



Notice of Final Instrument:

AER Benefit Change Notice Guidelines Version 1

June 2018

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1 About this document

1.1 Introduction

This Notice of Final Instrument (Notice)¹ accompanies the Australian Energy Regulator's Benefit Change Notice Guidelines (Guidelines).²

The National Energy Retail Rules (Retail Rules) now require a retailer to notify a small customer via a benefit change notice when a benefit provided to them through their market retail contract is expiring or changing.³ The aim of these new rules is to reduce the number of customers⁴ remaining on market retail contracts with expired benefits by requiring a retailer to:

- give the customer advance notice that their benefit is changing or expiring
- prompt the customer to search for available plans on Energy Made Easy⁵, and
- encourage the customer to switch to another plan if appropriate.

We consider a benefit change notice an important tool to encourage customer engagement with the energy market.

1.2 Role of the Guidelines

Retail Rule 48A requires a retailer to notify a small customer within 20-40 business days of each benefit change occurring, with basic information.⁶ Retail Rule 48B requires us to make Guidelines, which build on the requirements of Retail Rule 48A. To assist retailers to meet their obligations under Retail Rule 48A, the Guidelines:

- explain what benefit changes do and do not require the provision of a notice
- specify the information that must be provided in the notice
- specify how the information should be presented
- specify how dollar figures in the notice are to be calculated.

1.3 Definitions and interpretation

In this Notice, key words and phrases have the meaning given to them in the glossary of the Guidelines or, if not defined in the glossary, the National Energy Retail Law (Retail Law) and Retail Rules.

¹ National Energy Retail Rules 173(2)(b)

² The Guidelines can be accessed at the AER website: <https://www.aer.gov.au/retail-markets/retail-guidelines-reviews/benefit-change-notice-guidelines>

³ National Energy Retail Rules 48A(1)

⁴ For the purposes of this document, references to 'small customer/s' or 'customer/s' has the meaning of 'small customer' as defined in the National Energy Retail Law.

⁵ Energy Made Easy, www.energymadeeasy.gov.au is the Australian Government's energy price comparison website. It is run by the Australian Energy Regulator.

⁶ National Energy Retail Rule 48A(3) specifies the basic information a retailer must provide in the benefit change notice.

1.4 Version history and effective date

This notice is in relation to version 1 of the Guidelines.

The Retail Rules specify that Version 1 of the Guidelines will commence on 1 October 2018.⁷

⁷ National Energy Retail Rules, Schedule 3, Part 8, s. 3(2)-(3).

2 Purpose of this Notice

We are required to explain our development of the Guidelines in a Notice.

This Notice provides the context in which we have developed the Guidelines, the issues involved, and the intent of and rationale for the requirements.⁸ The Guidelines and Notice have been prepared in accordance with the retail consultation procedure in rule 173 of the Retail Rules.

In the following sections of the Notice, we explain the rationale for the requirements of the Guidelines:

- in **section 3**, when a benefit change notice must be provided
- in **section 4**, the manner and form of the benefit change notice
- in **section 5**, the content of the benefit change notice
- in **section 6**, how the ‘do nothing’ amount in the benefit change notice should be calculated.

2.1 Approach to consultation

2.1.1 Draft Guidelines

We released draft Guidelines and an accompanying Notice of Draft Instrument (draft Notice) for public comment on 19 April 2018. The 13 submissions we received to the draft Guidelines have provided valuable feedback and informed the finalisation of these Guidelines. Key themes and our responses are summarised in the following sections as relevant, and in further detail at **Appendix A**.

The draft Guidelines, draft Notice and submissions are published on our website.⁹

2.1.2 Issues paper

Our February 2018 issues paper sought stakeholder views on the coverage of the Guidelines and content and presentation of a benefit change notice. The issues paper, the 10 submissions received and our response to those submissions are published on our website.¹⁰ We used the feedback received during consultation on the issues paper to develop the draft Guidelines.

2.2 Behavioural insights research

We have also used behavioural insights research and a literature review, conducted by the Behavioural Insights Team (BIT), to inform the development of the Guidelines.

⁸ National Energy Retail Rules 173(2)(b)(ii)

⁹ The draft Guidelines, draft Notice and submissions can be accessed at: <https://www.aer.gov.au/retail-markets/retail-guidelines-reviews/benefit-change-notice-guidelines/draft-decision>

¹⁰ The issues paper and submissions can be accessed at: <https://www.aer.gov.au/retail-markets/retail-guidelines-reviews/benefit-change-notice-guidelines/initiation>. Our response to the submissions is summarised in Appendix A of the draft Notice at: <https://www.aer.gov.au/system/files/Notice%20of%20Draft%20Instrument%20-%20Draft%20AER%20Benefit%20Change%20Notice%20Guidelines%20-%20April%202018.pdf>.

BIT has extensive experience working with governments, regulators and other organisations across the world to apply behavioural economics to improve public policy and achieve social impact. Notably, they have been involved with Ofgem's trials to prompt greater engagement in the retail energy market in Great Britain.¹¹

Specifically, BIT's research has contributed to this project by helping to identify what information a retailer should include in the notice and how a retailer should present the information to effectively prompt a customer to consider their options when their benefits are changing or expiring.

In making Retail Rule 48B, the Australian Energy Market Commission (AEMC) granted us some discretion over the content and presentation of the notice, in part to reflect best practice in behavioural economics. Simulating consumers' real life responses as far as possible, BIT have conducted three online randomised control trials to test the impact of variations of a benefit change notice on intended behaviour and comprehension:

- Trial 1 compared the impact of framing a headline statement as a loss of benefit or an increase in costs. It also tested the impact of including on the notice a graphical representation of a benefit change.
- Trial 2 tested the impact of variations of headline statements: including the loss of benefit as a dollar value, just providing a description of the benefit, including a call to action to visit Energy Made Easy as a social norm, and not including a headline statement at all.
- Trial 3 tested the impact of different notice layouts, including a typical letter format, a notice including a large callout box and a notice drawing attention to the cost of doing nothing.

BIT's research has provided invaluable insights into how a customer might engage with a benefit change notice. We have used the research, along with stakeholder feedback, to ensure the Guidelines' requirements achieve their aim of customers engaging with and responding to the notice.

We published BIT's initial findings, which detailed the results of trial 1, alongside the draft Guidelines.¹² BIT's final report, which captures the findings of the whole project, has been published on our website with the release of the final Guidelines.¹³

We discuss the BIT research in the following sections where findings have impacted our approach and the requirements in the Guidelines. BIT's initial findings stand and have been incorporated into the final report. When we refer to the BIT research throughout this document, we are referring to (all) the findings as detailed in BIT's final report.

¹¹ Ofgem is the energy regulator in Great Britain.

¹² Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Initial Findings, April 2018, <https://www.aer.gov.au/system/files/Behavioural%20Insights%20Team%20-%20Review%20of%20the%20Benefit%20Change%20Notice%20for%20the%20AER%20-%20Initial%20Findings%20-%20April%202018.pdf>

¹³ Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final Report, June 2018.

3 When is a benefit change notice required?

Section 2 of the Guidelines specifies what benefit changes require a retailer to send a benefit change notice to a customer, and what benefit changes are excluded from that requirement.

Under Retail Rule 48A(1), a retailer must notify a customer of each benefit change. Under Retail Rule 45A, a ‘benefit change’ is defined in two parts.¹⁴ Part (b) of the definition gives us the ability to provide, through the Guidelines, further specification of what constitutes a benefit change. We also have the ability to specify what constitutes an excluded change—that is, a benefit change that would not trigger the sending of a benefit change notice.¹⁵

Our overarching consideration in reaching a final position on this issue has been to ensure customers are aware, where they may not otherwise have been, that a benefit they may value is changing or ending and are prompted to consider whether they should look for another plan.

3.1 Draft Guidelines position

3.1.1 What does and does not constitute a ‘benefit change’

Although permitted by 45A of the Retail Rules, we did not see a need to further define a ‘benefit change’ in the draft Guidelines. Our approach, reflected both in the draft Notice and the draft Guidelines, was to provide examples of changes raised by stakeholders to clarify whether they would constitute a ‘benefit change’ and therefore trigger a retailer to send a notice.

In the draft Notice, we discussed the following examples that we considered met the definition of a benefit change:

- where a customer has entered into a plan with prices fixed at a specific rate for a fixed period, and a retailer decides to match a price decrease
- incentives or gifts provided to a customer upon entry to a contract for a certain period, for example, offers with a ‘first month free’ incentive.

While we considered both these examples to meet the definition of a benefit change, we noted they would be excluded from the requirement to send a notice under our proposed excluded changes (see **section 3.1.2**).

We also discussed the following examples of what we considered did not meet the definition of a benefit change:

- where there are underlying changes to a standing or market offer’s rates on which a benefit is based

¹⁴ Part (a) of the definition of ‘benefit change’ under Retail Rule 45A states a benefit change means ‘a change to, or the expiry of, a benefit (such as a price discount) provided to a customer for a minimum period or a fixed benefit period under a market retail contract during the term of that contract (whether or not as a result of the variation to the contract).’

¹⁵ Retail Rule 48B(3)(b) provides us with the ability to specify what constitutes an excluded change.

- one off incentives or gifts, whether or not provided upon entry to a contract
- a rollover or extension of a benefit.

3.1.2 What benefit changes should be considered an ‘excluded change’

While our overall position is that a retailer should send a customer a notice whenever a benefit changes, the draft Guidelines acknowledged two circumstances where we considered a benefit change to be an excluded change:

- a benefit change occurring within or at the first 40 days of the commencement of a market retail contract. This is because the requirement under Retail Rule 48A(2)(b) to notify a customer 40 to 20 days before a benefit change occurs means that a customer would receive a benefit change notice at or near the start of their contract.
- a benefit change that triggers the requirement to notify a customer under Retail Rule 46(3) (notification of any variation in tariffs and charges under a market retail contract). This is to avoid the customer receiving dual notifications of a change to their plan.

3.2 Stakeholder feedback

3.2.1 What does and does not constitute a ‘benefit change’

We received limited comments on our draft Guidelines position of what does and does not constitute a benefit change.

Of the stakeholders that provided feedback, COTA Australia (COTA) was supportive that the definition of ‘benefit change’ includes changes to financial and non-financial benefits.¹⁶ Energy Consumers Australia (ECA) was similarly supportive, but also concerned that the draft Guidelines left open the possibility that other changes could meet the definition of a benefit change, in addition to those identified as examples in clause 27.¹⁷

The Public Interest Advocacy Centre (PIAC) recommended that we further expand on the definition of ‘benefit change’. They suggested clarifying a number of specific circumstances where a notice is required would limit confusion for both retailers and consumers.¹⁸

Origin¹⁹ sought clarification on a number of arrangements they considered did not neatly fit into the Retail Rule 48A, including:

- fixed price products or capped plans where the customer is given a fixed cost or tariff for their energy use
- pilot programs where a small number of willing participants are offered a trial product

¹⁶ COTA submission, page 1.

¹⁷ ECA submission, page 4.

¹⁸ PIAC submission, page 1.

¹⁹ Origin submission, pages 1-2.

- whether the withdrawal or alteration of a voluntary rebate would trigger the sending of a notice, where the rebate does not represent any term or condition of the supply contract.

3.2.2 What benefit changes should be considered an ‘excluded change’

Stakeholders were generally supportive of the two proposed excluded changes, although there were some exceptions. For example, Powershop considered that no benefit changes should be excluded from the requirement to send a notice due to the subjective nature of what a customer may consider a benefit.²⁰ PIAC was of a similar view, stating that exclusions should be limited, as customers should be informed of the impact of any change.²¹

3.2.2.1 Clause 29—40 day exclusion

Powershop considered the 40 day exclusion problematic for customers because it encourages the introduction of short-term benefits such as ‘first month free’ or ‘80% discount for the first 40 days’, where the customer is likely to be in a substantially worse situation upon expiry of such short-term benefits.²² Consumer Action Law Centre (CALC) was of a similar view.²³

PIAC concurred with our reasoning for this excluded change, noting it would be impractical for a retailer to notify a customer of a benefit change at the start of their contract.

