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Electric Kiwi does not support early closure of the Retailer Debt Deferral Scheme

Electric Kiwi considers expected benefits of $5000 (and net benefits of $3,000) are not sufficient to justify the proposed early closure of the Retailer Debt Deferral Scheme. This is a small price to pay given that the risks that the Authority was worried about in May – including the risk of "revers[al of] decades of progress to establish robust retail competition" – have not gone away.

The Authority's suggestion that a "cashflow focused regulatory intervention is no longer the right solution, even if retail bad debt spikes" raises the question what alternative would be "the right solution"?

There is opportunity to improve the scheme, to ensure it is fit-for-purpose

At the time the urgent Code change was made, the Authority said it "will carefully monitor and assess the operation of the Code, including the qualifying regime for retailers" and is "open to making further changes if this scheme does not achieve its objectives".[1] Our view is that the Authority observation there has been only one application and there is a "low likelihood of retailers qualifying or accessing the scheme" points to problems with the scheme criteria, or the way it is being applied, being too onerous for the scheme to fully achieve its goal to protect competition.

Instead of shutting the scheme down early, the best option – in terms of promoting competition for the long-term benefit of consumers – would be to liberalise the debt referral scheme criteria, to better ensure electricity retailers that may need the scheme are able to access it, increase the level of debt relief offered beyond 2 months and consider options where distributors would take responsibility for the risk of bad-debt from the distribution component of retail bills.[2]

There are also process improvements that could be made. For example, while we support the Authority using an accountancy firm to help evaluate the eligibility of the applicant retailer, it should not delegate responsibility for the final decision on whether the application has been successful.

The justification for introducing the scheme remain valid

The Authority justified the introduction of the urgent Code change on the basis of "extraordinary circumstances arising from the COVID-19 pandemic" and the Authority's "role … to protect

[1] Electricity Authority, letter to Distributors, Urgent Code amendment: debt deferral for qualifying retailers, 14 May 2020.
[2] Responses to the Consultation Paper questions are provided in the Appendix.

competition as a process".[3] These justifications remain as valid now as when the urgent Code change was made in May.

We consider it premature for the Authority to have "formed the view that the immediate cashflow risk for which the Scheme was designed has not eventuated".

The risk of short-term cash flow issues and "potential of a material reduction in retail competition and reduced choice for consumers" hasn't gone away just because "retailers have now had time to adjust their businesses and seek further cashflow support outside of the Scheme" or they can mitigate bad debt through disconnection.[4]

Economic outlook and impact on retailers

While there wasn't an immediate impact on customer debt levels following the initial COVID19 lockdown, there is substantive risk it could still materially and adversely impact bill payments and customer debt levels. We are observing warning signs that customers are struggling with bills. It should be noted that:

- The Government wage subsidy expired on 1 September;
- The Winter Energy Payments will cease on 1 October, which will put additional financial pressure on customers in financial hardship or having difficulty paying their bills;
- There is no surety that New Zealand, or regions within New Zealand, won't go back to level 3 or 4, or that New Zealand won't 'yo-yo' between levels if there are intermittent outbreaks of COVID19 in the community;
- It is likely we haven't seen the full impact of COVID19 on the economy and unemployment. We will be better informed after Statistics NZ publishes its quarterly GDP statistics later this week, but the indications are worrying;[8] and
- Consequently, it remains unclear what impact COVID19 and future lockdown sceneries will have on the ability of businesses and consumers to pay their bills.

Ultimately, when looked at objectively, the facts and indicators noted above would suggest the better and most prudent course of action would be to extend the scheme.

The Authority's concerns about jeopardising "decades of progress to establish robust retail competition" highlights the importance of the Scheme and ensuring it works successfully

The letter to the large distributors explaining why the debt deferral scheme was being introduced is, perhaps, the Authority's best and clearest articulation of the importance of competition, and the

[3] Electricity Authority, letter to Distributors, Urgent Code amendment: debt deferral for qualifying retailers, 14 May 2020.
[4] It is unclear how the suggestion that electricity retailers can manage bad debt through disconnection sits with the Authority's review of the Medically Dependent and Vulnerable Consumer Guidelines, or the directions the Authority has provided on disconnections through lockdown which included that all consumers should be treated as vulnerable (Electricity Authority, letter to electricity retailers, Electricity retailers' duty of care for domestic consumers during Covid-19, 8 April 2020).
[8] https://www.stuff.co.nz/business/300106701/here-comes-new-zealands-biggest-quarterly-gdp-drop-ever?cid=app-iPad

importance of small retailers, such as ourselves, to the Authority's strategy goal for "thriving competition":[9]

