

## Workshop 2 (In-person) Consultation Summary

- **Access to cheaper plans**
- **Improving the ability for consumers to switch to the best offer**
- **Automatic best offer for consumers experiencing payment difficulty**

**What:** Energy Retail Code of Practice Consultation Workshop: Better Offers.

**When:** Tuesday 10 December 2024, 9:00 am –12:00 pm AEST.

**Where:** Level 12, 570 Bourke St Melbourne 3000 VIC (in-person).

**Who:** Nineteen representatives from energy retailers; eight representatives from consumer groups and community organisations; five representatives from public entities; and ten staff from the Essential Services Commission.

**How:** Guided discussion in small groups facilitated and scribed by staff from the commission.

**Why:** To gain stakeholder feedback on the effectiveness, clarity, costs and benefits of the following proposed reforms:

- access to cheaper plans
- improving the ability for consumers to switch to the best offer
- automatic best offer for consumers experiencing payment difficulty.

### Background

- This session was part of the consultation for the commission's review of the Energy Retail Code of Practice. The review aims to update the code of practice to help households access cheaper energy deals, increase support for people experiencing payment difficulty and deliver more protections for consumers.
- This consultation summary reflects the views stakeholders shared with the Essential Services Commission during this in-person session. It is based on notes taken during group discussions.

## Discussion 1: Access to cheaper plans

### Discussion questions

- What barriers have consumers experienced in accessing cheaper plans?
- What would be the impact of removing the following restrictions to plans:
  - payment methods (e.g. direct debit only)
  - exclusive use of e-billing
  - acquisition offer availability to existing customers?
- Are there conditional discounts/fees/rebates that can also put higher costs on consumers?

### What we heard from energy businesses

- Consumers often do not understand the complexity of the energy market.
- Any prohibitions or restrictions on available plans may increase costs for retailers, which will be socialised across the whole customer base. The extent of these costs were not discussed.
- Retailers are financially incentivised to offer direct debit only plans and pay-on-time discounts because it reduces the risk of late payment or other recovery issues. Retailers also pass on direct debit dishonour fees from banks to the customers.
- Many retailers are moving away from offering direct debit only plans and pay-on-time discounts and towards bonuses and other benefits.
- Retailers are often prepared to offer customers a similar rate to the best offer when customers contact them when experiencing payment difficulty. That can include offering tariffs for a direct debit only plan but allowing non-direct debit payment methods.
- Restricting acquisition offers will reduce a retailer's ability to differentiate and engage in the market, reducing competition. Retailers commented that:
  - Acquisition offers are important for getting lower cost plans to highly engaged customers.
  - A plan may not be as responsive to market conditions if it needs to be available to all customers.

### What we heard from consumer and community groups

- Retailers should only compete on price, service, ease of use and trustworthiness.
- Consumers are struggling to engage with the market because it is complex and difficult to navigate.
- Many elderly and digitally illiterate consumers cannot use the internet or do not have an email address and are excluded from online only plans.
- Embedded network customers face further restrictions to accessing cheaper plans because they have a reduced choice of retailers.

- Direct debit only plans prevent consumers with the greatest need for lower cost energy from accessing it. Consumer groups noted that:
  - Direct debit is often not possible or appropriate for victim-survivors of family violence because they are looking to take back control over their money and paying their bills.
  - The ombudsman receives a lot of complaints related to direct debit. This includes best offers which are only available using direct debit payment methods and customers seeking refunds for direct debits they did not expect.

### What we heard from public entities

- Consumers who require paper billing or cannot pay via direct debit can be excluded from accessing the cheapest offers.
- Confusion, disempowerment and misconceptions create barriers to accessing best offer.
- Direct debit only plans can lead to further costs from bouncing payments and dishonour fees.
- Acquisition offers can negatively affect consumer trust.

## Discussion 2: Improving the ability for consumers to switch to the best offer

### Discussion questions

- What are the advantages and challenges you see with each approach?
- What challenges do you see in implementing an outcomes-based or principles-based approach, and how might these be minimised/addressed?
- What are your thoughts on 'effective and efficient systems' as an outcome?
- If we were to use minimum standards or prescription, what would you expect to see?
- Are there other alternatives we should consider?

### What we heard from energy businesses

- Reform needs to be designed so that it will lead to improvements in customer outcomes (for example, more customers switching plans) while allowing retailers some flexibility in implementation.
  - Reform options could be tested using regulatory sandboxing.
  - Any prescriptive requirements on retailers need to come from a clear evidence base.
  - The rules could provide flexibility by, for example, requiring retailers to have multiple available options for switching but not prescribing what these options must include.
- Retailers would require clarity on how to benchmark against any principles-based requirements or measure against an outcomes-based approach.

- An outcomes-based approach could be measured by comparing the number of customers who start the switching processes to those who complete the switch.
- Outcomes measurement based on some forms of customer reported data could be biased towards complaints.
- The current switching process is difficult because of the compliance steps retailers must meet (for example, explicit informed consent), the cost of making multiple methods of switching available to customers and the time constraints on when a best offer is valid.
  - Calls to switch that typically take 3–4 minutes in other states can take as long as 15–20 minutes in Victoria due to compliance processes.
  - Larger retailers are better placed to absorb the costs of system changes to allow multiple methods of switching than smaller retailers.