Red and Lumo Energy considered the 40 day exclusion threshold should be extended to six months because customers receiving a notice within the first six months will be relatively engaged and will consider notification unnecessary.²⁴

Origin and AGL sought clarification on whether an exclusion to send a notice would apply:

- if a customer receives a benefit in the first 40 days of the contract but is on quarterly billing and does not actualise the benefit after 90 days (Origin²⁵)
- if a customer’s accumulation meter does not allow the first months’ consumption to be determined, and usage over a billing period is averaged out so the customer receives ‘one month free’ rather than the ‘first month free’ (Origin²⁶)
- in a ‘first month free’ scenario (AGL²⁷).

²⁰ Powershop submission, page 2.

²¹ PIAC submission, pages 1-2.

²² Powershop submission, page 2.

²³ CALC submission, page 2.

²⁴ Red and Lumo Energy submission, page 1.

²⁵ Origin submission, page 4.

²⁶ Origin submission, page 4.

²⁷ AGL submission, page 11.

3.2.2.2 Clause 30—Retail Rule 46(3) exclusion

Red and Lumo Energy were supportive of the benefit change notice exclusion if a customer will receive notification under Retail Rule 46(3).²⁸

Powershop believes any customer whose offer is expiring at the time of a price change should not be excluded from receiving a benefit change notice, despite the Retail Rule 46 obligations. Powershop is concerned that customers will not be provided with a notice if they signed up around a price change period.²⁹

3.3 Final requirements in the Guidelines

Table 1 highlights relevant clauses in the Guidelines discussed in this section of the Notice, and whether our positions have changed from draft to final Guidelines.

Table 1: Changes from draft to final Guidelines requirements for when a benefit change notice is required

Draft and Final clause	Draft Guidelines position	Final Guidelines position
22	Retailers must send a benefit change notice when a benefit change meets the definition of benefit change in the Guidelines.	No change from draft Guidelines position
23	Retailers are exempt from the requirement to send a benefit change notice if: <ul style="list-style-type: none"> a) the benefit change does not meet the definition of a benefit change in the Guidelines; or b) the benefit change has been defined as an excluded change. 	No change from draft Guidelines position
24	A benefit change is defined as a change to, or expiry of, a benefit provided to a small customer for a minimum period or fixed benefit period under a market retail contract during the term of the contract.	No change from draft Guidelines position
25	The requirement to send a benefit change notice applies to both financial benefits and non-financial benefits.	No change from draft Guidelines position
29	A benefit change occurring within or at the first 40 days of the commencement of a customer's market retail contract is an excluded change.	No change from draft Guidelines position
30	A benefit change that requires a retailer to notify a customer under Retail Rule 46(3) is an excluded change.	No change from draft Guidelines position

²⁸ Red and Lumo Energy submission, page 1.

²⁹ Powershop submission, page 2.

3.4 Final Guidelines position

Our position in the final Guidelines is unchanged from the draft Guidelines for both the definition of a ‘benefit change’ and the benefit changes that should be considered ‘excluded changes’.

3.4.1 What does and does not constitute a ‘benefit change’

Our final position is that the definition of benefit change under Retail Rule 45A does not require further definition within the Guidelines. We note some stakeholders sought further clarification of what is a benefit change. Our view is that the draft Guidelines approach of maintaining the Retail Rule 45A definition and providing examples of what would and would not be included under the definition provides sufficient flexibility without placing additional limitations on the changes that would be captured under the definition. We consider the need for flexibility on this issue important, particularly as products in the market evolve.

We acknowledge there may always be a question of how products, particularly those that are new or innovative, fit within the regulatory framework. This has been demonstrated by stakeholder feedback seeking clarification on whether specific circumstances or changes to new or non-traditional products meet the definition of a benefit change. We reiterate our expectation set out in the draft Notice that retailers will seek their own advice on whether a change in benefit meets the definition of ‘benefit change’ under the Retail Rules. Retailers may also confirm our approach to particular products although we will not provide legal advice on whether a retailer’s position complies with the Retail Rules.

3.4.2 What changes should be considered an ‘excluded change’

We see utility in a retailer notifying a customer whenever a benefit changes. Accordingly, we agree with the stakeholders that considered excluded changes should be limited. However, our reasoning for the two excluded changes is sound, and given stakeholders were largely supportive, we do not propose any amendments or additions to the proposed excluded changes. Our position is therefore unchanged from the draft Guidelines.

3.4.2.1 *Clause 29—40 day exclusion*

We maintain our position on this particular excluded change, and consider it appropriately balances our view that excluded changes should be limited with the practicalities of retailers providing customers with notices. We consider it would be impractical for a retailer to notify a customer of a benefit change at or very near the start of their market retail contract. We also note that where a benefit is provided to a customer for less than 20 days from the start of their market retail contract, it would be impossible for a retailer to comply with the requirement to send a customer a notice 40 to 20 days before the benefit change.

Consistent with our view that excluded changes should be limited, we do not consider there is merit in increasing the exclusion threshold to greater than 40 days, as our position is customers should be notified where possible of a benefit change.

We acknowledge CALC and Powershop’s views that this exclusion will potentially encourage the introduction of short-term benefits where a customer may be significantly worse off after

the benefit ends. We will monitor this, and the impact of the Guidelines on the benefits and plans offered to customers more broadly, after the Guidelines' implementation.

3.4.2.2 Clause 30—Retail Rule 46(3) exclusion

Stakeholders were generally supportive of this excluded change. Our final position and drafting in the Guidelines are therefore unchanged from the draft Guidelines.

In response to Powershop's submission³⁰, we wish to clarify that a benefit change is excluded from the requirement to send a notice only when it *also* triggers the notification requirements under Retail Rule 46(3). Therefore, a change that meets the definition of a benefit change, but does not represent a variation to tariffs and charges, will require a retailer to send a notice under Retail Rule 48(1). If that benefit change happens to coincide with a price change, the retailer must notify a customer under Retail Rule 48(1) (for the benefit change) and, separately, under Retail Rule 46(3) (for the price change).

³⁰ Powershop submission, page 2.

4 Manner and form of the benefit change notice

Retail Rule 48A(2)(a) specifies that a retailer must provide a benefit change notice in writing, and otherwise in the manner and form required by the Guidelines. Section 3 of the Guidelines specifies the manner and form in which a retailer must provide a benefit change notice.³¹ Sections 4 and 5 of the Guidelines, which deal with the content of the notice, also contain requirements about the form of specific content to be provided on a benefit change notice.

In finalising our position on this issue, we have considered the manner and form that will most likely prompt customers to engage with the content of the notice, and therefore increase the likelihood of achieving its intent. We have been informed by the behavioural insights literature and research testing customer reactions to various formats of a benefit change notice. Our key aim is for the Guidelines to ensure retailers provide a customer with better, rather than more, information to facilitate decision-making.

4.1 Draft Guidelines position

4.1.1 Manner

Noting the overarching requirement under Retail Rule 48A(2)(a) for a benefit change notice to be in writing, our proposed position was for a retailer to provide a notice to a customer in a way that aligns with the customer's preferences. For example, if a customer has elected to receive communications by email, then a benefit change notice should be provided in the same manner.

4.1.2 Form

Our proposed position regarding the form of the notice was guided primarily by the behavioural insights research, which supported the prescription of key aspects of the notice. We also took into account the misalignment between a retailer's incentive to retain its customers and the notice's aim of prompting a customer to research plans on Energy Made Easy and potentially switch to a different retailer.

The draft Guidelines prescribed the positioning and presentation of the following three elements of the notice:

- a call out box with steps to follow to compare plans on Energy Made Easy
- a headline statement about the benefit change
- personalised information to allow a customer to compare plans on Energy Made Easy.

These three elements were prescribed to ensure that messaging about what a customer should do as a result of the benefit change, and the option to compare plans on Energy Made Easy, was not diluted through the presentation of this information by the retailer. As stated in the draft Notice, many of the benefit change notices sent to customers to date

³¹ We are required to specify the manner and form of a benefit change notice in the Guidelines under Retail Rules 48B(2)(a)-(b).

(under Retail Rule 48A) emphasised that the customer did not have to take any action as a result of the benefit change and we consider this undermines the intent of the new rule.

We also prescribed in the draft Guidelines that any references to Energy Made Easy and its web address must come before and be more prominent than the retailer's own web address and telephone number. The draft Guidelines also required retailers, if sending a benefit change notice by electronic means (such as by email), to provide the Energy Made Easy web address as a URL that pre-fills the kind of offer (small business or residential) and postcode for the customer.

In addition, we proposed any marketing material in the notice had to come after the information contained in Zone C of the notice (information to enable a customer to use Energy Made Easy).

4.2 Behavioural insights research

Through the behavioural insights research, we tested the impact of the positioning and framing of different elements on the benefit change notice on customers' intentions to use Energy Made Easy to search for plans. The findings from the BIT research and literature review show that the presentation of certain elements are likely to have an impact on the action a customer would take as a result of receiving the notice.

Notably, trial 3 tested the impact of different notice layouts including a typical letter format, a notice including a large call out box and a notice drawing attention to the cost of doing nothing.

In the draft Notice, we discussed the initial findings of BIT's research. With the research completed, those initial findings have been incorporated into the BIT's final findings, and the initial findings stand. While consistent with the initial findings, when we refer to the BIT research throughout this document, we are referring to the findings as detailed in BIT's final report.

4.2.1 Headline statement

As stated in the draft Notice, BIT's user testing of mock-up benefit change notices found that even in a research environment where the trial participant was focused purely on the notice they had received, they were not paying full attention to all aspects of the letter. The literature showed that comprehension of a communication is worse in an online environment. In such an environment consumers tend to read in an 'F pattern', focusing most on the content at the top and left hand side of an online communication.³²

The behavioural insights research showed a clear headline statement focused on loss aversion led to a higher comprehension of key aspects of the letter³³ by trial participants, namely the impact of the benefit change on the customer's energy bill going forward and the option of using Energy Made Easy to compare plans.

³² Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slide 43.

³³ Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slide 25.

As such, we consider the inclusion of a headline statement in the benefit change notice is crucial in ensuring customers engage with the content of the notice and understand the overall purpose of the communication. In particular, framing the headline statement in terms of the loss of a benefit where this occurs increases customers' ability to comprehend and engage with the content.

4.2.2 Information to compare plans on Energy Made Easy

BIT considers there is significant benefit in including information to use Energy Made Easy in the notice itself, and doing so in a format that clearly explains how a customer should use the information.³⁴

The literature review shows that small 'frictions' (such as a customer having to ask their retailer for their electricity consumption data) can have substantial impacts on behaviour. Past BIT trials have found that even the presence of an extra click in an online process can lead to a substantial proportion of participants dropping out.³⁵ Therefore, reducing the steps involved for consumers to access their information is key to ensuring they take action on receipt of the notice.

4.2.3 Presentation of information

Trial 3 tested the impact of different notice layouts including a typical letter format with the callout box in the top right hand corner, a notice including a large call out box and a notice drawing attention to the cost of doing nothing. The results did not show statistically significant differences between the treatments on either intentions to visit Energy Made Easy or comprehension of the notice.³⁶

As stated in the draft Notice, the literature review has shown that reducing the amount of information consumers need to process is likely to lead to better outcomes. Keeping information as simple and as short as possible is key to ensuring customers have both maximal understanding of its content and maximal likelihood of taking action.

BIT recommends that to reduce frictions, if a notice is provided via electronic means (such as email) references to Energy Made Easy on the notice should be hyperlinked to the Energy Made Easy website.³⁷

BIT recommends limiting the body of the notice to a single page or implementing a word limit, which would not include the information a retailer must provide to enable a customer to use Energy Made Easy.³⁸ Retailers should ideally provide that information in a separate part of the notice, to make it as easy as possible for the reader to understand both the notice and the information to use Energy Made Easy.

