesis, p2-3

322 Nova, p5

323 Contact, p10

(ii) The additional process and resource to produce this additional form is estimated at: $100k p.a. for additional set-up and quality checking, and additional (unmeasured) internal time. $500k-$1m to manage distributor‘s sub-charges (separate distribution and transmission tariff rates) and repackaged distributor‘s tariff rates if not exempted within a database. $300k p.a. to maintain this database.

(d) Use-of-system agreements (including the model UoSA) would need to be varied, or Code changes made, to provide an increased notice period of 60 working days (instead of 40 working days) to enable retailers to process separate distribution and transmission tariff rates and enable more detailed checking of consumer notifications in the already very congested period leading to the annual 1 April network price changes.

7.14 Meridian/Powershop considered that the costs were significantly underestimated, including augmenting/establishing notification systems, unbundling energy/distribution charges, printing, and staff training. Recent Powershop experience suggested that the incremental costs for checking detailed data in standard form would be $125-200k pa, and considerably more if retailer and distributor increases had to be separated.[324]

7.15 Simply Energy[325] (also explicitly supported by Pioneer in its own submission[326]) expressed the view that the proposal would impose a significant cost barrier to small retailers, and supported this view with the following quantitative information:

(a) a retailer would typically budget spending ~ 2% of revenue on IT and would hope to spend less than 20% of that cost on compliance.

(b) the costs of developing the price change notifications in the form prescribed were estimated to be in the order of $50K of establishment cost (before consideration of the additional operational costs cited in the paper).

(c) this implied a retailer needs to have a minimum turnover of ($50K / 0.02 /0.2 =) $12.5M per year before it can afford to support this single project within a normal IT budget (and not do any other compliance projects).

<u>Some submitters expressed concern with information/assumptions in the CBA</u>

7.16 Concerns regarding inaccurate information and invalid assumptions in the Authority’s CBA included the following:

(a) drawing on the effect of CPI-X regulation on Victoria distribution expenditure is inappropriate (refer para 7.6(b) above)

(b) the Authority’s own research shows that consumers are not interested in disaggregation of electricity bills (only 3% wanted this information).[327]

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324 Meridian/Powershop, p12

325 Simply Energy, p2

326 Pioneer, p7

327 PwC, page 7. A number of other submitters also made similar points in relation to this research.

7.17 Trustpower offered to assist the Authority in improving its understanding of retail market operations and customer behaviour in order to increase the robustness of its policy decision-making. Trustpower also recommended that in future the Authority engages with retailers prior to releasing proposal of this nature to ensure that the cost implications have been considered more fully.[328]

There was support for some aspects of the CBA

7.18 A few submitters made some supporting comments for aspects of the Authority's CBA. These included the following:

(a) PwC supported the efficiency benefits of approximately $4m each in relation to increased switching and pressure on retailer costs through greater transparency, respectively.[329]

(b) CER applauded the Authority for its thoughtful approach with the regulatory assessment.[330]

Mixed support for the Authority's statement of the objectives

7.19 Responses to the Authority's question regarding the statement of the objectives (question 8) were mixed.

7.20 Some submitters expressed support but almost all qualified their support, for instance:

(a) Powerco supported the principles behind the statement of objectives, but considered that the proposal will yield limited competition benefits in the long term. Powerco also considered that the validity of the secondary objective – promote operational efficiency – is questionable given the increased costs retailers and distributors would face.[331]

(b) Unison was not convinced that an increase in transparency (eg, providing more information to consumers) will necessarily translate into greater competition and increased consumer engagement.[332]

(c) TLC stressed the importance of ensuring that efficiencies of distribution and reliability are not adversely affected by this implementation. Unbundling tariffs would provide same if not improved transparency with no threat to distribution pricing efficiencies.[333]

(d) ETNZ agreed that consumers would benefit from regular and consistent advice about the make-up of their electricity service costs, but suggested that the Authority's proposal does not meet consumer needs for either

