

3 December 2024

By email to: Mobile Stakeholder Group  
Broadband Stakeholder Group  
Consumer Stakeholder Group

Tēnā koutou

## **Energy/Broadband Bundling Guidelines – Progress Review**

### *Background*

1. In November 2023, we issued the *Energy/Broadband Bundling Guidelines (the Guidelines)* to the industry under s234 of the Telecommunications Act 2001 (the **Act**).<sup>1</sup>
2. The Guidelines were designed to increase transparency and reduce consumer confusion in relation to the marketing of energy and broadband bundles.
3. We were concerned that demand for these bundles – the fastest growing segment of the broadband market – was being driven by the illusion of savings that did not exist (because upfront broadband discounts were often over-recovered through higher energy prices that were not disclosed to consumers).
4. We were also concerned about other aspects of pricing that made it difficult for consumers to compare these bundles with other competing services.
5. When the Guidelines were issued, energy providers indicated that they would take steps to comply but requested sufficient time in which to do so. Most providers indicated around six months would be required to make the necessary changes.
6. Now that sufficient time has passed, we undertook a review of the Guidelines, including an assessment of the impact they have had in the period since they were introduced.

---

<sup>1</sup> Commerce Commission. *Improving RSQ: Product Disclosure – Retail Service Bundling Guidelines (Energy and Telecommunications Bundles)* Published. 22 November 2023. <https://comcom.govt.nz/regulated-industries/telecommunications/projects/retail-service-quality>.

7. Our review took the form of an audit of the six providers currently bundling energy and broadband services (including a review of their available online marketing material and targeted requests for information) to determine the extent of compliance with the key requirements of the Guidelines.

*Outcome of Review*

8. We found that all providers have amended (or given assurance to amend) their marketing conduct to comply with the Guidelines, with the exception of the requirement for GST-inclusive pricing by default, where two providers continue the confusing practice of quoting electricity prices excluding GST and broadband prices including GST.
9. The table below summarises our findings in the key areas targeted by the Guidelines:

Requirement	Outcome	RAG
If electricity or gas is cheaper outside a bundle with the same provider, this should be prominently disclosed to consumers	Providers have discontinued the practice of charging higher bundled prices for energy than available on a stand-alone basis with the same provider	<b>GREEN</b>
If goods (such as fridges, TVs, or vacuum cleaners) are included in a bundle, then the recommended retail price should be prominently disclosed, to help consumers determine the value of the bundle	Providers are disclosing recommended retail prices on a “click-to-see” or “hover-to-see” basis on provider websites.	<b>GREEN</b>
If consumers are unable to switch one part of the bundle without losing another (such as being unable to switch their electricity provider without losing their broadband), this should be prominently disclosed to consumers	Providers are disclosing the tied nature of bundled services where relevant	<b>GREEN</b>
Consumers should be told clearly what they will need to repay if they cancel any bundled service while in contract	Providers are either disclosing or not charging early termination fees	<b>GREEN</b>
All prices in the bundle should be disclosed inclusive of GST to end the practice of having energy prices shown exclusive of GST and broadband prices inclusive of GST	Four out of the six providers are (or will) show GST inclusive prices by default. Contact and Nova Energy show GST exclusive prices for electricity by default.	<b>AMBER</b>

10. A more detailed assessment of compliance across the six providers of bundled energy and broadband services is set out in the attachment to this letter.

11. We are encouraged that providers have corrected or have agreed to correct their marketing conduct in order to comply with the Guidelines.
12. Overall, to the extent that these bundles remain the fastest growing segment of the broadband market, we can be more confident that consumers are getting the information they need to make informed comparisons and choices between competing services as a result of our Guidelines.
13. We are therefore satisfied that the Guidelines have achieved their purpose by correcting most of the transparency issues they were intended to address.

#### *Outstanding Issue*

14. However, we are disappointed by the reluctance of two of the six providers of these bundles to move away from GST-exclusive pricing by default.
15. We consider that, consistent with the approach to pricing of consumer goods and services generally, GST-inclusive pricing is expected by consumers and should be the default. We also remain of the view that combining GST-inclusive broadband and GST-exclusive energy services in the same bundle is inherently confusing.
16. We are currently considering what action by the Commission would best promote the interests of consumers in this situation.
17. In our view, GST-exclusive pricing constitutes a clear breach of the Guidelines, which could be remedied through the code making and enforcement provisions of Telecommunications Act.
18. GST-exclusive pricing may also give rise to issues under the Fair Trading Act, including whether the pricing disclosures that have been made in the context of bundled offers are sufficient to prevent consumers from being misled.
19. We intend to look into the full range of potential remedies available to us and remain willing to take further action to protect the interests of consumers if necessary.
20. We therefore encourage providers to work with us to avoid this outcome.
21. Mercury, Electric Kiwi, 2degrees and Pulse Energy have all moved or agreed to move to GST-inclusive pricing by default and we consider that there are strong reasons for Contact and Nova doing so as well.

#### *Summary*

22. We are satisfied that the marketing of energy and broadband bundles for consumers has improved as a result of our Guidelines.

23. However, we are concerned that the display of GST-exclusive prices by two providers remains an issue for consumers, warranting further investigation and action by the Commission.
24. We do not consider that any further action (beyond the GST-exclusive pricing issue) is required at this time.
25. We will continue to monitor compliance with the Guidelines and encourage consumers to raise any problems they encounter with the Commission or TDR.
26. If you have any questions on this letter, please contact Andrew Young via email to [market.regulation@comcom.govt.nz](mailto:market.regulation@comcom.govt.nz) with "Improving RSQ" in the subject line.

Ngā mihi nui

**Tristan Gilbertson**  
Telecommunications Commissioner

# Attachment 1

	Contact Energy	Nova Energy	Mercury	2degrees	Pulse Energy	Electric Kiwi
Prior to start of any sale	Prominently disclose when two or more services in the energy bundle need to be purchased together	ALIGNS	ALIGNS	ALIGNS	ALIGNS	ALIGNS
	Prominently disclose the effect that terminating or exiting one service in the bundle may have on any remaining goods or services in the energy bundle	ALIGNS	ALIGNS	ALIGNS	ALIGNS	ALIGNS
	Ensure that all goods and services in the energy bundle have the same contract end date where possible, or otherwise prominently disclose any differences in contract term and end dates to the consumer	ALIGNS	ALIGNS	ALIGNS	ALIGNS	ALIGNS
In any marketing communication that includes prices	Prominently disclose any early termination fees that apply to the energy bundle and the consequences of cancelling any service within the energy bundle	ALIGNS	ALIGNS	ALIGNS	ALIGNS	ALIGNS
	Prominently disclose if the RSP's price for a plan within the energy bundle is higher than their price for a comparable plan outside the energy bundle	ALIGNS	ALIGNS	ALIGNS	ALIGNS	ALIGNS
	Display prices for all goods and services within an energy bundle on a GST inclusive basis by default.	Option to change to GST inclusive but it is not the default.	Option to change to GST inclusive but it is not the default.	ALIGNS	ALIGNS	ALIGNS
In any marketing communication on which	Prominently disclose the RSP's retail price of the good outside of the energy bundle or, if the retailer does not sell the good separately, the lower of the RRP or the price at which the item is readily available;	N/A	Discloses RRP - click on a link to access.	Discloses RRP - click on a link to access.	N/A	N/A