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Ref: Review of network service provider registration exemption guideline - 2016

Target Australia Pty Ltd (**Target**), Coles Supermarkets Australia Pty Ltd (**Coles**) and Kmart Australia Ltd (**Kmart**) welcome the opportunity to make a submission on the amendments to the network service provider registration exemption guideline – 2016

Consultations questions:

Q.1 - Have we done enough? What more should be done? Who should bear responsibility for billing errors when network charges are duplicated?

Target, Coles and Kmart support the AER's view that it should be incumbent on the embedded network operator to resolve transitional charging problems (e.g. duplication of network charges/ network billing errors) in brownfield situations. Additionally, a time frame should be specified e.g. 15 days, for the embedded network operator to take action and respond to tenant concerns/enquires related to transitional charging problems.

Q.2 - Should a meter reading charge should be allowed at all, or should it be capped as we propose or by an alternative mechanism.

Local distributors recover metering costs through published network charges. It is Target, Coles and Kmart view, that no additional metering reading fee should be allowed in embedded networks; especially for child NMI (on market) situations, where a metering fee is already billed by the retailer. This would result in doubled reading metering costs being passed through to the embedded customer, and contradict the *no worse off* condition for embedded networks clients.

Q.3 - Are customers, experiencing unfair, unreasonable or excessive fees?

No further additions

Q.4 - If so, what form do these charges take?

No further additions

Q.5 - Why do you think they are unfair, unreasonable or excessive?

No further additions

Q.6 - What additional restrictions should the AER place on the levying of these charges?

In situations where the tenant has access to retail competition (on market), no additional meter reading/ metering charges should be allowed in embedded networks.

Q.7 - Do stakeholders consider these metering arrangements are sufficient to facilitate access to retail competition?

Yes, no further additions

Q.8 - What other conditions are necessary or desirable to support competitive offers?

No further additions

Q.9 - Are the requirements for maintenance of the embedded network metering installation appropriate? Should any other exceptions apply? If so, why?

Target, Coles and Kmart support the AER's view on meter maintenance costs. However in *on market* (child NMI) situations, the responsible person is the Retailer, and this distinction should be clearly outlined in the guideline.

Q.10 - Do stakeholders agree these are the only relevant activity classes?

Agree

Q.11 - Do stakeholders agree these are the only appropriate activity classes required to appoint an ENM?

Agree

Q.12 - Should any other activity classes be added or removed? If so, which activity classes and why?

No further additions

Q.13 - Is the threshold of 30 customers appropriate?

Target Coles and Kmart consider that the threshold of 30 customers is inappropriate. Small shopping centres and other commercial landlords can setup embedded networks for profit. Tenants should not be disadvantaged for being located in small commercial embedded networks, with lower protection and customer service requirements. The distinction should be made on the commercial activity type of the embedded network. E.g. community embedded network vs commercial embedded network, not on the number of tenants. Commercial embedded networks (class NR1 and NR5) should be required to appoint an ENM regardless of the number of tenants within the embedded network.



Q.14 - How much will ENM services cost?

No further additions

Q.15 - What is a reasonable range for estimating the costs of ENM services?

No further additions

Q.16 - At what level do the additional costs of an ENM threaten the viability of an embedded network?

No further additions

Q.17 - Are customers happy with current approaches as a model for recovery of the ENM costs?

Target, Coles and Kmart support the AER's position on this point, requiring the exempt embedded network service provider to absorb the ENM costs, except in the limited case of an eligible community bulk purchasing scheme. ENM costs recovery should not be passed on to customers by any method, unless it is a community bulk purchasing scheme. Note that in all other cases, not all tenants will be better off inside the embedded network, or agree to be part of it. Passing on ENM recovery costs, would contradict the *no worse off* condition in embedded networks.

Q.18 - Is there a need for specific measures or an AER condition to ensure that cost recovery occurs on an equitable basis for all network customers?

No further additions

Q.19 - If so, what form should this take?

No further additions

Q.20 - Do stakeholders support these requirements? If so, why? Or, if not, why not?

No further additions

Q.21 - Is the time to appoint an ENM reasonable?

No further additions

Q.22 - Are the protections sufficient? Why not?

No further additions

Q.23 - *What further protections are required and why?*

No further additions

Q.24 - Do stakeholders support these requirements? If so, why? Or, if not, why not?

Target Coles and Kmart consider that the threshold of 30 customers is inappropriate. Small shopping centres and other commercial landlords can also setup embedded networks for profit. If the embedded network is commercial (class NR1 and NR5), it should be regulated under the same terms and conditions applicable to sites with larger tenant numbers. No commercial embedded network customer should be disadvantaged by lower customer protection and service levels. The appointment of an ENM should be compulsory for classes NR1 and NR5 regardless of the number of tenants in the embedded network.

