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Commerce Commission

market.regulation@comcom.govt.nz

UTILITIES DISPUTES
TAUTOHETOHE WHAIPAINGA

Re: Improving Retail Service Quality: Switching

Utilities Disputes Limited | Tautohetohe Whaipainga (UDL) welcomes the opportunity to comment on the Commerce Commission's (Commission) discussion paper, *Improving Retail Service Quality: Switching* (*Switching Issues Paper*). This submission may be published and does not contain any confidential information. UDL acknowledges the *Switching Issues Paper* is the beginning of an ongoing conversation, and there will be other opportunities to comment.[1]

The key points of our submission are:

1. UDL supports the contractual changes discussed in the proposal – particularly ending notice periods and linking fees to commencing and ending of a service. This is especially recommended when services are bundled. Such is the close relationship between electricity and telecommunications it is recommended that fees, and terms and conditions be synchronised between these utilities as much as possible. Doing away with the requirement for consumers to contact the losing retailer, a requirement for some telecommunication products, would also streamline the switching process.

2. AI and automated technologies can enhance the consumer experience but are not always mature enough to process the difficult or exceptional case. Recent moves towards automation in the utilities sector need to take into account this limitation and provide access to call-agents where necessary. UDL therefore supports the Commission's proposals suggesting retailers have both designated switching teams and phone and/or email direct contacts.

3. The Commissioner has addressed complaints in its schemes where the consumer reports being overwhelmed with multiple contacts, that are not current with progress of a complaint. Therefore, the Commission may wish to set expectations regarding consumer contact, especially regarding continuity of contact.

4. Commission guidelines about the communication of fees, billing, and the switching process may wish to use a likely *to understand* test used in its bundling guidelines, and/or a *reasonable endeavours* test to convey information – seen in the Electricity Authority's, *Consumer Care Obligations*.

5. Commission guidelines may also wish to include a recommendation for the retailer to advise the consumer periodically if another plan offered by the retailer would better suit their usage. While this would not be an external switch, it would help the consumer and may promote a switching culture.

[1] See Commerce, Letter- *Switching Issues Paper extension*, 1.

6. UDL supports the use of technological advances to streamline the consumer's access to services e.g. making the SIM activation process easier.

7. Just as the Commission recommends testing modems and their instructions with the elderly and other consumer groups; UDL recommends any changes in the switching process be tested with these groups and the general public.

8. To transform New Zealand's switching culture, it will be necessary both to lower the risk of an irregular switch and to show Kiwis that the switching process is easier to use. This latter aspect would appear to require a focused outreach to community groups and a publicity campaign. This is in addition to considering comparison websites, which have the financial backing and input of industry actors, such as in electricity, Powerswitch.

9. Technological advances can funnel the consumer into a pre-designed frameworks which may not be best practice. This possibility is one regulators and complaint handlers will have to consider with each AI advance.

10. The Commission will be aware of the Customer and Product Data Act 2025 (Data Act). The Data Act allow consumers and accredited requestors to obtain information from data holders such as retailers. Accredited requestors, with the appropriate permissions from the consumer, may then be able to investigate the best plans and products for the consumer's needs. Consideration should be given to including telecommunications as a designated industry. This would allow accredited requestors to research the best telecommunications plans for consumers and facilitate a switch.

11. While the telecommunications industry is under review, and the role of industry dispute resolution schemes is being reconsidered, it is suggested any regulatory change should be synchronised to take place after these investigations.

Utilities Disputes – Provider of Resolution Services for Telecommunications

UDL responds to the *Switching Issues Paper* from the perspective of providing independent dispute resolution services across all key utilities in New Zealand: water, energy and telecommunications. UDL is a non-profit company and across all its schemes there is no cost for a consumer to make a complaint.