³⁴ Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slide 41.

³⁵ Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slides 41 and 49.

³⁶ Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slides 22, 23, 27 and 28.

³⁷ Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slide 42.

³⁸ Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slide 44.

References to Energy Made Easy on a benefit change notice should be no less prominent than references to a retailer's website, and should be mentioned first.³⁹

4.3 Stakeholder feedback

4.3.1 Manner

We received limited comments on our draft Guidelines position regarding the manner of the benefit change notice.

EWON⁴⁰ believed the manner and form of the notice is critical for the ongoing transparency of energy contracts and the benefits available to consumers.

COTA⁴¹, PIAC⁴² and Powershop⁴³ were supportive of the draft Guidelines' position of providing the notice in accordance with a customer's preferred communication method. However, COTA stated that if the customer has not indicated a preference, the default method of communication should be by hard copy correspondence.⁴⁴ ECA recommended that the default communication method should be consistent with how bills are sent to the customer.⁴⁵ Powershop stated if a customer has not indicated how they wish to receive written communication from their retailer, a variety of communication methods (i.e. phone, email, post) should be used to communicate the notice to the customer.⁴⁶

PIAC considered a retailer should be required to provide the notice in a language other than English if requested to do so by a customer.⁴⁷

ECA also recommended we amend clause 42 to require retailers to ensure the benefit change notice is the first item seen by a person, if the notice is provided by mail with multiple pieces of paper within the envelope.⁴⁸

4.3.2 Form

In general, retailers and ECA were concerned about the level of prescription regarding the layout and positioning of certain information in the notice, and expressed a preference for a more principles-based approach.

AGL was broadly concerned that, due to the level of prescription proposed, the notice is unlikely to look like a communication from retailers and could cause mistrust or uncertainty

³⁹ Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slide 44.

⁴⁰ EWON submission, page 1.

⁴¹ COTA submission, page 2.

⁴² PIAC submission, page 2.

⁴³ Powershop submission, page 2.

⁴⁴ COTA submission, page 2.

⁴⁵ ECA submission, page 5.

⁴⁶ Powershop submission, page 2.

⁴⁷ PIAC submission, page 2.

⁴⁸ ECA submission, page 5.

with customers. AGL argued the required wording of the notice does not reflect how retailers currently deliver information to customers and is more directive than necessary.⁴⁹

AGL was supportive of including prominent information about Energy Made Easy in a callout box, but did not agree with the prescribed placement of this information under the draft Guidelines in Zone A of the notice. AGL stated retailers should have discretion as to where the callout box appears on the notice, so not to impact retailer branding or other key information that generally appears in the top right corner of communications.⁵⁰

EnergyAustralia also argued against including a reference to Energy Made Easy at the top of the notice on the basis it will cause confusion for customers as to who the communication is from.⁵¹

Simply Energy was of the view the requirement that Energy Made Easy must be referenced before the retailer's own website and telephone number may lead to poor customer outcomes. Simply Energy stated customers may not realise the notice contains important information about their energy contract, and instead consider it to be promotional material from the Australian Government.⁵² The Australian Energy Council (AEC) were also of the view this requirement would be difficult to follow as the retailer's logo is generally positioned at the top of the letter and includes the retailer's web address.⁵³

The AEC stated that there is a substantial risk that regulating the layout of the notice will create a communication that appears highly regulated in nature and in its view is less likely to prompt customer engagement.⁵⁴

CALC stated that a dollar saving amount should be made more prominent on the notice, as that figure is likely to motivate consumers to take action to compare offers and potentially switch.⁵⁵

Origin⁵⁶ and EnergyAustralia⁵⁷ raised that if the approach to the notice was principles-based rather than prescriptive, the AER can ensure that retailers are not diluting the intended messaging of the notice by approving and monitoring retailer compliance with the notice requirements. Origin stated an alternative to the current prescriptive guideline is a principles-based approach that would set requirements on what retailers have to deliver whilst leaving retailers with discretion over the layout of the notice.

ECA had a similar preference for a principles-based approach. It considered the focus of the Guidelines needed to be upon consumer outcomes rather than specifying in a prescriptive manner the form of the benefit change notice itself. It stated that retailers should be required

⁴⁹ AGL submission, page 3.

⁵⁰ AGL submission, page 5.

⁵¹ EnergyAustralia submission, page 5.

⁵² Simply Energy, page 3.

⁵³ AEC submission, page 2.

⁵⁴ AEC submission, page 2.

⁵⁵ CALC submission, page 3.

⁵⁶ Origin submission, page 3.

⁵⁷ EnergyAustralia submission. page 3.

to measure the effectiveness of the notice, and could be required to conduct trials to test whether alternative approaches better meet the objectives of the notice.⁵⁸

Origin’s view is the draft Guidelines lack a ‘digital lens’ and are designed on the basis that a customer will work through it in a print environment. Origin propose that a less prescriptive approach would provide retailers with the option of designing a digital and print version of the notice.⁵⁹

Origin also argued against the restriction on the positioning of a retailer’s marketing material on the notice, and stated that ‘there is no reason why a retailer should also be prohibited from making customers a retention offer in the text of the letter’.⁶⁰

EnergyAustralia were concerned about the notice requirements regarding colour and stated that retailers should have the option to provide hard copy notices in black and white to minimise costs.⁶¹

AGL⁶² and Momentum Energy⁶³ also argued the proposed tailored URL in notices sent by email requires a considerable degree of operational complexity that is unlikely to result in a significant benefit to consumers.

4.4 Final requirements in the Guidelines

Table 2 highlights relevant clauses in the Guidelines discussed in this section of the Notice and whether they have changed from draft to final Guidelines.

Stakeholder feedback suggested we restructure the Guidelines to make clearer the information that is and is not required to appear in the zones.⁶⁴ We have adopted this suggestion. Accordingly, clause numbers have changed between draft and final.

Table 2: Changes from draft to final Guidelines requirements for manner and form

Draft clause	Draft Guidelines position	Final clause	Final Guidelines position
34	A retailer must structure the benefit change notice in accordance with the zones labelled A, B and C in the Benefit Change Notice Template.	n/a	Zones B and C removed. Zone A now contains the information formerly in Zone C to enable a customer to compare available energy offers on Energy Made Easy.
37	The benefit change notice must be sent to the customer in accordance with the customer’s preferences.	33	The benefit change notice must be sent to the customer in accordance with the customer’s preferred method of receiving written communication from the retailer.

⁵⁸ ECA submission, page 4.

⁵⁹ Origin submission, page 3.

⁶⁰ Origin submission, page 3.

⁶¹ EnergyAustralia submission, page 4.

⁶² AGL submission, page 4.

⁶³ Momentum Energy, page 1.

⁶⁴ AGL submission, page 10.

53	A retailer must provide the information to enable a customer to compare plans on Energy Made Easy in zone C of the benefit change notice.	45	A retailer must populate Zone A of the benefit change notice with information to enable a customer to compare available energy offers on Energy Made Easy.
71	A retailer must populate zone B on the benefit change notice with the headline statement.	60	A headline statement must be positioned before the information in Zone A of the benefit change notice.
79	A retailer must include in zone A information on the steps a customer must take when using the information in the notice to compare plans on Energy Made Easy.	73	A retailer must include the steps a customer can take to use the information on the benefit change notice to compare offers on Energy Made Easy before the information in Zone A of the benefit change notice.

4.5 Final Guidelines position

4.5.1 Manner

The stakeholders that addressed the manner of the notice in their submissions were supportive of providing the notice in accordance with a customer's preferred communication method. Whilst we see some benefit in COTA's suggestion of providing the notice in a hard copy format if the customer has not expressed a preference, we are concerned this is likely to increase costs for retailers. We also consider that ECA's suggestion that the communication method be consistent with how bills are sent if the customer has not indicated a preference, is achieved by the existing communication method clauses in the Guidelines.

In addition, providing the notice in a language other than English (PIAC⁶⁵) and using multiple communication methods (Powershop⁶⁶) does not align with the requirements of Retail Rule 48, which is a similar notification provision. We consider it may be overly burdensome to prescribe these further communication requirements on retailers, and consider that retailers are able to incorporate these additional steps as part of their internal processes if they so choose.

As such, our final position regarding the manner of the notice remains unchanged from the draft Guidelines.

4.5.2 Form

Some stakeholders noted what they considered a lack of clarity of requirements within the draft Guidelines and how these requirements linked to the zoned information in the Benefit Change Notice Template. For example, some stakeholders thought that the substantive text of the benefit change notice was prescribed in accordance with the Benefit Change Notice Template, when we actually intended it to be an example of text that could be used. The purpose of the Benefit Change Notice Template was to illustrate the positioning of information relative to other information in zones.

⁶⁵ PIAC submission, page 2.

⁶⁶ Powershop submission, page 2.

We have sought to clarify the purpose of the Benefit Change Notice Template in the final Guidelines. Given the removal of the prescribed position of the information to appear in Zone A (steps to follow to compare plans on Energy Made Easy, discussed in **section 4.5.2.3**), we have now amended the Benefit Change Notice Template to contain one zone (Zone A, which must include the information to compare plans on Energy Made Easy, discussed in **section 4.5.2.2**). However, certain information, including the steps to follow to compare plans on Energy Made Easy and the headline statement, still have to be included but must now be provided before Zone A.

4.5.2.1 *Headline statement*

We note that stakeholder comments regarding the headline statement focused more on the prescribed content of the headline statement rather than its placement on the notice. Given the limited stakeholder feedback and the importance placed on the headline statement in the findings of the behavioural insights research, our final position is to ensure the headline statement is prominent and a headline (that is, provided at the top of the communication).

Given the removal of the prescription around the positioning of the steps to follow to compare plans on Energy Made Easy, a retailer must now ensure the headline statement is provided before the information in Zone A of the notice.

4.5.2.2 *Information to compare plans on Energy Made Easy*

As above, we note that stakeholder comments regarding the information to be provided to allow a customer compare plans on Energy Made Easy focused on the amount of prescribed information. There was limited feedback regarding where this information should be placed on the notice. As such, our position regarding the placement of this information is unchanged.

A retailer must now populate Zone A of the notice with information to enable a customer to use Energy Made Easy.

4.5.2.3 *Presentation of information*

Steps to follow to compare plans on Energy Made Easy

We note that some stakeholders were concerned about the positioning of the steps to follow to compare plans on Energy Made Easy (also referred to as the callout box) on the notice. Issues raised include the potential impact the positioning of the call out box would have on a retailer's branding, which normally appears at the top of a communication.

We are of the view that there is value in a retailer providing simple steps for how a customer can use the information on the notice to compare plans on Energy Made Easy, and for this information to be prominent. However, the behavioural insights findings showed little correlation between the positioning of the callout box on the notice and intended behaviour of visiting Energy Made Easy. As a result, we have removed the requirement that the callout box must be included in Zone A. We have provided retailers with flexibility around the positioning of this information, as long as it comes before Zone A of the notice (formerly Zone C) and is prominent.

Print and digital application of the notice

Origin referenced in its submission that the draft Guidelines lack a ‘digital lens’ and are designed on the basis that a customer will work through it in a print environment. We have considered the BIT literature review on comprehension of communications in an online environment and have drafted the Guidelines to be agnostic as to the mode of communicating the notice. Our view is that retailers can adapt the notice to be suitable for a print or digital environment, as there are few limitations for how a retailer may design a notice. The zone structure only prescribes where certain information must be positioned relative to other information.

References to Energy Made Easy

Stakeholders also noted that the requirement that references to Energy Made Easy must be more prominent and come before the retailer’s own website and telephone number could be confusing for customers and impact a retailer’s branding. We have taken into account this feedback and have removed this requirement from the Guidelines.

