13 August 2018

Consumers deserve a better deal

Summary of Entrust's concerns about saves and winbacks

Households that haven't switched electricity retailers are being let down by current regulatory arrangements.

Incumbent retailers over-charged residential consumers by at least $370 million last year. In Auckland alone, households would have saved over $90 million, or $185 each, if the incumbent retailers had put them on the best offers available.[1] The Australian Competition & Consumer Commission (ACCC) labelled this a "loyalty tax".[2]

The loyalty tax has doubled under the Electricity Authority's (EA) watch.

This money would be better in the hands of consumers. It would go a long way to helping households with high winter bills. Many consumers go without other essentials such as medical care, clothing and even food just to pay their power bills.[3] This is the human face of "allocative inefficiency".

Households should not pay more for electricity because of inappropriate market behaviour. The incumbent retailers have done nothing to justify or defend the over-pricing. Contact didn't even submit.

There have been various options suggested to help address the exploitative discrimination problem, including tightening restrictions on winbacks, prohibitions on use of information obtained from the switching process, and improved retail price transparency. Entrust supports these options. There isn't likely to be a single solution to resolve the problem.

Given the money at stake for consumers, the Saves & Winbacks review should be one of the EA's top priorities, if not its number one priority. The EA should fast-track its resolution.

Submissions show incumbent retailers are exploiting loyal customers

Households, including low income families and the elderly, were over-charged $370 million by incumbent retailers, in 2017, simply because they hadn't tried or been able to switch supplier.

Entrust considers this money belongs in consumer pockets.

At a time when many households are struggling to pay their power bills, Mercury dismisses price as "only one factor considered" by consumers. Mercury claims their customers benefit from "non-price attributes" such as "the ability to earn Air New Zealand Airpoints". We doubt households using ovens for heating, or those that can't afford to heat their homes, benefit from things like discounts on electric bikes and Airpoints. As a supplier of an essential service, Mercury is out of touch with its most vulnerable customers.

[1] Future Energy submission based on EA (EMI) data.
[2] The Electric Kiwi supplementary submission detailed that the ACCC provided a robust specification of the saves and winbacks problem. The ACCC and MDAG couldn't be further apart on this matter.
[3] Finding from the ACCC report on electricity affordability.

Entrust wants electricity to be supplied in an efficient and affordable way to all consumers, including the over 327,000 households and businesses in Auckland, Manukau and parts of Papakura and eastern Franklin that are beneficiaries of Entrust.

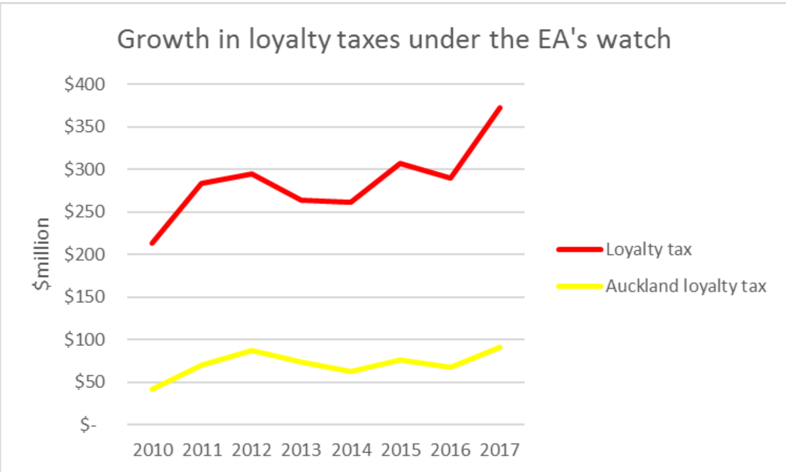
The exploitation is getting worse

Some consumers ("switchers") are gaining the benefit of competition, by switching retailer or starting the switching process, but this is increasingly at the cost of customers that don't switch or aren't able to switch ("stayers"). The evidence presented by entrant retailers is that exploitation of stayers by the incumbent retailers is getting worse.

In 2010, the level of over-charging by incumbent retailers was just over $210 million. It is now at least $370 million.

For Auckland households, the over-charging was about $42 million in 2010. This amounted to $83 for each Auckland household, and $100 for Waitemata/North Shore households.[4] The over-charging across Auckland is now over $90 million or around $185 for each household.