> "We agree that our role is to protect competition as a process."
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> "Failure of numerous retailers who were otherwise financially sound would have a material impact on competition, and on future entry."
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> "It is our strong view that consumers benefit from diversity in the retail market. This is not limited to the distinction between independent retailers and gentailers, but also diversity within the independent retailers and gentailers. Whether independent retailers have hundreds or tens of thousands of customers, they are innovation engines in the retail sector, and play a key role in exerting downward pressure on retail electricity prices, encouraging greater consumer participation, and unlocking the benefits to consumers of technology developments. I note that in its final report the Electricity Price Review Panel similarly emphasised the importance of small retailers in ensuring consumers get the benefits of competition in the electricity sector."

Concluding remarks

The fact the Authority delayed release of the consultation paper until Auckland moved back to level 2 suggests the level of lockdown – and the risk New Zealand, or regions within New Zealand, could move back to levels 3 and 4 in the future – are relevant considerations for whether to continue the scheme.

The lack of applicants (successful or not) is indicative that the scheme is not needed is false. Electric Kiwi believes the scheme has not been successful as of yet is primarily due to the economic impacts of COVID19 not yet being fully felt, and also due to the constraints placed on eligibility. In its current form, Electric Kiwi believes there is a substantial risk a retailer may not be eligible until the situation is critical and the support offered less likely to be effective.

We encourage the Authority to retain the scheme, and consider options for changing the eligibility criteria and the level of support the Scheme offers.

Yours sincerely,

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[9] Electricity Authority, letter to Distributors, Urgent Code amendment: debt deferral for qualifying retailers, 14 May 2020.

Appendix: Responses to the Consultation Paper questions

Consultation Paper questions	Electric Kiwi's responses
Q1. Do you think the Scheme is currently needed to protect retail competition, or may be needed to protect competition prior to its expiry on 20 February 2021?	Yes. The justification for introducing the scheme remain valid. See main submission.
Q2. Do you think the Scheme should be closed early?	No. See response to Q5.
Q3. Do you agree with the objective of the proposed amendment? If not, why not?	No. The consultation paper confuses the Authority's proposal with objectives. Closure of the retail debt deferral scheme is not an objective. The objectives the Authority detailed as part of its justification for introduction of the scheme was "to ensure COVID-19 and the lockdown does not result in substantially less retail competition and innovation in the future" and to protect against "Less competition [which] means less choice for consumers and potentially higher electricity bills". These objectives are tightly linked to the Authority's statutory objective and do not support removal of the scheme.
Q4. Do you agree the benefits of the proposed amendment outweigh its costs?	Electric Kiwi does not consider net benefits of $3,000 are sufficient to justify a Code change. We also consider the scheme has option value and insurance benefits that are not reflected in the CBA. Given the Authority considers the net benefits of closing the scheme early are $3,000 it should not have undertaken this consultation, and should have left the scheme in place, as the cost to stakeholders in responding to the consultation will wipe out all the net benefits, as will the costs to the Authority of reviewing submissions and making a decision on whether to retain or remove the scheme. The costs of responding to the consultation were not a "sunk cost" at the time the Authority was deciding whether to consult, and should have been factored into the decision.
Q5. Do you agree the proposed amendment is preferable to the other options? If you disagree, please explain your preferred option in terms consistent with the Authority's statutory objective in section 15 of the Electricity Industry Act 2010.	No. Electric Kiwi does not consider retaining or removing the scheme are the only options. Retaining the scheme is a better option than removing the scheme early. The best option – in terms of promoting competition for the long-term benefit of consumers – would be to liberalise

Consultation Paper questions	Electric Kiwi’s responses
	the debt referral scheme criteria, to better ensure electricity retailers that may need the scheme are able to access it, increase the level of debt relief offered beyond 2 months and consider options where distributors would manage the risk of bad-debt from the distribution component of retail bills.
Q6. Do you agree the Authority’s proposed amendment complies with section 32(1) of the Act?	The proposed amendment would increase the risk of the adverse impacts on retail competition that justified the urgent Code change.