### **What we heard from consumer and community groups**

- An outcomes or principles-based approach should focus on good customer outcomes or on how retailers should act. For example, ‘customers find it easy to engage and be active with their energy plan’ or ‘retailers act in a way that is effective, honest and fair’.
  - An outcomes-based or principles-based approach could leave room for interpretation and mean that some retailers will not work towards achieving the best outcomes for customers.
  - Some minimum standards or prescription could have a role to play, even under an outcomes-based or principles-based approach.
- The switching process needs to be streamlined, fair and accessible.
  - Lived experience and consumer testing should be used to guide the switching options available to customers. Retailer websites could also make information available on how to switch.
  - This could include retailers having separate phone lines to support switching and having alternatives available for customers who cannot switch online.
  - Some retailers gatekeep access to cheaper plans or assistance. Customers need to use the right wording or phrases to access this assistance.
  - Changes to improve the ability to switch should not compromise explicit informed consent requirements.
- Many consumers view best offer messaging as marketing and therefore not trustworthy. Retailers should consider improvements around best offer communication to address this.

### **What we heard from public entities**

- The time it takes to switch plans is often a greater barrier to switching than the mechanisms available to complete the switch. For example, long call wait times can discourage customers from switching over the phone.

- Mechanisms to switch to a better offer need to consider all channels including phone, online and other methods. A lot of culturally and linguistically diverse consumers want options to do things in person.
- Retailers should learn from each other about the switching options available in order to innovate and make more options widely available.

### **Discussion 3: Automatic best offer for consumers experiencing payment difficulty**

#### **Discussion questions**

- Which implementation option would work best?
- What would the consequences be for explicit informed consent and customer engagement?
- What about the non-monetary benefits of a customer's original energy plan?
- How should we define eligibility so that it delivers the best outcomes?
- Do customers receiving payment difficulty assistance capture all customers who may be experiencing payment difficulty?

#### **What we heard from energy businesses**

- Switching customers experiencing payment difficulty to the best offer is a more permanent solution than options such as crediting or reducing tariffs that would be limited in time. Automatic switching may also resolve the issue of payment difficulty customers on high-priced legacy contracts.
- However, automatic switching may not resolve long-term issues with payment difficulty and may discourage customer engagement with their retailer.
  - Payment difficulty customers who engage with their retailer are likely to achieve better outcomes and automatic switching may discourage this.
  - The operation and implementation of explicit informed consent requirements could create compliance risks for retailers.
- While preferred by some retailers, most retailers suggested that implementing a crediting option would require significant and costly system changes and negatively impact customers in the long term.
  - Interactions with price change notifications, estimated bills, concessions, overcharging and undercharging could create issues with calculating and applying the credit, which may introduce compliance risks.
  - Crediting could confuse customers or lead to further customer disengagement.

- Reducing tariffs while keeping other terms and conditions of a plan is generally the least preferred option due to implementation difficulties. One retailer noted that a large number of existing plans and tariffs may need to be altered, and was concerned of how well existing retailer systems are able to incorporate the alteration of existing plans for a subset of customers.
- An outcomes-based approach could be used so that retailers would have flexibility on what mechanism to use to achieve payment difficulty customers being put on best offers.
- Mechanisms for automatic best offers could be trialled and tested or subject to regulatory sandboxing.
- Alignment of the prescribed mechanism across jurisdictions is preferable.
- Retailers may need up to 18 months to implement the proposed options. Shorter implementation timelines could lead to greater costs that would be passed on to customers.
- Retailers need a clearly defined eligibility threshold. This could include customers who are receiving tailored assistance, in a certain amount of arrears (for example, above \$300) or who have missed payment for multiple (two or three) bills.
  - Many retailers support eligibility being restricted to only customers who engage with their retailer.

### What we heard from consumer and community groups

- Automatic switching or crediting were seen as the better mechanisms to achieve the outcome of cheaper bills for customers experiencing payment difficulty.
  - Automatic switching is better for those with no specific conditions or benefits associated with their current plan, whereas crediting is better for those with different needs or profiles, such as specific conditions or benefits associated with their current plan.
- Automatic switching could occur when a customer's market retail contract ends, and they are rolled onto a deemed contract (standing offer). Instead, they could be switched to the best offer.
- Engagement is important but additional protections are required for disengaged customers. Therefore, eligibility should not be restricted to customers already receiving tailored assistance.
- Retailers have a responsibility to support customers experiencing payment difficulty and to prevent customers from accruing large amounts of debt. They need to invest in training their staff to be able to identify and support customers experiencing vulnerability.
- Financial counsellors consider that the harm caused by high energy plans and bills justifies the use of an automatic best offer with an opt-out and post-switch reversal available (even under an empowerment model).
- Best offer checks should occur as earlier as possible in payment difficulty conversations between retailers and customers.
- Debt waivers offered to customers could consider the difference between the cost of their current plan and the best offer.

## What we heard from public entities

- Automatic best offer may encourage customer engagement because they can see that their retailer is working to help them.
- Automatic switching may need to occur multiple times as better offers come up frequently.
- Crediting will always benefit payment difficulty customers whereas automatic switching and changing tariffs based on forecasts are less certain to always benefit customers.
- Explicit informed consent options that use opt-ins will exclude disengaged customers.
- The most vulnerable customers should have access to the cheapest deals.
- A potential threshold for automatic switching or crediting could be two missed monthly bills.