Considering retailers’ feedback on the difficulty of incorporating a personalised URL, we have also removed from the Guidelines the requirement that retailers must provide customers with a pre-filled hyperlink to Energy Made Easy (with the customer’s postcode and customer type) if the notice is provided via electronic means. While noting the BIT research that small frictions, such as filling out these fields in the Energy Made Easy offer search, can have outsized impacts on behaviour⁶⁷, we are again mindful of the cost this may impose on retailers in fulfilling this requirement.

Marketing material

Origin’s submission referred to the restriction on marketing in the Guidelines and proposed that there should be no limitations on retailers making a customer a retention offer in the notice. As stated above, many of the benefit change notices we have seen sent to date under Retail Rule 48A emphasised that the customer did not have to take any action and should remain with their existing retailer. Our view is that if the marketing restriction in the Guidelines is removed, there is a risk the messaging of the notice may be over-complicated, as retailers may encourage customers to sign up to a new plan with their existing retailer, while also encouraging customers to visit Energy Made Easy to compare plans.

To ensure the messaging of the notice is not diluted, we have therefore retained the draft Guidelines position to only allow marketing of plans to be provided after Zone A of the benefit change notice.

Colour requirements

We have amended the relevant clauses in the Guidelines to make the use of colour in the notice optional rather than mandatory.

⁶⁷ Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slide 41.

5 Content of the benefit change notice

The Guidelines separate requirements on the information that must be contained within a benefit change notice into two sections:

- Section 4: content of the benefit change notice to appear in Zone A—this section contains requirements for specific information to appear in Zone A of a benefit change notice. We have used zoning to indicate the positioning of information relative to other information.
- Section 5: other information requirements in the benefit change notice—this section contains the requirements for the content of a benefit change notice that are not required to appear within Zone A.

As with manner and form, in finalising our position on this issue, we have considered the content (in addition to that required under the Retail Rules) most likely to effect the desired behavioural change upon receipt of the notice. The behavioural insights literature and research testing customer reactions to various content of a benefit change notice have guided the requirements in the Guidelines. As with manner and form, our key aim is for the Guidelines to ensure retailers provide a customer with better, rather than more, information to facilitate decision-making.

5.1 Draft Guidelines position

Our draft Guidelines position required retailers to provide specific content in the notice (in addition to the basic content required under Retail Rule 48A(3)) where we believed the content will assist the notice achieve its aims and where there is a risk that, in not requiring the content's inclusion, retailers will not include it or dilute crucial messaging.

5.1.1 **Headline statement**

We proposed that a headline statement must be included in a benefit change notice, the content of which depended on whether the benefit change represented a decrease in the value of the benefit.

Where the benefit change results in a decrease in the value of the benefit, we proposed prescribing the headline statement as follows: “You are about to lose your [description of the benefit]. Visit www.energymadeeasy.gov.au/offer-search to find the best plan offer for you”.

Where the benefit change does not result in a decrease in the value of the benefit, we proposed that we would not prescribe the wording of the headline statement.

We prescribed the headline statement in this way because the behavioural insights research found that trial participants who received a notice with a headline framed as a loss had higher comprehension of the notice. We noted we might refine the headline based on the final results of the behavioural insights research and stakeholder submissions to this consultation.

5.1.2 ‘Do nothing’ amount and additional comparison amount

5.1.2.1 ‘Do nothing’ amount

Our position in the draft Guidelines was for retailers to provide a ‘do nothing’ amount on a benefit change notice. We considered the Retail Rules clear in stating that a ‘do nothing’ amount must be included on a benefit change notice, regardless of the benefit change.⁶⁸

We acknowledged there would be circumstances where the benefit change (for example, the loss of a non-financial benefit) will have no impact on the ‘do nothing’ amount. We considered the drafting of the draft Guidelines was sufficiently flexible to allow retailers to explain the context of what the ‘do nothing’ amount represents.

We also acknowledged there are circumstances where the ‘do nothing’ amount may not be very meaningful to a customer because the Energy Made Easy algorithm cannot accurately calculate cost projections for certain tariff types (for example, tariffs with demand charges). In such cases, we proposed that retailers must clearly state the limitations of the ‘do nothing’ amount.

5.1.2.2 Additional comparison amount

Our draft Guidelines position was to not require retailers to provide an additional comparison amount in the notice. We recognised the difficulty in:

- prescribing an additional comparison amount that would be meaningful in every benefit change scenario
- requiring a retailer to succinctly and simply explain to a customer what an additional comparison amount, such as a historical billing amount, represents
- comparing a ‘do nothing’ amount, which is a cost projection, with a backward looking amount (i.e. a historical billing amount).

In forming a position on this issue, we considered behavioural insights research that suggested adding dollar figures in addition to the ‘do nothing’ amount may not provide additional value.⁶⁹

5.1.3 Information to compare plans in Energy Made Easy

Consistent with the BIT recommendation to reduce ‘frictions’ as much as possible,⁷⁰ we proposed that a retailer provide, in a separate part of a benefit change notice, the exact information a customer can enter into the ‘offer search’ page of Energy Made Easy to search for plans.

The draft Guidelines also contained requirements on how this information must be presented to customers. This information included a customer’s historical consumption data for

⁶⁸ National Energy Retail Rules 48B(2)(c)

⁶⁹ Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slide 38.

⁷⁰ Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slide 41.

12 months, where it is available. We intended the consumption data provided to the customer to be the same as the consumption data used by the retailer to calculate the 'do nothing' amount.

5.1.4 Steps to follow to compare plans on Energy Made Easy

Our draft Guidelines' position was for retailers to provide in the notice simple steps for a customer to use Energy Made Easy, which could take the form of a callout box. We proposed this information would be prominently located in the notice in Zone A (above the headline statement). The intention was to ensure that comparing offers on Energy Made Easy was 'front of mind' for a customer receiving the notice.

5.2 Behavioural insights research

Through the behavioural insights research, we tested the effect of variations in content on a benefit change notice on consumers' intentions to use Energy Made Easy to search for plans and their comprehension of the purpose of the notice. The trials conducted by BIT tested the impact of:

- framing a headline statement as a loss of benefit or an increase in costs. It also tested the impact of including on the notice a graphical representation of a benefit change (trial 1).
- variations of headline statements, including the loss of benefit as a dollar value, just providing a description of the benefit, including a call to action to visit Energy Made Easy as a social norm, and not including a headline statement at all (trial 2).
- different notice layouts, including a typical letter format, a notice including a large callout box and a notice drawing attention to the cost of doing nothing (trial 3).

Along with stakeholder feedback, the trials' findings, alongside a literature review of relevant research, have given us evidence to support the inclusion of specific content on a notice over others.

In the draft Notice, we discussed the initial findings of BIT's research. With the research completed, those initial findings have been incorporated into BIT's final findings, and the initial findings still stand. As noted above, when we refer to the BIT research in this document, we are referring to the findings as detailed in BIT's final report.

5.2.1 Headline statement

Trial 1 tested variations of a headline statement framed as an increase in bill or a loss of discount:

- "We estimate your electricity bill will increase to \$2,072 next year. Visit www.energymadeeasy.gov.au/offer-search to find the best offer for you"
- "You are about to lose your discount worth \$302 last year. Visit www.energymadeeasy.gov.au/offer-search to find the best offer for you"

The trial found when the headline included a clear statement that participants would lose their discounts, there was a higher average comprehension score of, firstly, what would

happen to their energy bill the following year if the participant did nothing, and secondly, what the notice was asking the participant to do.⁷¹

Trial 2 tested the effect of the following variations of headline statements on intended behaviour and comprehension of the notice:

- No headline
- *Lose discount \$*: “You are about to lose your discount worth \$302 last year. Visit www.energymaddeasy.gov.au/offer-search to find the best offer for you”
- *Lose discount %*: “You are about to lose your 15% pay on time discount. Visit www.energymaddeasy.gov.au/offer-search to find the best offer for you”
- *Lost discount social norms*: “You are about to lose your discount worth \$302 last year. Thousands of people found a better deal at www.energymaddeasy.gov.au/offer-search - visit now to find out more”

The trial found both the \$ and % loss aversion headlines had the highest level of comprehension in trial 2. That is, trial participants receiving notices containing these headlines had a greater understanding of what would happen to their energy bills and what the notice was asking them to do. These results were statistically significant, consistent with the trial 1 results.⁷²

The behavioural insights literature cites that one of the strongest and most consistent effects in behavioural science is the concept of loss aversion—that is, individuals feel losses more keenly than equivalent gains.⁷³ Therefore, where messages or outcomes are framed as potential losses, they are more likely to have an impact than when framed as a potential gain. BIT recommends including in the notice the value of the benefit and specific reference to the fact the customer is about to lose the benefit.

In cases where the customer was not able to obtain the benefit, for example conditional discounts such as a pay on time discount, BIT recommends highlighting the potential savings on offer for that customer to motivate their behaviour (for example, “you will lose your discount, which could have saved you \$300 last year”). Importantly, the figure should be as large as possible to have maximum impact and should be framed as an imminent loss.

We discuss the behavioural insights research on the importance of including a headline statement and prescribing its position in the notice in **section 4.2.1**.

⁷¹ Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slide 25.

⁷² Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slide 27.

⁷³ Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slide 38.

5.2.2 'Do nothing' amount and additional comparison amount

Trial 1 also tested the impact of different dollar figures and graphical representations on participants' comprehension of the notice and their intentions to use Energy Made Easy. The different treatments⁷⁴ were as follows:

- *Increase, no chart*: 'do nothing' amount framed as bill increase in headline statement and in body of notice
- *Increase, chart*: 'do nothing' amount framed as bill increase in headline statement, with 'do nothing' amount compared against historical billing amount in a bar chart
- *Lose discount, no chart*: dollar value of benefit framed as a loss in the headline statement, with value of benefit and 'do nothing' amount referenced in body of notice
- *Lose discount, chart*: dollar value of benefit framed as a loss in the headline statement, with 'do nothing' amount and historical billing amount compared in a bar chart

Trial 1 found weak evidence that the third treatment (*lose discount, no chart*) may have led to a smaller proportion of participants stating they would take no action in response to the notice, when compared to the other treatments. As discussed in **section 5.2.1**, comprehension of the notice was higher with the *lose discount, no chart* treatment compared to the other treatments.

The research suggests adding further dollar figures may not provide additional value—user testing of the mock-up benefit change notices used in the trial revealed that participants wanted to know what the value of their bill would be next year, so they could compare this to the bill estimates they saw on Energy Made Easy. The 'value of bill' figure will already be in the notice, in the form of the 'do nothing' amount.⁷⁵

Trial 3 tested the impact of prominently displaying the 'do nothing' amount via a callout box against other variations of a notice. BIT did not find statistically significant differences between the trial 3 treatments on either intended behaviour or comprehension.⁷⁶

5.2.3 Information to compare plans in Energy Made Easy

We discuss the behavioural insights research on providing information to compare plans in Energy Made Easy in **section 4.2.2**.

5.2.4 Callout box with steps to follow to compare plans on Energy Made Easy

We discuss in **section 4.2.3** the findings from trial 3 on the impact of varying the placement of the callout box with steps to follow to compare plans on Energy Made Easy.

⁷⁴ 'Treatment' means the variations of mock-up benefit change notices tested with trial participants in BIT's behavioural insights research.

⁷⁵ Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slide 38.

⁷⁶ Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slides 22, 23, 27 and 28.

In its review of the literature and other relevant work, BIT provided an example of a trial they conducted for Breast Screen Victoria, which tested interventions aimed at increasing the number of women registering for and attending breast screening appointments. BIT tested a letter with a ‘tear off commitment strip’ prompting women to book an appointment, and a callout box drawing attention to the key information required to make an appointment. The callout box was prominently positioned in the letterhead, and was highlighted with colour and shape. More women receiving the letter with the inclusion of these elements attended appointments compared to those who received a letter without these elements.

5.3 Stakeholder feedback

In general, retailers were concerned at what they considered a high level of prescription around the content of the notice. They were particularly concerned about the prescribed wording of the headline statement and the information to enable customers to compare plans on Energy Made Easy.