Q.25 - Are the protections sufficient? Why not?

As above, no further comment

Q.26 - *What further protections are required and why?*

As above, no further comment

Q.27 - *Do stakeholders have any feedback about Ombudsman dispute resolution services becoming accessible to small customers in embedded networks for matters relating to exempt embedded network service providers?*

Target, Coles, and Kmart support to AERs intention to require providers to join and Ombudsman scheme, and make it compulsory. Embedded network customers should be afforded the same protection and dispute resolution resources as any other market customer.

Q.28 - *Do stakeholders agree with these amendments? If so, why? If not, why not? If relevant, what further changes do you consider necessary or desirable?*

Agree.



Q.29 - Do stakeholders agree with these amendments? If so, why? If not, why not? If relevant, what further changes do you consider necessary or desirable?

The AER has adopted a relaxed approach to lowering the requirement of condition 4.1.12. This has resulted in embedded networks being retrofitted without prior consultation with tenants. Target, Coles and Kmart have experienced several embedded network retrofit situations where the AER has already granted the exemption, and the landlord has not carried out a communication campaign prior to the embedded network exemption approval at all; or has strategically limited the communication campaign to smaller – non informed, unsophisticated tenants.

There is clear lack of communication evidence required during the AER exemption application process. The current guideline only requires landlords to explain what they plan do in a communication campaign. There is no subsequent control mechanism to verify that the consultation or communication campaign actually took place. The current requirement is clearly insufficient, and constitutes a regulatory gap that needs to be addressed urgently.

Target, Coles and Kmart consider that providing evidence of consultation, in the form of explicit informed consent/non consent signed forms for every affected tenant, should be required prior to an exemption grant. Clear evidence of the communication campaign carried out prior to an exemption application, should form part of the application documentation requirements, within each embedded network retrofit application. This would provide an unambiguous decision making process, and close the current regulatory gap.

Q.30 - Do stakeholders agree with these amendments? If so, why? If not, why not? If relevant, what further changes do you consider necessary or desirable?

Please refer to the answer given to question 29: Target, Coles and Kmart consider that there is a gap in evidence requirements related to communication campaigns in the current guideline and exception application process; and urge the AER to address this regulatory gap during this review.

The AER has raised concerns over large retail chains having the power to veto an embedded network conversion, in disadvantage of less empowered consumers accessing better electricity prices if the conversion proceeds. However, Target, Coles and Kmart consider that the AER's guideline current minimum requirements in relation to offer price matching within embedded networks, does not guarantee that any actual benefit from reduced electricity costs is passed through to small tenants and less empowered consumers.

Embedded network situations where retailer choice is not possible due to jurisdictional constraints, require landlords to match embedded bundled energy tariffs to available standing offers in the open market. The problem is the definition of available standing offer/bundled tariffs for large and small 'off market' customers.

With the absence of a NMI allocated to the embedded network customer, no competitive retailer offer can be accessed by a tenant, as retailers are not able to offer a customized quote. This limits the offer matching to published gazetted bundled tariffs from large retailers, that do not reflect the size of the nature of the customer (no difference for larger/small business customers) and fail to capture better offers available from more competitive smaller

retailers (e.g. online retailers with alternative market models). This is disadvantageous for both small and large customers; but particularly unfavourable for large customers, as bundled tariffs offers are significantly more expensive than un-bundled contestable electricity tariffs.

In relation to section 5.7.1 Proposed revised network approach, condition 12, page 28. Draft Amendments to the Electricity NSP Registration Exemption Guideline, the AER states that:

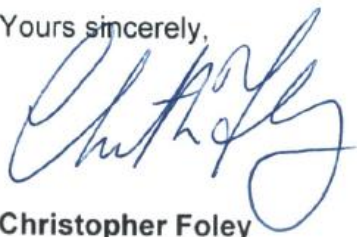
“The applicant must have conducted a marketing campaign for a sufficient period to have obtained consent from a substantial majority of customers. Customers are counted by number, not size”

Target, Coles and Kmart consider that counting customers by number and not size is unfair. Embedded network operators stand to make a profit from the volume of electricity on-charged, not the number of tenants. E.g. in a shopping centre where 80% of the electricity is consumed by 3 large tenants, decisions should not be based on 30 smaller tenants consuming 20% of the electricity. As the majority of the landlord revenue will be sourced from the large customers load.

It is Target's, Coles' and Kmart's view that the 100% consent requirements should be upheld. However, if the consent requirements were to be lowered, it is Target's, Coles' and Kmart's view that it should take into account the volume of electricity consumed instead of the number of tenants. Moreover, the level of consent required should be based on at least 90% of the volume of electricity consumed by active tenants.

The recording of consent under all scenarios needs to be via a transparent process with results made available to all tenants.

Yours sincerely,



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