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[328] Trustpower, page 2
[329] PwC, p7
[330] CER, p7
[331] Powerco, p6
[332] Unison, p9
[333] TLC, p4

frequency or detail of pricing information. ETNZ suggested such information should include a decomposition of fixed and variable costs and be provided monthly to enable consumers to evaluate options to switch between retailers or consider other measures to alter their pattern of energy use.[334]

(e) Consumer NZ considered that the extent to which the proposal will improve consumer confidence and engagement is open to debate.[335]

(f) MEUG supported the statement of objectives without qualifications.[336]

7.21 Some submitters were not supportive, for instance:

(a) ENA did not agree that there is a material problem to be addressed in relation to the transparency of consumer charges. It considered that the Authority's own survey reveals a high level of understanding of electricity pricing.[337]

(b) Contact disagreed that the proposal meets a definition of "better information" as consumers in the Authority's UMR research have indicated that this is likely to be more confusing and operate in opposition to the concept of greater transparency. Unless the Authority measures "better information" it will not know if its proposal has succeeded in delivering positive outcomes, or has merely added additional cost. While promoting accountability may increase consumers' confidence, the proposed solution is likely to have the opposite effect of that intended.[338]

(c) Contact also considered that the secondary objective of promoting operational efficiency is overstated. Consumers will spend additional time reading and understanding this information when receiving price changes and will have to work even harder to understand something more complicated than they currently do.[339]

(d) WEL did not agree that there is a problem that needs addressing, and cited the UMR research. That survey indicated that a large majority of the respondents were satisfied that their retailer invoices were easy to understand and contained all the information they needed. Given a lack of consumer desire for more information WEL did not believe that further breakdown will lead to competition benefits.[340]

[334] ETNZ, p7
[335] Consumer NZ, p4
[336] MEUG, p3
[337] ENA, p9
[338] Contact, p9
[339] Contact, p9
[340] WEL, p5

(e) Meridian/Powershop did not believe the proposal will have any measurable impact on either competition or efficiency.[341]

A lack of support for the Authority's assessment against the Code amendment principles

7.22 Of those that commented on the Authority's assessment against the Code amendment principles (question 13), only one (MEUG) supported the assessment. Submitters' comments included:

(a) Trustpower was not convinced that a significant efficiency gain has been identified, or that the perceived benefits of the proposal will outweigh the costs. Further, the proposal is far from being small-scale or scalable. An opt-in mechanism would yield a much greater net benefit to consumers than an opt-out mechanism.[342]

(b) Contact believed that the test for principle 2(a) has not been met as the costs appear to be understated, and benefits appear to be overstated. Contact also believed that the test for principle 2(b) has not been met. Market failure has not been demonstrated – it could be argued that some market confusion occurred in April 2014, but this proposed solution does not eliminate that from reoccurring. The proposed solution may also result in asymmetric information, where retailers are forced to repackage distributor pricing – with different retailers showing different distributor pricing for their customers in the same region.[343]

(c) Powerco questioned the Authority's clearly identified efficiency gain as it was unconvinced that increased transparency will directly produce the benefits claimed.[344]

(d) ETNZ did not believe that the assessment of the benefit of reduced investment in the network was either credible for the New Zealand markets, or attributable to the Authority's proposal. ETNZ considered that without the benefit of reduced network investment, the proposal fails the test under 'Principle 2 – Clearly Identified Efficiency Gain or Regulatory Failure'.[345]

(e) Orion did not support the assessment, stating its view that there is no net benefit from the proposal.[346]

[341] Meridian/Powershop, p11
[342] Trustpower, p14
[343] Contact, p13
[344] Powerco, p7
[345] ETNZ, p7
[346] Orion, p10

(f) ENA questioned the findings of the CBA, and expressed the following views:[347]

(i) making the components of prices more transparent is highly unlikely to result in enhanced competition in the retail market, noting that some retailers already offer this as a service

(ii) consumers want to know they are getting a package of services (not necessarily just lowest price) that reflects a competitive market

(iii) transparency of underlying components making up retail prices is unlikely to foster more competition – what would help consumers is that they can have confidence to compare retailers' service offerings and make robust switching decisions

(iv) enhancements to web-based tools that make it easier to compare and switch would likely result in higher benefits than the transparency proposal.