Simply Energy considered the level of prescription of the draft Guidelines “may lead to some retailers rolling customers over on the same terms and conditions to avoid having to send out a regulated notice.”⁷⁷ Simply Energy noted this could mean some customers may miss out on improvements to their offer.

Stakeholder views on specific content are summarised in the following sections and in more detail at **Appendix A**.

5.3.1 Headline statement

ECA⁷⁸, EWON⁷⁹, PIAC⁸⁰ and Simply Energy⁸¹ supported the inclusion of a headline statement and acknowledged its benefits. For example, EWON stated the headline statement “will draw a customers’ attention to the purpose of the notice and the consequences of ignoring it.”⁸² Simply Energy acknowledged “the benefit in prescribing that retailers include certain information in the notice, such a headline statement.”⁸³

However, EnergyAustralia argued the language used in the proposed headline statement was “unduly alarmist”, which it maintained would create customer confusion, annoyance and cause distress to vulnerable customers.⁸⁴ AGL did not support the framing of the headline as a loss because they considered it subjective and giving an incomplete picture of the benefit change, if the customer is placed on another benefit.⁸⁵ AGL also considered the headline statement, as prescribed in the draft Guidelines, would not be able to be capture all benefit change scenarios. It believes that utilising the word ‘change’ will assist in capturing

⁷⁷ Simply Energy submission, page 3.

⁷⁸ ECA submission, page 5.

⁷⁹ EWON submission, page 2.

⁸⁰ PIAC submission, page 2.

⁸¹ Simply Energy submission, page 3.

⁸² EWON submission, page 2.

⁸³ Simply Energy submission, page 3.

⁸⁴ EnergyAustralia submission, page 4.

⁸⁵ AGL submission, page 6.

differences that are not easily quantifiable.⁸⁶ AGL also asked the AER to reconsider what it considered the authoritative and dry tone of the headline statement.⁸⁷

ECA considered the headline statement should not only describe the benefit that is being lost, but the financial impact or value of that loss where this is possible.⁸⁸

5.3.2 ‘Do nothing’ amount and additional comparison amount

EWON and Origin supported the inclusion of a ‘do nothing’ amount in the notice.⁸⁹ EWON argued that the ‘do nothing’ amount be expressed as a simple dollar amount⁹⁰ and COTA commented that reference to the ‘do nothing’ amount should specify whether it includes GST.⁹¹

EnergyAustralia advised the ‘do nothing’ amount will be difficult to calculate during reprice events.⁹² The AEC argued the ‘do nothing’ amount could be misleading for customers as past energy usage is not always a good indicator of future energy usage due to a number of variables.⁹³ AGL commented that retailers with diverse product offerings will have difficulty providing customers with a reliable ‘do nothing’ cost. AGL also commented that the proposed drafting assumes that where the benefit is a conditional discount, customers will always get the discount (regardless of conditions), which creates a risk of driving the market towards conditional products.⁹⁴

Powershop advocated for an additional comparison amount, as the ‘do nothing’ amount in isolation provides little assistance to a customer. It recommended requiring that retailers also present their best generally available offer to customers in the notice.⁹⁵ However, Red and Lumo Energy supported the AER’s decision not to include the historical billing amount in the notice.⁹⁶

Powershop further argued the ‘do nothing’ amount should be both inclusive and exclusive of discounts along with clear instructions on how to achieve the discount-inclusive rates (e.g. by paying on time).⁹⁷ Simply Energy raised concerns around providing retailers with the discretion to include or exclude conditional discounts in the ‘do nothing’ amount calculations as it could confuse consumers.⁹⁸

⁸⁶ AGL submission, page 6.

⁸⁷ AGL submission, page 3.

⁸⁸ ECA submission, page 5.

⁸⁹ EWON submission, pages 1-2; Origin submission, page 1.

⁹⁰ EWON submission, page 2.

⁹¹ COTA submission, page 2.

⁹² EnergyAustralia, page 4.

⁹³ AEC submission, page 1.

⁹⁴ AGL submission, page 8.

⁹⁵ Powershop submission, page 1.

⁹⁶ Red Lumo submission, page 1.

⁹⁷ Powershop submission, page 2.

⁹⁸ Simply Energy submission, page 2.

ECA suggested testing the effect of comparing the 'do nothing' amount to either the 'best current comparable offer' of the retailer or the amount paid over the last 12 months.⁹⁹

5.3.3 Information to compare plans in Energy Made Easy

A number of stakeholders (AEC¹⁰⁰, AGL¹⁰¹, EnergyAustralia¹⁰², Momentum Energy¹⁰³, Origin¹⁰⁴) argued that some of the proposed information to enable customers to compare plans in Energy Made Easy is unnecessary and overcomplicates the notice. These stakeholders argued the notice should only provide information that is not readily available to the customer.

For example, the AEC considered some of the prescribed information readily available to customers and not the kind of information that is confusing to customers.¹⁰⁵ Origin stated the proposed information requirement will require major system changes when there is limited evidence of its utility to customers.¹⁰⁶ AGL said they considered customers "already know their basic information in order to facilitate a search, (such as their own postcode, whether it is home or residential, and whether it is gas or electricity)."¹⁰⁷

Origin¹⁰⁸ and AGL¹⁰⁹ suggested the AER conduct customer testing of Energy Made Easy to better understand customer behaviour and improve its functionality.

ECA¹¹⁰ supported the inclusion of this information, while EWON¹¹¹ supported the inclusion of the customer's consumption data in the information required by the notice to help customers use Energy Made Easy. COTA asked for clarity on how this information applies to customers with more than one controlled load tariff.¹¹²

5.3.4 Steps to follow to compare plans on Energy Made Easy

A number of stakeholders considered the obligation to provide steps to customers on how to submit and complete an Energy Made Easy search as unnecessarily adding to the length of the notice. For example, EnergyAustralia stated "the addition of these instructions overcomplicates the notice"¹¹³ and the AEC argued the obligation to provide instructions for the customer is "unclear and not necessary".¹¹⁴

⁹⁹ ECA submission, page 5.

¹⁰⁰ AEC submission, page 2.

¹⁰¹ AGL submission, page 4.

¹⁰² EnergyAustralia submission, page 4

¹⁰³ Momentum Energy submission, page 1.

¹⁰⁴ Origin submission, page 2.

¹⁰⁵ AEC submission, page 2.

¹⁰⁶ Origin submission, page 2.

¹⁰⁷ AGL submission, page 4.

¹⁰⁸ Origin submission, page 2.

¹⁰⁹ AGL submission, page 4.

¹¹⁰ ECA submission, page 5.

¹¹¹ EWON submission, page 1.

¹¹² COTA submission, page 2.

¹¹³ EnergyAustralia submission, page 4.

¹¹⁴ AEC submission, page 2.

PIAC expressed support for the inclusion of the Energy Made Easy ‘call out’ box in the letter as they contend that the content of the benefit change notices should be consistent between retailers to reduce customer confusion.¹¹⁵ ECA also supported the inclusion of the call out box.¹¹⁶

5.4 Final requirements in the Guidelines

Table 3 highlights relevant clauses in the Guidelines discussed in this section of the Notice and whether our positions have changed from draft to final Guidelines.

Stakeholder feedback suggested we restructure the Guidelines to make clearer the information that is and is not required to appear in the zones.¹¹⁷ We have adopted this suggestion. Accordingly, clause numbers have changed between draft and final.

Table 3: Changes from draft to final Guidelines requirements for content of the notice

Draft clause	Draft Guidelines position	Final clause	Final Guidelines position
51	A retailer must provide a customer with information to enable a customer to compare available energy offers on Energy Made Easy.	45	A retailer must populate Zone A of the benefit change notice with information to enable a customer to compare available energy offers on Energy Made Easy.
62	A retailer must include the amount payable by the customer under its market retail contract now that the benefit is ending or changing.	61	A retailer must include in the benefit change notice the amount that is estimated to be payable by the customer over the next 12 months under their market retail contract as a result of the benefit change.
70	The benefit change notice must include a headline statement.	53	A retailer must include a headline statement in the benefit change notice in accordance with section 5.2 of the Guidelines.
73	If the benefit change will result in a decrease in the value of the benefit, the headline statement must be expressed as prescribed in the Guidelines.	57	If the benefit change will result in a decrease in the value of the benefit, the headline statement must inform the customer that the benefit change will result in a loss of a benefit and must refer the customer to Energy Made Easy.
76	If the benefit change will not result in a decrease in the value of the benefit, a retailer has discretion over the content of the headline statement.	58	If the benefit change will not result in a decrease in the value of the benefit, a retailer has discretion over the content of the headline statement, subject to the requirement in clause 56 of the Guidelines.
79	A retailer must provide simple information on the steps a customer must take when using the information in the notice to compare plans on Energy Made Easy.	73	A retailer must include the steps a customer can take to use the information on the benefit change notice to compare offers on Energy Made Easy.

¹¹⁵ PIAC submission, page 2.

¹¹⁶ ECA submission, page 5.

¹¹⁷ AGL submission, page 10.

5.5 Final Guidelines position

We acknowledge retailers' concerns around the level of prescriptiveness of the content. As we stated in the draft Notice, we required specific content in the notice because we considered the content would assist the notice in achieving its aims and minimise the risk in not requiring the content's inclusion that retailers would not include it or dilute the messaging.

In general, we have retained requirements for retailers to provide specific information such as the headline statement, information to compare plans in Energy Made Easy and the steps to follow to compare plans on Energy Made Easy. However, we have reduced prescription around form and content where the final behavioural insights findings did not provide strong evidence for prescribing this information as proposed in the draft Guidelines.

5.5.1 Headline statement

We maintain our position that retailers must provide a prominent and clear headline statement in the notice.

We have considered stakeholder feedback on the level of prescription of the 'loss' headline statement. In particular, we acknowledge feedback about how it may not capture the whole story of a benefit change, or be adaptable to all benefit change scenarios. Therefore, our final position is to remove the prescribed wording of the 'loss' headline statement. Where a benefit change results in a decrease in the value of the benefit, retailers must frame the headline statement as a loss of benefit and refer the customer to Energy Made Easy. Retailers now also have discretion over other content of a headline statement.

The key finding of the behavioural insights research is the notice should include a headline that the consumer is about to lose their benefit.¹¹⁸ In addition, we consider a headline that makes clear what individuals have to do as a result of receiving a notice is crucial to shifting behaviour. We have therefore maintained the position that the headline should be framed as a loss where the benefit change will result in a decrease in the value of the benefit.

5.5.2 'Do nothing' amount and additional comparison amount

Our final position is unchanged from the draft Guidelines—retailers will be required to provide only the 'do nothing' amount on the notice.

Some stakeholders requested flexibility to not include the 'do nothing' amount, particularly in situations where the benefit change (for example, the loss of a non-financial benefit) will have no impact on the 'do nothing' amount. To be clear, the Retail Rules require that retailers include a 'do nothing' amount on a benefit change notice. We consider the final Guidelines are sufficiently flexible in allowing a retailer to explain the context of what the 'do nothing' amount represents.

We also acknowledge there are circumstances where the 'do nothing' amount may not be very meaningful to a customer because currently the Energy Made Easy algorithm cannot

¹¹⁸ Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slide 2.

accurately calculate cost projections for certain tariff types (for example, tariffs with demand charges).¹¹⁹ In such cases, we a retailer must clearly state the limitations of the ‘do nothing’ amount.

We maintain our position of allowing retailers’ discretion on whether to include conditional discounts in the ‘do nothing’ amount. Given the notice is a personalised communication, we consider this requirement is sufficient, as long as the retailer’s decision is adequately explained, as required by final Guidelines.

