Regulating conditional discounting – consultation paper: stakeholder feedback template

Organisation: Simply Energy
Contact name: James Ell
Contact details (email / phone): James.Ell@simplyenergy.com.au; (03) 9617 8352

Simply Energy is a leading second-tier energy retailer with over 720,000 customer accounts across Victoria, New South Wales, South Australia, Queensland and Western Australia. As a leading second-tier retailer focused on continual growth and development, Simply Energy is committed to supporting the long-term interests of its customers and the wider energy sector.

Simply Energy acknowledges that the market has evolved in response to the Government's legitimate concerns around discounting and confusing offers. With this in mind, Simply Energy does not consider that there is a need to regulate conditional discounts.

Questions		Feedback
Chapter 3 – Details of rule change request & issue for consultation		
Question 1: Offer comparability		
A)	Will comparability issues for conditional discount offers continue to be material with the introduction of the Code?	Simply Energy considers that the reference price requirements for jurisdictions subject to the Default Market Offer has made electricity offers more readily comparable. In saying that, greater customer education and awareness is required so that customers are aware that the Default Market Offer is merely a regulatory safeguard and they still need to proactively seek a deal that suits their needs and lifestyle.
B)	What other factors may be present that contribute to the difficulty of offer comparability?	The main factor contributing to difficulty in comparing offers is the lack of a common benchmark for assessing gas offers. As customers generally look to acquire electricity and gas offers simultaneously, Simply Energy considers that there should be equivalent marketing requirements for both fuel types. This includes advertising the annual minimum price as a dollar figure and making it clear what portion of the offer, if any, is conditional.

Questions		Feedback
Question 2: Excessive penalties		
A)	Do stakeholders agree with the characterisation of substantially higher prices paid by customers when they miss conditional discount conditions as excessive "penalties"?	Simply Energy considers that conditional discounts, particularly pay-on-time discounts, have been used as a means for retailers to attract new customers by differentiating themselves from their competitors. That said, there has been a considerable shift in marketing practices since the Default Market Offer and associated reference price requirements were introduced on 1 July 2019. These changes have resulted in retailers focusing less on discount and more on direct price-based competition. Indeed, retailers are looking to differentiate themselves by offering value-added inducements such as anniversary credits and non-financial benefits.
B)	What customer groups are most at risk of failing to realise conditional discounts? How significant are these groups as a proportion of the energy customer base? (e.g. [i] Should payment plan customers be considered? [ii] Hardship customers make up 1.4% of all customers according to AER data).	Customers who may be experiencing financial difficulties are at the greatest risk of failing to realise conditional discounts. That said, Simply Energy honours pay-on-time discounts for hardship customers who meet minimum repayments under their agreed payment plan. Simply Energy also makes these customers aware of non-conditional offers and relevant government-funded concession they may be able to access to assist them to pay their ongoing energy bills.
C)	Do stakeholders have views on the ability of vulnerable customers to anticipate their energy plan costs and ability to pay?	Ensuring vulnerable customers can anticipate their energy plan costs and ability to pay needs to be managed through proactive support and information transparency. Providing clear and comparable information about the costs of energy plans is a key part of achieving this. Additionally, a sales process that estimates energy plan costs on the basis of the customer's current bills would further assist vulnerable customers to understand their likely future energy plan costs.
D)	What internal rules do retailers have in place to ensure customers on a hardship program do not lose any benefit or discount for late payment (in line with the commitment announced on 7 August	Simply Energy has continued to ensure hardship customers receive pay-on-time discounts while they remain on a payment plan. Simply Energy recognises that customers experiencing payment difficulties