(g) Nova did not support the assessment. It expressed the view that the proposal has ignored the distortionary effects of regulation on the allocation of costs and the difficulties in charging consumers on the basis of load. Nova could therefore not support the conclusions reached under Principles 2 and 3.[348]

(h) WEL did not consider there to be any problem which needs to be addressed. Any further regulatory intervention, such as requiring consultation on media releases will only increase costs with no benefit, and no increase in efficiency.[349]

(i) Unison considered that principle 2 is not met as the benefits are significantly overstated and there is not a market or regulatory failure. Meridian/Powershop expressed similar views.[350]

Mixed views on other aspects of the Authority's regulatory assessment

7.23 Responses to the question regarding the other aspects of the Authority's regulatory assessment (questions 11 and 12) were mixed.

<u>Some submitters commented on the Authority's evaluation of alternatives (question 11)</u>

7.24 A few submitters, usually those supporting an alternative option, commented on the Authority's evaluation of alternative options. Comments included the following:

(a) ETNZ considered that the benefits of the Authority's Option 3 (Itemising the costs on a single bill) have been understated.[351]

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[347] ENA, p10

[348] Nova, p6

[349] WEL, p5

[350] Unison, p11 and Meridian/Powershop, p14

(b) Orion did not support the assessment. It considered that *"Option 2 is implausible, option 3 is not sensible and option 4 is a good idea in itself, so it is not really an "option". That leaves only the question of whether the proposal is superior to the status quo, and [Orion didn't] think the paper presents a convincing case for that proposition."* [352]

(c) Orion also considered that the evaluation fails to note the Authority's separate conclusion via the "retail price check" that the status quo actually works. Orion noted that focus groups indicate more detail on the bill was not required. Orion did not support the paper's conclusion that additional information is required via any medium.[353]

(d) Unison considered that the status quo is undervalued. There are increasing levels of competition with growing numbers of niche retailers and also some taking innovative approaches to pricing, eg, Flick Energy. While an increase in clarity around offerings between retailers would be helpful, it remains that a large proportion of the consumers in NZ seem apathetic regarding making a conscious decision to change behaviour to reduce power bills. More research is needed to provide a better evaluation of the value these options would have to consumers.[354]

(e) Consumer NZ considered that the benefits of option 4 are under-estimated, and proposed that the Authority pursue option 4 in combination with its proposal.[355]

(f) Trustpower considered that formal reporting by the Authority would yield a much greater net benefit to consumers than the proposed notifications, and is much more likely to lead to a positive benefit overall than any of the other options.[356]

(g) Contact considered that retailers and distributors are just as likely to agree consistent messaging as they are within the proposed solution which requires consultation and not agreement. Given the uncertainty of benefits in the proposed solution, as well as its higher costs, Contact believed that the status quo, while testing the proposed solution with consumers through qualitative research, is a more appropriate next step.[357]

(h) Nova supported the Authority's evaluation. It noted that the cost of establishing distribution charges to all consumers based entirely on capacity and load is likely to be excessively expensive if it is mandated by regulation.