We maintain our position to not require an additional amount in the notice. While we acknowledge views that considered an additional comparison amount helpful to place the ‘do nothing’ amount in context, we also recognise the behavioural insights research which suggests that adding dollar figures in addition to the ‘do nothing’ amount may not provide additional value. BIT’s user testing of the mock-up benefit change notices used in the trial found that trial participants wanted to know what the value of their bill would be next year, so that they could compare this to the bill estimates they saw on Energy Made Easy. The ‘value of bill’ figure will already be in the notice, in the form of the ‘do nothing’ amount.¹²⁰

5.5.3 Information to compare plans in Energy Made Easy

Our final position is to require retailers to provide personalised information to compare plans in Energy Made Easy. However, we have reduced the information retailers need to provide.

We note the considerations raised by stakeholders in relation to the information to compare plans in Energy Made Easy. After considering stakeholder feedback and factoring in imminent changes to the Energy Made Easy front-end design (to be released in July/August 2018), this information requirement will be limited to information not readily available to customers—the customer’s tariff and consumption data. We consider this information extremely important to reduce ‘frictions’ and enable customers to more easily compare plans on Energy Made Easy. We have also amended the required information to correspond to the July/August 2018 amendments to Energy Made Easy’s offer search pathway.

We maintain the position that retailers must provide a customer’s historical consumption data for 12 months, where it is available.¹²¹ Where less than 12 months’ data is available, we have removed the requirement for retailers to estimate the remainder of consumption. Retailers will now have to provide the historical consumption data they have—Energy Made Easy will be able to extrapolate this data to provide an annual cost estimates of available plans. This approach ensures the direct comparability of the ‘do nothing’ amount with the search results on Energy Made Easy.

Retailers will still be required to provide guidance to the customer on how to use the information provided to search for plans on Energy Made Easy.

¹¹⁹ We note the Energy Made Easy enhancement project may consider options to address these issues.

¹²⁰ Behavioural Insights Team, BIT review of the Benefit Change Notice for the Australian Energy Regulator, Final report, June 2018, slide 38.

¹²¹ Rule 7.15.5 of the National Electricity Rules allows for customers to access their metering data upon request to their retailer.

5.5.4 Steps to follow to compare plans on Energy Made Easy

We maintain our position that retailers must provide prominently displayed steps for a customer to use Energy Made Easy. Regarding this information, stakeholders were mainly concerned about the level of prescription around the positioning of this information. We discuss our final position on this in **section 4.5.2.3**.

6 Calculating the ‘do nothing’ amount

As explained in **section 5.1.2** of this Notice, our final position is to only require a retailer to provide the amount that would be payable under the customer’s market retail contract following the benefit change date—that is, the amount required to be provided under Retail Rule 48B(2)(c)(ii). For ease of reference, we refer to this amount as the ‘do nothing’ amount.

Section 5.3 of the Guidelines specifies how a retailer must calculate the ‘do nothing’ amount.

6.1 Draft Guidelines position

6.1.1 Method of calculation

Our draft Guidelines position was that retailers should use the Energy Made Easy algorithm to calculate the ‘do nothing’ amount. We also considered the most appropriate location for retailers to be able to calculate the ‘do nothing’ amount was in the retailer-only area of the Energy Made Easy website.

6.1.2 Consumption

Our proposed position was to require a retailer to use 12 months of a customer’s historical consumption data to calculate the ‘do nothing’ cost. Where 12 months of historical data are not available, we proposed a retailer should use the historical data they do have and estimate the remainder using the methodology they use to estimate consumption for estimated bills. If estimates are not available, we proposed retailers should then use the most relevant AER benchmark consumption figure. However, we noted that AER bill benchmarks are not available for small business customers.

We also considered the ‘do nothing’ amount should be calculated for an annual time period.

6.2 Stakeholder feedback

6.2.1 Method of calculation

Consistent with stakeholders’ responses to the February 2018 issues paper on this issue, stakeholders supported requiring retailers to use the Energy Made Easy algorithm to calculate the ‘do nothing’ amount on a benefit change notice.

In the draft Guidelines consultation, we sought retailers’ views on whether a calculator or API endpoint would assist retailers to calculate the ‘do nothing’ amount. Retailers had varying views on their preferred solution, but a consistent theme of the retailers that responded (AGL¹²², Simply Energy¹²³, Powershop¹²⁴) was a concern about retailers’ abilities to develop and implement API endpoint functionality by the 1 October 2018 implementation date.

¹²² AGL submission, pages 9-10.

¹²³ Simply Energy submission, page 1,

¹²⁴ Powershop submission, page 1.

AGL¹²⁵ said both the calculator and API are problematic, but the API is the most sustainable and logical option going forward, as it would allow for streamlining and reduce manual intervention. There would need to be assurances in place should the system crash. AGL considered the calculator to be manual and error prone.

Simply Energy¹²⁶ had similar views to AGL. They preferred the API, but noted both methods have advantages and disadvantages. Simply Energy considered the API to require less ongoing manual input, representing a lower cost for retailers. However, they noted it will have longer implementation timeframes due to the need to develop and test the solution.

Simply Energy considered the calculator as easier to implement but requiring onerous data extractions and a manual uploading of data files on an ongoing basis. They suggested smaller retailers without the technology to perform automated calculations might prefer this option. Simply Energy considered it might be preferable to provide the retailers with the choice of both calculation methods, along with the Energy Made Easy algorithm to allow for internal calculations of the 'do nothing' amount while allowing for testing of the API method. They also strongly encouraged education and awareness around how the Energy Made Easy cost estimate calculations work.

Powershop¹²⁷ preferred the calculator option. They noted there may be a barrier to implementing the API solution, given the timeframes to develop it.

6.2.2 Consumption

Stakeholders raised several issues in relation to our draft Guidelines position on the consumption data retailers must use to calculate the 'do nothing' amount. The draft Guidelines position also requires retailers to provide the same consumption information in Zone C of the notice, so customers can search for plans on Energy Made Easy.

Origin¹²⁸ argued we should give retailers the choice of calculating the 'do nothing' amount by using either a customer's actual usage or the AER benchmarking data. Origin contended that the use of AER benchmarking data will ensure the 'do nothing' amount is calculated on the same basis as the reference prices on the Basic Plan Information Document (BPID).¹²⁹ Origin argued this option is reasonable because of the limited time it has to effect system changes before commencement of the Guidelines.

AGL¹³⁰ considered the consumption requirements as currently proposed in the draft Guidelines would likely to lead to poor customer outcomes. Due to the requirement to send a notice 40 to 20 days before the benefit change, retailers are unlikely to have 12 months' of a customer's consumption data if a customer is on a plan with a benefit period of 12 months. AGL considered the requirement to estimate the remainder of the consumption creates issues with the start and end date of the bill information required to be provided in Zone C of

¹²⁵ AGL submission, pages 9-10.

¹²⁶ Simply Energy submission, pages 1-2.

¹²⁷ Powershop submission, page 1.

¹²⁸ Origin submission, page 4.

¹²⁹ Under the AER Retail Pricing Information Guidelines 2018, retailers must have a BPID for each generally available and restricted plan. The AER Retail Pricing Information Guidelines 2018 can be accessed here: <https://www.aer.gov.au/retail-markets/retail-guidelines-reviews/retail-pricing-information-guidelines-2018>

¹³⁰ AGL submission, pages 4-5.

the notice, as Energy Made Easy does not allow future dates to be inputted. AGL therefore considered consumption information from a customer’s last bill should be sufficient to provide in Zone C.

Simply Energy¹³¹ was concerned by the potential for providing misleading information to consumers. In particular, the proposal to use AER benchmark data, where historical consumption data and an ability to estimate consumption are not available, would not necessarily be practical as retailers do not capture information about the number of people in a customer’s household and have no feasible way to accurately predict this. Simply Energy therefore suggested the Guidelines direct customers to the Energy Made Easy website where no historical billing information is available. Simply Energy recognised this should only occur in exceptional situations and retailers should be required to maintain verifying records as proof of compliance with the Guidelines for up to seven years.

PIAC¹³² and Powershop¹³³ supported the draft Guidelines position of using historical consumption data to calculate the ‘do nothing’ amount. Powershop also advocated for the alignment of the final Guidelines and BPID in how information is presented to ensure consistency across the industry.¹³⁴

6.3 Final requirements in the Guidelines

Table 4 highlights relevant clauses of the Guidelines discussed in this section of the Notice, and whether they have changed from draft to final Guidelines.

Table 4: Changes from draft to final Guidelines requirements for calculating the ‘do nothing’ amount

Draft clause	Draft Guidelines position	Final clause	Final Guidelines position
57	A retailer must use the customer’s actual historical consumption data over the preceding 12-month period.	49	If available, a retailer must provide the customer’s actual historical consumption data over the most recent preceding 12 month period from the issue date of the benefit change notice
58	If a retailer does not have 12 months of actual historical consumption data, they must provide the available actual historical consumption data and an estimate based on a retailers current bill estimation practices.	50	If a retailer does not have a customer’s actual historical consumption data for the 12-month period, a retailer must provide the amount of actual historical consumption data available.
59	If a retailer cannot estimate consumption, a retailer can provide the AER benchmark consumption data.	50	Replaced with clause 50 (see above)

¹³¹ Simply Energy submission, page 2.

¹³² PIAC submission, page 2.

¹³³ Powershop submission, page 1.

¹³⁴ Powershop submission, page 1.

84	A retailer must provide the customer with the estimated amount payable over the next 12 months as a result of the benefit ending or changing.	61	No change from draft Guidelines position
86	Retailers must use the same methodology as Energy Made Easy to perform the calculation of the 'do nothing' amount.	70	Retailer must use the methodology specified in the retailer section of the Energy Made Easy website to perform the calculation of the 'do nothing' amount.
87	Retailers can access the calculation methodology used by the Energy Made Easy website via the following link: https://retailer.energymadeeasy.gov.au/ .	70	No change from draft Guidelines position

6.4 Final Guidelines position

6.4.1 Method of calculation

We maintain our position that retailers should use the Energy Made Easy algorithm to calculate the 'do nothing' amount. This aligns with the references to using Energy Made Easy compare plans in Retail Rules 48A and 48B. It is also supported by the AEMC's position in the rule determination, which made clear the importance of projected charges provided to customers within a benefit change notice being directly comparable to the estimated costs of plans displayed in Energy Made Easy.¹³⁵

6.4.1.1 Calculator and API endpoint solutions

We appreciate retailers' feedback on the two options for assisting retailers to calculate the 'do nothing' amount—the calculator and the API endpoint. It is particularly helpful to understand the timing and technical constraints retailers face under each option.

Our final position is to provide a short and long-term solution to retailers under a staged approach, which means that as at 1 October 2018 only the calculator will be available to retailers. We will develop the longer-term solution as part of broader Energy Made Easy enhancements currently underway. This is because we agree with retailers' concerns about the time required to develop, test, put in place service level agreements and implement an API. In addition, we do not want retailers to invest resources into developing systems to accommodate an API solution now, when Energy Made Easy will be undergoing a significant technical redevelopment as part of additional funding provided to the AER to enhance the website.¹³⁶ Retailers will have opportunities to input into the scoping of the Energy Made Easy enhancement project in the second half of 2018.

We will contact retailers separately regarding a workshop to explain the algorithm to retailers and discuss the calculator's development.

¹³⁵ AEMC, Notification of the end of a fixed benefit period, rule determination, 7 November 2017, page 24.

¹³⁶ AER news release, *AER welcomes website funding to help customers compare plans*, <https://www.aer.gov.au/news-release/aer-welcomes-website-funding-to-help-customers-compare-plans>, 18 December 2017.

6.4.2 Consumption

We have taken the following overarching position into account in reaching a final position on the consumption data a retailer must use to calculate the ‘do nothing’ amount and provide to customers in the notice to use Energy Made Easy to compare plans. Our preference is that the consumption data used to calculate the ‘do nothing’ amount should be the same as the consumption data that will be used by Energy Made Easy to generate estimated annual costs of available plans, when a customer inputs into Energy Made Easy the consumption data provided to them in the notice. This will enable the comparison of the ‘do nothing’ amount with the estimated annual costs of available plans generated from an Energy Made Easy search.