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	2017 noted above)? Are retailers still committed to this approach now that the DMO has been introduced?	are most in need of support and is committed to working with these customers to help them break the cycle of indebtedness. It needs to be kept in mind that as commercial entities it is in retailers interests to ensure that energy customers are able to pay for the energy they consume.
Question 3: Key data needed to establish materiality (please provide data on the following points)		
A)	Price dispersion data on residential customer contracts, i.e. actual uptake and prices of customer contracts in the post-1 July 2019 period, including the magnitude of discounts in these contracts, the difference between highest and lowest market offers, etc.	Despite offering exclusively non-discounted energy plans since 1 July 2019, Simply Energy has not observed any noticeable increase in customer switching levels. Most customers on historical pay-on-time discounted offers are seemingly content with the requirement to pay by the relevant due date in order to be entitled to reductions in their energy charges. Data relating to the pricing of customer contracts across retailers in the post-1 July 2019 period would be accessible through Energy Made Easy and Victorian Energy Compare.
B)	Uptake of different types of market offers (including conditional & guaranteed discounts, as well as other types of market offers), both before and after the introduction of the Code.	It is too early to tell how changes in marketing practices and behaviours are influencing sales levels. Given the general shift away from discounted offers and introduction of the Default Market Offer as a baseline for marketing offers, the market is still adjusting. Indeed, retailers are continuing to vary their offers in order to attract new customers. However, it is going to take time for retailers to fully adjust their marketing and pricing strategies to reflect prevailing market conditions.
C)	Realisation rates of conditional discounts contracts, i.e. the percentage of customers on conditional discounts who satisfy conditions each payment cycle and earn the discount.	In the preceding quarter, around 87 per cent of Simply Energy's customers on conditional payment offers in South Australia, New South Wales and South-East Queensland paid their bills on time and received associated discounts.

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D)	Information on the scale and effectiveness of retailers' hardship programs with regard to conditional discounts and customers being on appropriate contracts. Including processes in place to comply with their obligations under s. 44 of NERL regarding the review of the appropriateness of a hardship customer's market retail contract.	Simply Energy customers experiencing payments difficulties are referred to specialist staff who are trained to assist customers in assessing more appropriate energy plans and available government-funded support. Simply Energy recognises the vulnerabilities faced by those struggling to pay their energy bills and works proactively on a case-by-case basis. It is acknowledged that those customers in genuine need should not incur higher charges due to their inability to pay the energy bill in full at the end of each bill cycle. In saying that, any regulatory intervention should be tailored. Retailers should not be seen as a free source of credit by customers who have the means to pay their bills as and when they fall due.
E)	Evidence of the impact of conditional discount on retailer debt management. Retailers may want to compare trends in debt levels during periods before and after conditional discounts were introduced.	Simply Energy has observed an increase in customer debt levels in recent months. This is, however, a multifaceted issue and given the numerous of regulatory changes that taken place, it is too early to tell whether the shift toward non-conditional energy offers is contributing to less timely payments.
Question 4: Energy offers not covered by the Code		
A)	Do stakeholders consider gas offers should be subject to conditional discount limitations, in line with electricity offers	If the change is introduced, it should apply to both electricity and gas respectively.
B)	How has the introduction of the Code impacted the prominence and magnitude of gas offers?	The Code has had incidental effects on gas marketing, with retailers looking to align their marketing of gas offers with electricity, which is subject to the Default Market Offer reference price requirements. As a result, high discount gas offers no longer appear to be prominent across the retail energy market.
C)	Do retailers expect conditional discounts to become a material issue in the ACT and/or Tasmania?	No. ACT and Tasmania are subject to State-based price regulation.
Question 5: Solutions		

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A)	Are there any alternative solutions that should be considered by the Commission?	Simply Energy would encourage the AEMC to explore alternative options, such as recommending that the Australian Government introduce a reference price for gas. Introducing a reference price for gas would increase market transparency and ensure greater consistency in terms of how gas and electricity plans are marketed. For this reason, Simply Energy considers that gas should be marketed based on a common reference point, similar to electricity. However, unlike electricity, the price point for gas should not be a regulated price, rather it should be set as an annually-adjusted reference point based on a top down assessment of gas offers in each network supply area.
B)	What benefits and detriments have stakeholders identified on the options outlined by the proponent?	The main challenge of the proponent's proposal is around effectively regulating reasonable conditional discounts in a manner that does not limit customer choice or place undue financial risk on energy retailers.
C)	What systems and processes do retailers have in place to screen customers? What is the scale and effectiveness of these screening processes?	Simply Energy screens customers as part of its obligations under the Victorian clear advice entitlement. From 1 October 2019, Simply Energy will also have an obligation to advise NSW concession customers about whether they are on the most appropriate offer. Simply Energy considers that ensuring that customers are advised about offers that may be more appropriate to their circumstances places them in a well-informed position to choose an energy plan that is most suited to their needs. Customers should ultimately be given the freedom to choose a plan that is right for them. However, to do so, customers need to be provided with tools and information to make an informed decision. Simply Energy considers that recent regulatory changes have considerably reduced information asymmetries and promoted greater market transparency, Simply Energy would, therefore, encourage the AEMC to focus on initiatives to assist consumers better understand the tools that are available to assist them in making an informed decision rather than imposing further regulatory interventions.
D)	What processes are in place by retailers to give vulnerable customers opportunities to shift from offers which are not suitable to their circumstances?	Simply Energy works proactively with customers who it identifies as having difficulty paying on time, as well as those who indicate they are experiencing hardship. As part of this assessment, Simply Energy