[351] ETNZ, p7
[352] Orion, p10
[353] Orion, p10
[354] Unison, p10
[355] Consumer NZ, p5
[356] Trustpower, p14
[357] Contact, p12

Nova considered that it should be possible however for distributors to transition more consumers to load-based pricing over time.[358]

(i) Meridian/Powershop did not agree with the assessment of Option 1, expressing the view that there are strong incentives for retailers to get their messaging to consumers right. If retailers get their pricing communications to customers wrong, or if they are confusing, then retailers suffer the consequences in complaint levels, customers switching away and Fair Trading Act liability. A key issue with Option 2 is that customers are interested in receiving separate bills, and a key issue with Option 3 (as shown by UMR research) is that customers are not interested in more detail. Meridian/Powershop did not see value in an annual price trend report (Option 4) as an individual customer is concerned with its own bill not the market in general.[359]

(j) WEL noted that a report is already put together by MBIE around electricity pricing.[360]

(k) TLC considered that the Authority's assessment of Option 2 missed a number of points (for instance enhancements to innovation and retail competition), and that the assessment of Option 3 confused benefits with costs. The challenge for the Authority is to put in place a regulatory framework that is long term and forward looking. The proposal will provide short term solutions but benefits will be limited unless unbundling extended to billing process.[361]

<u>Some submitters commented on the Authority's assessment against section 32(1) of the Act (question 12)</u>

7.25 A few submitters commented on the Authority's assessment of the proposed amendment against section 32(1) of the Act. Most were not supportive. Comments included the following:

(a) Powerco considered that proposal will drive increased compliance and communication costs into the retail market with uncertain potential benefits to the end consumer. Additionally there is the potential for perverse effects if end consumers are given information they cannot readily understand.[362]

(b) ETNZ agreed that in a narrow sense the proposed change met the requirement of the Act but believed the Authority has discarded an option that would also meet the tests but deliver greater benefit.[363]

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[358] Nova, p6

[359] Meridian/Powerco, p13

[360] WEL, p5

[361] TLC, p5

[362] Powerco, p7

[363] ETNZ, p7

(c) Contact believed that the proposed solution does not enable consumers to 'better understand' the magnitude of price changes as the majority of consumers do not delineate between transmission, distribution, metering and cost of energy.[364]

(d) ENA did not consider that the proposal would result in increased competition in the retail market, or any changes in consumer behaviour in regard to reactions to price signals.[365] Unison expressed similar views.[366]

(e) TLC supported the analysis of the problem but considered that the benefits were over-stated and that the solution lacked strength.[367]

(f) WEL did not consider there to be a lack of transparency that needs addressing through regulation.[368]

(g) Nova did not support the assessment. Nova Energy expressed the view that the proposed amendment is likely to inhibit the market's responsiveness to changing market conditions and merely add additional costs to retailers and distributors.[369]

(h) Trustpower did not support the assessment as it is far from certain that the proposal would yield a net benefit to consumers. It considered that formal reporting by the Authority would have a much greater chance of doing so.[370]

(i) Meridian/Powershop did not agree with the assessment, considering the impact on competition and efficiency to be negligible.[371]

7.26 MEUG did support the assessment, but suggested that item (c) (efficient operation of the electricity industry) be extended to include the allocative efficiency of network usage.[372]

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[364] Contact, p12
[365] ENA, p10
[366] Unison, p10
[367] TLC, p6
[368] WEL, P5
[369] Nova, p6
[370] Trustpower, p14
[371] Meridian/Powershop, p13
[372] MEUG, p4

Appendix A: List of consultation questions

#	Question
Q1	Do you agree with the Authority's view of the role of transparency in promoting competition? Please explain your answer.
Q2	Do you agree with the problem definition? Please explain your answer.
Q3	Do you agree with the Authority's proposal? Please provide reasons to support your answer.
Q4	Do you agree with the alternative options?
Q5	Are there any other options the Authority should consider?
Q6	Do you have any comments on the proposed Code amendment?
Q7	Do you have any comments on the draft template?
Q8	Do you agree with the statement of the objectives of the proposal? Please explain your answer.
Q9	Do you agree with the assessment of the costs and benefits of the proposal?
Q10	Are there any other costs or benefits that should be included in the assessment?
Q11	Do you agree with the evaluation of the alternative options? If not, why not?
Q12	Do you agree with the assessment of the proposed amendment against the requirements of section 32(1) of the Act? If not, why not?
Q13	Do you agree with the assessment against the Code amendment principles? If not, why not?