After considering the issues raised by stakeholders, our final position is to require retailers to use a customer’s historical consumption data for 12 months to calculate the ‘do nothing’ amount, where it is available. If less than 12 months’ historical consumption data is available, retailers must provide the historical consumption data available, and Energy Made Easy will be able to extrapolate this consumption data to calculate the annual ‘do nothing’ amount.

This will be achieved via the calculator (and eventually the longer-term solution) provided to retailers. The requirements for retailers to provide consumption information to customers in the notice will align with this position (see **section 5.3.3**). That is, retailers must provide information about the customer’s historical consumption data for 12 months if available. If not, the retailer must provide the available historical consumption data they have. This approach ensures the same consumption figures will be used to calculate both the estimated annual costs of available plans when the customer inputs this information into Energy Made Easy, and the ‘do nothing’ amount on the notice.

We have therefore removed the requirements for retailers to estimate or use the AER benchmark consumption figures if 12 months’ historical consumption data is not available. Stakeholders considered having multiple and inconsistent methodologies for deriving a 12 month consumption figure would create confusion. We accept this view has merit and our final position removes the concern and further aligns the ‘do nothing’ amount and estimated Energy Made Easy figures.

We acknowledge the position of stakeholders that considered the ‘do nothing’ cost should align with the reference prices that are likely to appear on a BPID and other retailer marketing. As discussed in the draft Notice, we do not consider alignment with BPID reference prices as necessary or particularly helpful on a benefit change notice, as the purposes of the two communications are markedly different. The former aims for consistency of information across industry and to a broad audience, while the latter is an individual communication from a retailer to a customer. We consider a customer would expect a degree of personalisation when receiving an individual communication from their retailer; indeed, our research found customers expect even general documents such as the BPID to be personalised to some extent.¹³⁷

¹³⁷ Behavioural Insights Team, BIT review of Basic Plan Information Document, Final Report, April 2018, slide 32.

Notwithstanding the difficulty a retailer would face in assigning a customer to a reference price category based on household characteristics they may not be privy to (as acknowledged in Simply Energy's submission¹³⁸), we consider a generalised cost projection (and the associated disclaimers) would create confusion and potential distrust of the validity of the information on a benefit change notice. In addition, the BPID reference prices are limited to residential customers only as there are no benchmark consumption figures for small businesses.

As discussed in the draft Notice, we do not agree that a cost projection based on historical consumption data will be confusing or meaningless to customers. Energy Made Easy and other government and commercial price comparison websites have longstanding approaches of calculating cost projections in this way. To date we have not received feedback from Energy Made Easy website users indicating that cost projections based on historical consumption are an issue.

¹³⁸ Simply Energy submission, page 2.

Appendix A: Summary of draft Guidelines submissions and AER responses

Submissions to Draft AER Benefit Change Notice Guidelines – April 2018

Stakeholder	Stakeholder response	AER response
What does and does not constitute a 'benefit change'?		
<p>COTA Australia (COTA)</p> <p>Energy Consumers Australia (ECA)</p> <p>Origin</p> <p>Public Interest Advocacy Centre (PIAC)</p> <p>Red and Lumo Energy</p>	<p>Stakeholders were generally supportive or did not provide comment on our draft Guidelines position of what does and does not constitute a benefit change. Red and Lumo Energy and COTA supported our position. PIAC advocated for more clarity on the definition of benefit change to reduce confusion for consumers and retailers about when a notice is required.</p> <p>Origin did not oppose our position but provided examples of plans that they considered did not fit within the definition of a benefit change. They sought clarification on whether these arrangements would be captured by the benefit change notice rules.</p> <p>ECA recommended the wording of clause 27 be altered to limit the definition of benefit change to the examples provided within the draft Guidelines.</p>	<p>Our final position is that the definition of benefit change under Retail Rule 45A does not require further definition in the Guidelines. We consider our approach of maintaining the Retail Rule 45A definition and providing examples of what would and would not be included under the definition provides sufficient flexibility without placing additional limitations on the changes that would be captured under the definition.</p> <p>We also expect retailers will seek their own advice on whether a change in benefit meets the definition of 'benefit change' under the Retail Rules.</p> <p>Section 3.4.1 provides further detail of our position on what constitutes a benefit change.</p>
What benefit changes should be considered an 'excluded change'?		
<p>AGL</p> <p>Consumer Action Law Centre (CALC)</p>	<p>PIAC and Powershop supported limiting the amount of benefit change exclusions. PIAC argued that customers should be informed of the impact of any change and agreed with our preliminary proposal to include all benefit changes regardless of</p>	<p>Section 3.4.2 discusses our final position on excluded changes. Considering the largely supportive feedback from stakeholders, we have not changed our position on excluded changes</p>

Origin PIAC Powershop Red and Lumo Energy	<p>whether they are beneficial, detrimental or material. Powershop argued that no benefit change should be excluded from the requirement to send a notice due to the subjective nature of what a customer may consider a benefit.</p> <p>Origin and AGL requested clarification on the proposed exclusion of benefit changes occurring within the first 40 days of the commencement of a market retail contract and provided some examples, such as first/one month free offers. Red and Lumo Energy considered the 40 day exclusion threshold should be extended to six months as customers receiving a notice in this period will be relatively engaged customers and may consider notification unnecessary. PIAC concurred with our position, noting it is impractical for a retailer to send a notice at or near the start of a customer's contract.</p> <p>CALC and Powershop considered the 40 day exclusion threshold may encourage more short-term benefits, such as plans with the 'first month free'.</p> <p>Powershop also advocated for more clarity on the exclusion of benefit changes where a notice under Retail Rule 46 is issued.</p>	<p>from the draft Guidelines.</p> <p>We believe excluded changes should be limited as there is utility in retailers providing a customer notice when a benefit changes. We have not adopted Red and Lumo Energy's view to extend the 40 day exemption threshold to six months for this reason.</p> <p>We acknowledge CALC and Powershop's views and will monitor whether the exclusion of benefit changes occurring within the first 40 days will encourage the introduction of short-term benefits. To clarify the Retail Rule 46(3) exclusion, a benefit change is excluded from the requirement to send a notice only when it <i>also</i> triggers the notification requirements under Retail Rule 46(3).</p>
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Manner of the benefit change notice

COTA ECA Energy and Water Ombudsman NSW (EWON) PIAC Powershop	<p>COTA, PIAC and Powershop supported the draft Guidelines position to require retailers to provide the notice to a customer in accordance with the customer's communication preferences.</p> <p>EWON considered the manner and form of the notice critical to the ongoing transparency of energy contracts and the benefits available to customers. ECA consider the notice should be sent using the same method as bills, if the customer has not indicated a preference. ECA further suggested that notices sent by mail be required to appear first to the person opening the envelope.</p>	<p>Our final position is unchanged from the draft Guidelines. Retailers will be required to provide the notice to customers in a way that aligns with their preferences. For example, if a customer has elected to receive communications by email, then a benefit change notice should be provided in the same manner.</p> <p>We note COTA's views regarding requiring retailers to provide a hardcopy notice where the</p>
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COTA advocated for the default method for providing the notice to be hardcopy, where the customer has not indicated a preference. They considered this will ensure older Australians are not excluded from receiving the notice. Powershop contend that if a customer has not indicated a preference, the retailer should use a variety of communication methods, including phone, email and post.

PIAC suggested we require retailers to provide the benefit change notice in languages other than English if required.

customer has not indicated a preference. We have not adopted this view as we consider customers will nominate a preference for hardcopy correspondence if this is important to them. We also consider ECA's suggestion about the method being consistent with how the retailer sends bills to customer to be achieved through the current communication preferences clauses.

We also note PIAC's views on requiring translated benefit change notices if requested by the customer. We have not adopted this view as we note the existing referral to interpreter services requirements under Retail Rule 55.

In response to Powershop's submission, we encourage retailers to use a variety of communication methods if they wish and if the customer has not indicated a preference. However, retailers should be aware that Retail Rule 48A(2)(a) requires the benefit change notice be given in writing.

Section 4.5.1 provides more detail of our position.

Form of the benefit change notice

<p>Australian Energy Council (AEC) AGL ECA EnergyAustralia</p>	<p>Seven stakeholders (AEC, AGL, ECA, EnergyAustralia, Origin, Red and Lumo Energy, Simply Energy) argued the draft Guidelines were too prescriptive regarding the form of the benefit change notice. In general, these stakeholders advocated for a principles based approach that would provide retailers greater discretion and flexibility over the form of the notice. Stakeholders argued:</p> <ul style="list-style-type: none"> the proposed prescriptive approach in the draft Guidelines 	<p>Stakeholder feedback highlighted that the elements of the notice that are prescribed in zones need to be clearer. The zones in the Benefit Change Notice Template of the draft Guidelines were intended to indicate the position of certain information relative to other information. For example, the Energy Made Easy call out box</p>
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EWON	lacked a ‘digital lens’ and restricted the ability of retailers to design a digital and print version of the notice (Origin)	(Zone A) must be located in an area before the headline statement (Zone B).
Momentum Energy		
Origin	<ul style="list-style-type: none"> the proposed prescriptive format and promotion of Energy Made Easy at the top of the notice limits retailer branding, may confuse customers regarding who the letter is from or may lead to customers ignoring the letter (AEC, AGL, EnergyAustralia, Simply Energy) 	We have amended our final position to remove the requirement to place the call out box in Zone A and the headline statement in Zone B. We have also made the Benefit Change Notice Template clearer to indicate that it is up to the retailer’s discretion as to where information is positioned within and before Zone A (formerly Zone C). We believe making this clearer in the final Guidelines will alleviate many of the concerns expressed by stakeholders.
PIAC		
Red and Lumo Energy		
Simply Energy	<ul style="list-style-type: none"> the proposed prescriptive format does not allow the notice to be personalised with account number and supply address details (EnergyAustralia) customers are unlikely to engage with the volume of information in the proposed notice (AGL, EnergyAustralia, Red and Lumo Energy) the behavioural economics research needs to be progressed further before requiring a prescriptive format (AEC, Red and Lumo Energy) the prescriptive nature of the notice may encourage retailers to rollover customers’ benefits to avoid sending a notice, where they may have otherwise increased the customer’s benefit (Simply Energy) there should be flexibility for retailers to use a different manner and form if that can be demonstrated to better achieve the objective of a notice (ECA). <p>EWON argued the form of the notice is critical for the ongoing transparency of energy contracts. PIAC supported the use of behavioural economics research to inform the benefit change notice as they believe this will result in better information for consumers.</p>	<p>The final Guidelines will continue to prescribe that the following element is positioned in a zone:</p> <ul style="list-style-type: none"> personalised information to compare plans in Energy Made Easy (Zone A). <p>The callout box and headline statement must be provided before the information in Zone A.</p> <p>See section 4.5.2 for a more detailed explanation of our position with regards to the form of the notice.</p>

Headline statement

AGL COTA ECA EnergyAustralia EWON PIAC Simply Energy	<p>EWON, PIAC and Simply Energy supported the inclusion of a headline statement and acknowledged its benefits. EWON believe the headline statement will draw a customer's attention to the purpose of the notice and reduce the number of customers that discard it as marketing. ECA said the headline statement should describe the benefit being lost and the financial benefit of that loss where possible.</p> <p>However, EnergyAustralia argued the language used in the proposed headline statement was unduly alarmist, which it argued will create customer confusion, annoyance and cause distress to vulnerable customers. AGL contend the headline statement should not be framed as a loss or gain because it is subjective or dependent on incomplete information. AGL also considered the headline statement as prescribed in the draft Guidelines would not be able to capture all benefit change scenarios. It believes that utilising the word 'change' will assist in capturing differences that are not easily quantifiable. AGL also asked the AER to reconsider what it considered to be the authoritative and dry tone of the headline statement.</p>	<p>We note the issues raised by stakeholders in relation to the proposed headline statement in the draft Guidelines.</p> <p>The results of the behavioural insights research found that messages framed as potential losses are more likely to have a greater impact. This finding is supported by the behavioural insights literature which has found loss aversion to be one of the strongest and most consistent effects in behavioural science. In addition, we consider a headline that makes clear what individuals have to do as a result of receiving a notice is crucial to shifting behaviour.</p> <p>However, after considering stakeholder feedback on the difficulty of prescribed wording capturing all benefit change scenarios, the Final Guidelines will not prescribe the exact wording, or presentation of the headline statement. Our final position is to require that the headline statement is prominent and clear, framed as a loss (where the benefit change results in a decrease in value of the benefit) and refers the customer to Energy Made Easy.</p> <p>See section 5.5.1 for a more detailed explanation of our final position.</p>
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'Do nothing' amount and additional comparison amount

