

31 May 2019

Australian Competition & Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601

Submitted online @: <https://consultation.accc.gov.au/regulated-infrastructure/consultation-guide-to-the-electricity-retail-code/consultation/intro/>

Dear Sir/Madam

ACCC – Draft Guide to the Electricity Retail Code

Thank you for the opportunity to provide a submission in response to the Australian Competition & Consumer Commission (ACCC) consultation on the draft Guide to the Electricity Retail Code.

Momentum Energy is a 100% Australian-owned and operated energy retailer. We pride ourselves on competitive pricing, innovation and outstanding customer service. We retail electricity in Victoria, New South Wales, South Australia, Queensland, the ACT, and on the Bass Strait Islands. We offer competitive rates to both residential and business customers along with a range of innovative energy products and services. We also retail natural gas to Victorian customers.

Momentum Energy is owned by Hydro Tasmania, Australia's largest producer of renewable energy.

Introduction

The introduction of a reference price and a cap on standing prices for electricity is a significant regulatory development. The additional controls on advertising and promotion of discounted offers will assist customers to compare offers in the market if they are simple and easily understood. Momentum is concerned that these changes have been somewhat rushed and would have benefited from more consultation. There is a risk that customers will be confused by this additional information and further disengage from the market.

With the effective commencement date of these new regulations being 1 July 2019 Momentum has determined its own interpretations of Code requirements, in absence of the Guide, to ensure systems and process changes are delivered on time. The Draft Code Guide was recently released and while it clarifies some aspects of the Code it also includes several inconsistencies. This could create confusion within the industry and does not support a seamless transition of consistent communication of readily comparable offers to electricity customers.

Specific Issues with the Guide

1. Alternative Requirement for Offers

Section 13 of the Code allows retailers to reference a customer's actual consumption or an estimate of their consumption in order to provide a more accurate assessment of the costs of a particular offer. This alternative appears to deliver a very compelling proposition for customers that should be encouraged as it will reflect past usage patterns of the particular customer and give them more confidence in the product offered. Momentum is unsure why the Guide makes no reference to this optimal alternative.

2. Code/Guide Inconsistencies

a) Terminology

There has been a general progression of terminology used in the various documents (Code, Explanatory Memorandum and Guide) that perhaps reflects a better understanding of the impacts of these terms, by various parties, as they are applied.

For example the Demand Market Offer (DMO) was initially referred to as the "Reference Bill" and is now recommended in the Guide to be called the "Reference Price". The term "representative customer" was originally used to reflect a customer using the Australian Energy Regulator's (AER) model usage but the Guide is recommending this be replaced with the term "average customer". While "average customer" may be better understood by customers it is not a precise term for this application and could also be deemed as misleading.

We are not opposed to some of these terms but they present inconsistencies between the Guide and the Code. Moreover they also appear at odds with the ACCC's comments that retailers must ensure that they comply with the Code and also the Australian Consumer Law (ACL). We request that the ACCC clarify, in the Guide, how to avoid any ACL breaches.

b) Rounding

Section 12(5) of the Code mandates that percentages, used in advertising or promotion of offers, to express the difference between the reference price and the offer to be in whole numbers rounded up if the first decimal place is five or more. However the draft Guide contradicts this provision by suggesting that this may be deemed misleading under the ACL.

Conclusion

The DMO comparison mechanism implemented via the Code and the recently released draft Guide must be successful to provide consumers and governments confidence that accurate comparisons of electricity products can be achieved. It is our view that more consultation and consumer research needs to be done to ensure this outcome. The retail electricity product mix is complex covering flat, time of use, flexible, controlled load, demand and innovative tariff offers that can be generally available or restricted. The Code can be readily

amended and we believe that consultation should commence soon to address our concerns in a revised version of the Code.

Should you require any further information with regard to these issues, please don't hesitate to contact me on 0478 401 097 or email randall.brown@momentum.com.au

Yours sincerely

[Signed]

Randall Brown
Regulatory Manager