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		considers other plans that may be more suited to the customer's needs. Simply Energy also offers to conducts bill comparisons for its existing customers on request to determine whether a customer may be able to save by switching to an alternative offer.
E)	What customer data/factors should retailers consider when determining the suitability of an energy offer to each customer? Would vulnerable customers easily be able to provide this information? What action should retailers take when the information cannot be supplied by the customer?	In determining the suitability of an offer on individual customer basis, retailers need to assess: • the customers historical usage profile; • the customer payment history; and • terms of any proposed energy. Retailers should have this information available for existing customers. Further, the development of the Consumer Data Right will also make customer information more readily available, placing retailers in the stronger position to tailor product offerings and energy solution to meet customer needs.
F)	If conditional discounts were banned how would retailers manage credit risk?	An overly regulated market ultimately serves to stifle innovation and drive up cost for consumers. While restricting conditional discounts may be a seemingly meritorious initiative, it could increase energy prices overall as retailers may struggle to incentivise prompt payments. Retailers bear the ultimate risk in terms of commoditising the sale of energy to end-use customers. For this reason, even a marginal change in cashflows can have substantial financial consequences for energy retailers.
G)	Do stakeholders have views on the appropriate level of the simple price cap on conditional discounts? What methodology could be employed to determine this level?	It is difficult to set a universal price cap for conditional discounts across the energy industry, as every retailer is exposed to differing operational and financial costs.
H)	If a reasonable cost limitation was imposed, should this limitation be enforced through an AER guideline or should this be left to retailers?	If a reasonable cost limitation was imposed, AER guidance would be required to provide an objective basis for assessing compliance. Without sufficient guidance and objective criteria, retailers could inadvertently breach their obligations. Given the continually evolving nature of retail product offerings, the requirements around what constitutes a reasonable cost limitation are more likely to remain relevant if detailed requirements are

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		included in instrument, such as guidelines the AER. Guidelines can be readily updated and amended to reflect prevailing market costs and product structures, as required.
I)	Should the Commission determine that an AER guideline is the most appropriate instrument to determine "reasonable costs", which costs and factors should be included in the estimate?	Cost factors that need to take into account are the additional costs that retailers are likely to incur if a condition of a retailer's energy offer is not met, as well as any premium that should be applied for late payment. Restrictions must, nevertheless, allow retailers to still use conditional discounts as an incentive for customers to pay on time or use lower cost payment platforms, such as direct debit. Given the varying financing and operating costs incurred by energy retailers, individual businesses should be able to set conditional discounts to reflect their individual business circumstances.
J)	Should the Commission determine that retailers are best placed to determine "reasonable costs", are there any specific compliance or disclosure requirements necessary to satisfy the regulator of the accuracy of the estimate?	If retailers are to determine reasonable costs, retailers would need to substantiate costs based on estimates on their internal costs, which may include a risk premium contingent on the projected likelihood that customers will not fulfil the relevant conditions. In saying that, it could be a costly process for a body such as the AER to conduct retailer by retailer investigations.
Chapter 4 – Assessment Framework		
Question 6: Assessment Framework		
A)	Do you agree with the assessment framework outlined by the Commission?	Simply Energy agrees with the AEMC's proposed assessment framework, and would encourage the AEMC to think critically about risk allocations and the continued promotion of competition.
B)	Are there any other considerations the Commission should take into account?	The AEMC needs to undertake a holistic assessment of whether the proponent's rule change is still required in light of the recent regulatory changes.