AEC	EWON and Origin supported the inclusion of a 'do nothing' amount	Our final position is unchanged from the draft
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AGL	in the notice. EWON argued that the ‘do nothing’ amount be expressed as a simple dollar amount and COTA commented that reference to the ‘do nothing’ amount should specify whether it includes GST.	Guidelines—retailers will be required to provide only the ‘do nothing’ amount on the notice.
CALC		
COTA		
EnergyAustralia	EnergyAustralia advised the ‘do nothing’ amount will be difficult to calculate during repricing events. The AEC argued the ‘do nothing’ amount could be misleading for customers as past energy usage is not always a good indicator of future energy usage due to a number of variables. AGL commented that retailers with diverse product offerings will have difficulty providing customers with a reliable ‘do nothing’ cost. Moreover, the proposed drafting assumes that where the benefit is a conditional discount, customers will always get the discount (regardless of conditions), which creates a risk of driving the market towards conditional products.	While we recognise the ‘do nothing’ amount is an estimate of future energy cost, we consider the Retail Rules are clear that retailers <i>must</i> include a ‘do nothing’ amount on a benefit change notice.
EWON		
Powershop		We also acknowledge there are circumstances where the ‘do nothing’ amount may not be very meaningful to a customer because the Energy Made Easy algorithm cannot accurately calculate cost projections for certain tariff types (for example, tariffs with demand charges). In such cases, we propose a retailer must clearly state the limitations of the ‘do nothing’ amount.
Red and Lumo Energy		
Simply Energy	<p>Powershop advocated for an additional comparison amount, as the ‘do nothing’ amount in isolation provides little assistance to a customer. It recommended requiring that retailers also present their best generally available offer to customers in the notice. CALC stated that a dollar saving amount should be made more prominent on the notice, as that figure is likely to motivate consumers to take action to compare offers and potentially switch. However, Red and Lumo Energy supported the AER’s decision to not mandate the inclusion of the historical billing amount in the notice.</p> <p>ECA suggested testing the effect of comparing the ‘do nothing’ amount to either the ‘best current comparable offer’ of the retailer or the amount paid over the last 12 months</p> <p>Powershop further argued the ‘do nothing’ amount should be both inclusive and exclusive of discounts along with clear instructions on how to achieve the discount inclusive rates (eg. pay on time). It</p>	<p>We maintain our position of allowing retailers’ discretion on whether to include conditional discounts in the ‘do nothing’ amount. Given the notice is a personalised communication, we consider this requirement is sufficient, as long as the retailer’s decision is adequately explained, as required by final Guidelines.</p> <p>We maintain our position to not require an additional amount in the notice. This is due to a range of difficulties and the findings of behavioural insights research that are explained in more detail at section 5.5.2.</p>

argued this approach will ensure customers are adequately informed of the effective rate for their circumstances. Simply Energy raised concerns around providing retailers with the discretion to include or exclude conditional discounts in the 'do nothing' amount calculations as it could confuse consumers.

The information to compare plans in Energy Made Easy

AEC	<p>In broad terms, five stakeholders (AEC, AGL, EnergyAustralia, Momentum Energy, Origin) argued that some of the proposed information to enable customers to compare plans in Energy Made Easy is unnecessary and overcomplicates the notice. In particular, stakeholders argued the notice should only provide information that is not readily available to the customer. Origin stated the proposed information requirement will require major system changes when there is limited evidence of its utility to customers.</p> <p>Origin and AGL suggested that the AER conduct consumer testing of Energy Made Easy to better understand customer behaviour and improve its functionality.</p> <p>ECA supported the inclusion of this information. EWON supported the inclusion of the customer's consumption data in the information required by the notice to help customers use Energy Made Easy. COTA asked for clarity on how this information applies to customers with more than one controlled load tariff.</p>	Our final position is to require retailers to provide personalised information to compare plans in Energy Made Easy. However, we have amended the information that retailers need to provide.
AGL		<p>We note the considerations raised by stakeholders in relation to the information to compare plans in Energy Made Easy. After considering stakeholder feedback and factoring in imminent changes to the Energy Made Easy front-end design, this information requirement will be limited to information not readily available to customers—the customer's tariff and consumption data. We consider this information extremely important to reduce 'frictions' and enable customers to more easily compare offers on Energy Made Easy.</p> <p>Section 5.5.3 provides more detail on the information that will be required and the reasons for this position.</p>
COTA		
ECA		
EnergyAustralia		
EWON		
Origin		
Momentum Energy		

Steps to follow to compare plans on Energy Made Easy

AEC	<p>AEC, AGL, EnergyAustralia and Origin considered the obligation to provide steps to customers on how to submit and complete an Energy Made Easy search as unnecessarily adding to the length of</p>	<p>We consider there to be value in a retailer providing customers with prominently displayed instructions for a customer to use Energy Made</p>
AGL		

EnergyAustralia	the notice	Easy.
Origin PIAC	PIAC expressed support for the inclusion of the Energy Made Easy 'call out' box in the letter as they contend that the content of the benefit change notices should be consistent between retailers to reduce customer confusion.	<p>The final Guidelines will therefore include a summary of the steps a customer can take to use the information on the benefit change notice to compare offers on Energy Made Easy. After considering stakeholder feedback, we have limited the level of prescription with regards to the positioning of this information.</p> <p>The final Guidelines require that the summary is prominently displayed and positioned before the information in zone B of the benefit change notice. Section 5.5.4 provides more detail on the information that will be required and the reasons for this position.</p>

Other content

COTA	<p>COTA advocated for the Energy Made Easy telephone number to be included in the notice.</p> <p>AGL and Momentum Energy also argued the proposed tailored URL in notices sent by email requires a considerable degree of operational complexity that is unlikely to result in a significant benefit to consumers.</p>	<p>In response to COTA, we recognise the importance of a telephone number as a way of engaging with certain consumers. However, the AER needs to ensure it has the capability to handle increase phone call volumes before advertising the telephone number widely.</p> <p>We also acknowledge the feedback provided by stakeholders with regards to the tailored URL in notices sent by email. The final Guidelines will not prescribe this requirement due to the operational complexity versus potential benefit to customers</p>
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Method of calculation of the 'do nothing' amount

<p>AGL Powershop Simply Energy</p>	<p>Stakeholders supported the use of the Energy Made Easy algorithm to calculate the 'do nothing' amount but had different views with regards to the options for calculation.</p> <p>AGL and Simply Energy argued that both the calculator option via a retailer access area and the Application Programming Interface (API) option have advantages and disadvantages. However, AGL and Simply Energy stated they prefer the API option as it offers a more streamlined process with less manual intervention.</p> <p>Simply Energy advocated for a choice of both calculation methods (i.e. the calculator and API options) as well as providing retailers the Energy Made Easy algorithm. This will allow for internal calculations of the 'do nothing' amount while it undertakes testing of the API solution.</p> <p>AGL asked that the API option accept multiple and individual records. It further requested that retailers be provided IT help and a service agreement in the event of a system crash. AGL also advised that it may be difficult to implement the API endpoint functionality before 1 October 2018.</p> <p>Powershop stated they prefer the calculator option via the retailer access area of Energy Made Easy. Powershop also advised the timeframe is a barrier for the proposed API solution as retailers will need to undertake further system development before being able to implement the API system.</p>	<p>We maintain our position that retailers use the Energy Made Easy algorithm to calculate the 'do nothing' amount. This aligns with references to using Energy Made Easy to compare offers in Retail Rules 48A and 48B, and the AEMC's position in the rule determination.</p> <p>Regarding the calculator and API endpoint, our final position is to provide a short and long-term solution to retailers under a staged approach, which means that as at 1 October 2018, only the calculator will be available to retailers. We will develop the longer-term solution as part of broader Energy Made Easy enhancements.</p> <p>Section 6.4.1 provides more detail on the method of calculation.</p>
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Consumption data

<p>AGL Origin PIAC</p>	<p>Origin argued that retailers should be provided the choice of calculating the 'do nothing' amount by using either a customer's actual usage or AER benchmarking data. The use of AER benchmark data would ensure the 'do nothing' amount is calculated on the same basis as the Basic Plan Information</p>	<p>We acknowledge the position of stakeholders who considered the 'do nothing' amount should align with the reference prices that are likely to appear on a BPID and other retailer marketing. However, we consider the purposes of the two</p>
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<p>Powershop Simply Energy</p>	<p>Document (BPID). Origin argued this option is reasonable, considering the limited implementation date of the Guidelines and the system changes it will need to build.</p> <p>AGL consider the consumption requirements as currently proposed in the Draft Guideline is likely to lead to poor customer outcomes. For example, as a customer will be contacted before the end of their benefit period, retailers are unlikely to have 12 months' worth of data for the customer. AGL argues this creates issues with the start/end date displayed in the notice, as Energy Made Easy does not allow future dates to be used. AGL therefore considers that usage information from a customer's last bill should be sufficient to facilitate customer awareness to use Energy Made Easy.</p> <p>Simply Energy are concerned by the potential for providing misleading information to consumers. In particular, the proposal to use AER benchmark data may not be practical as retailers do not capture the size of a customer's household and have no feasible way to predict the size of a customer's household. Simply Energy therefore suggest the Guidelines direct customers to the Energy Made Easy website where no historical billing information is available. Simply Energy recognised this should only occur in exceptional situations and retailers should be required to maintain verifying records for up to seven years.</p> <p>PIAC and Powershop supported the AER's proposal to use historical consumption data. Powershop also advocated for the final Guidelines and BPID to be aligned in how information is presented to ensure consistency across the industry.</p>	<p>communications are markedly different.</p> <p>We also note stakeholders' views regarding the range of difficulties when it comes to consumption data. However, we do not agree that a cost projection based on historical consumption data will be confusing or meaningless to customers. Section 6.4.2 provides more detailed reasons for this position.</p> <p>After considering stakeholder feedback, the final Guidelines will require that retailers use a customer's historical consumption data for 12 months, where it is available. If less than 12 months of historical consumption data is available, retailers must provide the consumption data available. Energy Made Easy will be able to extrapolate this consumption data to calculate the annual 'do nothing' amount.</p> <p>The consumption data provided to the customer as part of the information to compare plans in Energy Made Easy must align with the consumption data used to calculate the 'do nothing' amount. We consider this will facilitate a more accurate comparison between the 'do nothing' amount and other offers available on Energy Made Easy.</p> <p>Section 6.4.2 provides more detail on the reason for our position on consumption data.</p>
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Implementation timeframes

AGL	A number of stakeholders raised the issue that system changes	We have no discretion over the implementation
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Simply Energy Powershop	<p>will be difficult to implement by 1 October 2018. This is particularly the case with calculating the 'do nothing' amount using the proposed API solution that may require significant system development.</p> <p>AGL also argued the final Guidelines should only apply to notifications being sent from 1 October 2018.</p>	<p>date of 1 October 2018, as this date is provided in the Retail Rules.¹³⁹</p> <p>To be clear, the requirements in the Benefit Change Notice Guidelines will apply to any notice that is required to be sent from 1 October 2018.</p>
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¹³⁹ National Energy Retail Rules, Schedule 3, Part 8, s. 3(3).