



31 May 2019

Electricity Markets Branch
Australian Competition & Consumer Commission
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Canberra ACT 2601

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RE: Guide to the Electricity Retail Code

Origin Energy appreciates the opportunity to provide a submission in response to the Australian Competition and Consumer Commission's (ACCC) Guide to the Electricity Retail Code Draft for consultation.

To ensure that the Electricity Retail Code operates as intended it is paramount that it is unambiguous and operates in tandem with the existing regulatory framework. The ACCC's Guide provides instructive guidance on its expectations regarding how it will assess compliance. However, we believe there are several improvements the ACCC could make to provide retailers and consumers greater clarity regarding the practical application of the DMO, especially as it operates as a reference price.

Origin's views on these issues are set out below.

Variations to a Market Contract

A retailer must not advertise, publish or offer to supply electricity at an "offered price" unless it meets the advertising and publication requirements of the Code.

The ACCC's Guide states that if a retailer varies an existing market contract, this change would constitute an offer and should be compliant with the Code. Origin doesn't agree that a variation is an offer and questions the basis on which the ACCC has formed this view. This would also be a significant system change for Origin in order to comply with this expectation – which would take 2-3 months to complete.

Further, the National Energy Retail Rules already set out the minimum requirements that are to apply in relation to the terms and conditions of a market retail contract. In particular, sections 45 and 46 relate to the variation of a market contract and require that a retailer must give notice to the customer of any variation to the tariffs and charges that affects the customer.

Expected Language

Origin supports the proposal to set expected language, as this will drive consistency within the industry and help customers understand the information and make comparisons easily. To achieve the objective of the Code, the language must be clear and readily understood by an average customer. Terms like 'reference price' and 'unconditional discount' are not instantly clear – they require another layer of explanation. It is particularly important that when talking about the "reference price" we use a term that consumers can readily understand so they will understand that all retailers will be using the same reference price.

Accordingly, Origin proposes the following alternatives for consideration:

Reference Price - Possible alternatives:

- Regulator Price
- Set Price
- Industry Comparison Price

Unconditional Discount – Proposed alternatives:

- No Conditions Discount
- No-strings Discount
- Condition-Free Discount

Retail Pricing Information Guidelines

Under the Retail Law, the AER has developed Retail Pricing Information Guidelines (RPIG). This prescribes how retailers must present their standing offer plan prices and market offer plan prices to customers.

Retailers are required to present standing and market offer plan prices in accordance with the RPIG including when publishing and advertising those plans. A key requirement of the RPIG is that retailers must have plan documents available for customers in relation to generally available and restricted plans. This document is known as the Basic Plan Information Document (BPID). These documents will need to comply with the Code and Origin understands this will require the AER to make changes to the form used for retailers to submit information.

Further Review of Prominent

The ACCC's Guide states that Code information should be given the most emphasis in an advertisement, publication or offer. This makes sense for the percentage difference between the retailer's unconditional price and the reference price in an advertisement. However, it simply will not be practical to always meet this requirement in other channels or in relation to the lowest possible price (LPP) and associated information.

There is other information which retailers will be required to include in an advertisement and offer to meet other regulatory obligations, including to obtain explicit informed consent. For example, where the benefit period is for a limited term it is important to ensure the customer is informed of this to avoid misleading customers – and this explanation will need to be more prominent than the LPP and associated explanation.

Lowest Possible Price

The ACCC Guide provides a number of items that must be included in calculating the LPP and also provides an example of a preferable advertisement.

The ACCC has put forward a substantial amount of information which should be included to explain the LPP. Origin agrees that some explanation is required, although notes that:

- the more information that is included the less likely it is the customers will read and understand it; and
- in many forms of advertising it is simply not practical to include this amount of information. This is particularly the case for digital banner adds which are being increasingly used, but it will also be challenging for billboards, radio and TV.

Advertising Prices and Discounts

The Code simply does not work for an offer tailored to a customer's individual circumstances, such as Origin's Predictable Plan product in which a monthly price is tailored to the customer.

The LPP is not a concern because Origin could rely on clause 13(2) of the Code to provide our estimate of the amount the customer will pay per annum rather than the LPP. However, the comparison between the reference price and the unconditional price is simply not meaningful in these circumstances, it is irrelevant and likely to be misleading.

We believe that the application of the Code will result in retailers not offering tailored products that some consumers would otherwise prefer. We do not believe that the intent of the DMO is to deter retailers from selling simple individually tailored products. For this reason, we encourage the ACCC's to provide guidance on how retailers can continue to market individually tailored products and remain compliant with the Code.

If you have any questions regarding this submission, please contact Sean Greenup in the first instance on (07) 3867 0620.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'K. Robertson'.

Keith Robertson
General Manager, Regulatory Policy