The Future Energy submission detailed that the over-charging increased by 28% in 2017 alone. (The increase was even higher in Auckland at 33%.) What will the amount be for 2018? The accumulative loyalty tax, paid by Kiwi families and households, since the EA was established in 2010, is $2.3 billion.



Source: EMI Residential savings league table

The incumbent retailers don't try and justify what they are doing

The incumbent retailers claim there isn't a problem and competition is working well. If the incumbent retailers were right, there wouldn't be a need for the Electricity Price Review.

Entrust has already pointed out 89% of the market is supplied by only five incumbent retailers, there is a high level of market concentration, and improvements in competition have been modest and slow. Small and new entrant retailers have gained little more than 1% market share per annum since 2010.

4 https://www.emi.ea.govt.nz/Retail/Reports/W4TZQL?DateTo=20101231&RegionType=NWK_REPORTING_REGION&_si=tg|residential-savings,_dr_DateTo|20101231,_dr_RegionType|NWK_REPORTING_REGION,_dr_Show|Tot,v|4

The ACCC electricity affordability report also details why the incumbent retailer contentions are wrong. The Australian situation is very similar to New Zealand. The incumbent retailers in both countries have very high market share and are engaging in the same exploitive behaviour.

What is most revealing about the incumbent retailer submissions is what they don't say.

The incumbent retailers didn't deny they are over-charging "stayers".

The incumbent retailers didn't justify charging "stayers" higher prices or the levels of the price difference.

The incumbent retailers didn't justify or explain why the price difference increased by 28% in 2017 and doubled since 2010.

The incumbent retailers didn't provide any evidence or support for the Market Development Advisory Group (MDAG) contention it might be efficient to charge "stayers" a higher price than "switchers".

The incumbent retailers avoided trying to defend the indefensible.

Saves and winbacks isn't being dealt with properly by MDAG

We can understand why entrant retailers don't feel they are being listened to by MDAG.

The Issues Paper represented an incumbent retailer perspective.

We share Pulse's misgivings about the incumbent retailers' dominance on MDAG and how this has impacted the review. Three of the big-5 retailers are represented on the advisory group.

The EA needs to improve its consultation processes

Given the contentious nature of the issue, it was appropriate the EA took up our recommendation to seek cross-submissions.

The EA should follow the Commerce Commission's lead and include cross-submissions as a default for future consultations at the start of each consultation process. Cross-submissions should be excluded by exception only.

The consultation was further delayed by the EA's acceptance of a late submission from Trustpower. The Trustpower submission was submitted 19 days late. This is a substantial amount of time after the due date which other submitters didn't have the benefit of. The EA has stated "late cross-submissions are unlikely to be considered".[5] The same approach should have been adopted for the Trustpower submission given it was so late.

Concluding remarks

Entrust reiterates that we want stronger and more rigorous competition. All consumers, including low income, elderly and vulnerable consumers, should enjoy the benefits of competition. Not just the well-off and not just "switchers".

[5] https://www.ea.govt.nz/development/work-programme/consumer-choice-competition/saves-and-win-backs/development/call-for-cross-submissions/

We agree with Flick that if competition settings were working the way they should incumbent retailers would be incentivised to offer more competitive prices to all their customers so they do not decide to switch, rather than waiting for the customer to attempt to change retailer.

It is likely a mix of regulatory changes will be needed to help address the exploitative discrimination problem. Options presented in submissions, for example, include tightening restrictions on winbacks (including an immediate ban or moratorium on near-term winbacks), prohibitions on use of information obtained from the switching process, and improved retail price transparency. Entrust supports these options.

If the EA unwound the $370 million of retailer over-charging it would go a long way to making electricity more affordable. This requires resolution of the saves and winbacks issue.

Given the money at stake for consumers, the review should be one of the EA's top priorities, if not its number one priority.

If there was a suggestion lines companies were extracting over $370 million in monopoly rents and using the money to fund and subsidise parts of the market where there is competition, the incumbent retailers would be demanding the regulators do something about it.

Saves and winbacks should be prioritised over issues such as transmission pricing. The issue is costing Kiwi households over a million dollars each day it goes unresolved.

Entrust sees no reason the issue couldn't be resolved before Christmas; particularly given the expert work the ACCC has done on the issue.

If the EA doesn't take ownership of the saves and winbacks issue, and deal with it in a timely manner, the Expert Advisory Panel undertaking the Electricity Price Review will end-up having to resolve it instead. In terms of ensuring more affordable electricity supply the saves and winback issue fits into the 'low hanging fruit' category.

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Kind Regards

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