Our Commissioner is a member of the Australian and New Zealand Ombudsman Association (ANZOA), the professional association for Ombudsmen in Australia and New Zealand. ANZOA's members are individual Ombudsmen or Commissioners whose offices operate on a not-for-profit basis, are industry-based, and/or are instituted by parliament. They are to meet high standards of independence, impartiality and effectiveness.[2]

UDL's main scheme is the mandatory Energy Complaints Scheme. In the 2024-2025 reporting year we considered 7533 complaints and 11499 queries. Complaints in the last four years have increased fourfold.

[2] See for full explanation: *ANZOA Rules and Criteria*, sch 1 and website www.anzoa.com.au

UDL operates two telecommunications schemes. The government mandated Broadband Shared Property Access Dispute Scheme (BSPAD scheme), and its independent telecommunications scheme. The BSPAD scheme resolves disputes about the installation of fibre caballing in shared driveways. Since the introduction of the scheme in 2017 the scheme has received over 1200 complaints and 900 queries. The scheme has been extended for a further three years and the government has signalled that the statutory right to install broadband will be extended permanently.[3]

UDL's independent telecommunications scheme is not an industry dispute resolution scheme under part 7 of the Telecommunications Act 2001 (TA). At present this independent scheme has one member, Contact Energy. Last year we received 339 complaints. UDL sees synergies with electricity and telecommunications, with these products often bundled together. We received 61 complaints last year with some bundling issue.

Telecommunications Regulatory Review

On 16 April 2025 the government announced that there would be a regulatory review of telecommunications. UDL is of the view the regulatory review should include a review of the how consumer complaints are resolved through independent dispute resolution. The Government has also signalled it intends to make it easier for providers to offer an industry dispute resolution scheme under part 7 of the TA.[4]

The Minister for Communications and Media, Paul Goldsmith, when he announced the regulatory review confirmed: "*Telecommunications are used by almost every New Zealander every day. It's a multibillion-dollar industry contributing to around 2.5 per cent of New Zealand's GDP*."

Given the importance of the telecommunications industry and desire to improve access to dispute resolution it may be premature to introduce a Commission Retail Service Code at this time. Since only industry dispute resolution schemes can consider Commission Codes,[5] a Commission Retail Service Code on switching,[6] would likely mean the industry dispute resolution scheme established by the New Zealand Forum would be the only body able to consider switching complaints. Were this to occur it would appear to defeat the intentions of Government and a premature step to take in advance of the review.[7]

[3] Cabinet Economic Development Committee, 2 December 2024, para 3.
[4] See Cabinet Business Committee, 2 December 2024 minute.
[5] See s 240 of the TA.
[6] See *Switching Issues Paper*, 14.
[7] See s 232 of the TA.

Comparing Electricity and Telecommunications Switches

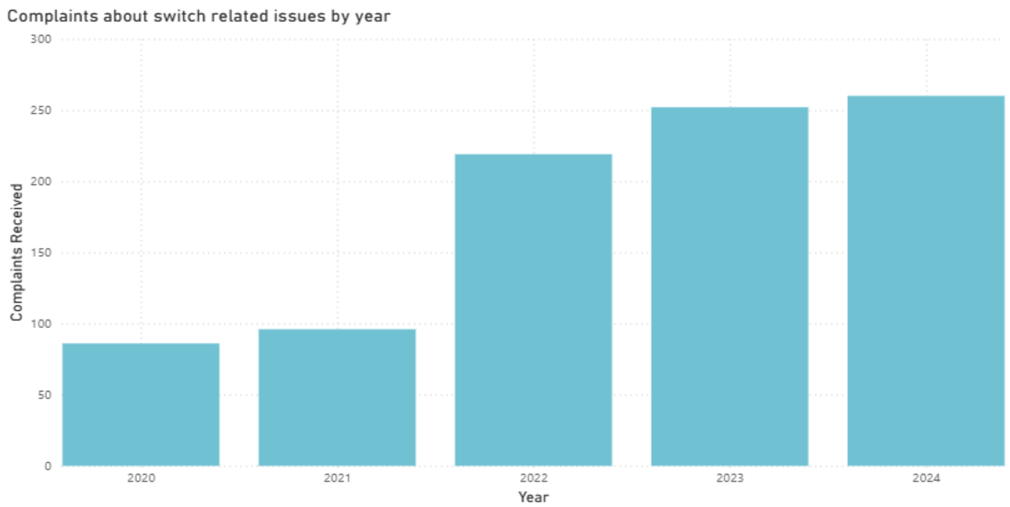
The Commission is aware of the links between electricity and telecommunications especially in terms of the bundling of these services.[8] It has compared their switching rates "Switching in electricity (19% a year) is higher than mobile (6% a year) and broadband (10% a year)."[9] The 19% figure appears to be a figure for total switches.[10] However, the EA has said trading switches are the best indicator of consumer switching:

> …..trader switches occur when a consumer changes from one retailer to another while remaining at the same property. Trader switches are more likely to reflect consumers who are proactively changing retailers to get an energy plan that is better value for their needs. Trader switches exclude switching between plans where the consumer remains with the same retailer.[11]

Trading switches are low, even less than 10%: "*…'trader' switching rates have remained consistently below 10% for the past ten years. These declined slightly from peaks of 8.5% in 2018 to around 6 to 6.5% in 2023*."[12] Switching is then a problem for telecommunications and electricity, and it is not clear electricity has better switching rates than telecommunications.

Switching Complaints

The switching process does give rise to complaints. UDL data indicates electricity switching complaints have increased each year since 2020:



Many of these complaints are resolved at intake after referral to the retailer, accompanied by a written summary of the complaint prepared by UDL.

[8] See Commerce *Product Disclosure – Retail Service Bundling Guidelines (Energy and Telecommunications Bundles)*, 22 November 2023.
[9] Commission (media release), "Com Com calls for better Switching for Consumers," 20 March 2025.
[10] See Electricity Market Information website (EMI) – switching trends "data", calendar year, 2023-2024 "residential switches".
[11] EA, *Options to Support Consumer Plan Comparison and Switching*, 1 February 2024, para 2.5. See also EMI "More Information Notes - Switching Trends" para 3, which distinguishes between trader switches and move in switches.
[12] Ibid. appendix B, para 10.11.

However, if there has been a mistaken assignation of an Installation Control Point (ICP), this can lead to billing issues, including bill shock. Bill shock occurs when a customer is faced with a bill going back for some months for example due to a mistaken switch. Other reasons include some error or fault with the meter which may lead to an extended period of estimated reads.[13]

When this occurs retailers will often reduce the bill where appropriate, and this is the expectation of the Commissioner. UDL recently had a matter where a consumer provided the wrong address, this was not picked up for six months and resulted in large catchup bill. The provider reduced the bill by 50% and also allowed the customer a significant time to pay of the remainder. The Commissioner has at times had to recommend these steps, as illustrated in the switching case in our *Systematic Insights 2024* report.[14]

The Commissioner also actively highlights responsibilities of retailers, including any regulatory or Electricity Industry Participation Code (Code) obligations. This includes the obligation for electricity retailers to take all practical steps to ensure the Electricity Registry is complete and accurate.[15] Switching processes which rely solely on consumer input of data, might be considered to unduly shift the burden of information accuracy to the consumer. This is something to consider across all utilities, especially when automated processes are in their infancy, and when these processes may not deal well with difficult or unusual cases. Such cases are more likely to be resolved expeditiously by a retailer's call-agent.[16]

Complaints involving some form of switching issue made up about 4.5% of UDL's telecommunications scheme complaints, all of which were resolved by the provider after referral. Issues raised included: lack of timeliness in switching, customer service issues, errors in billing, and errors in switching products.

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[13] When required to consider such complaints the Commissioner will consider applicable parts of the Electricity Industry Participation Code (Code), Consumer Care Obligations, and terms and conditions, see for example Code 15.26-27.

[14] UDL, Systematic Insights 2024, 8-10.

[15] "Requirement to provide complete and accurate information

(1) A participant must take all practicable steps to ensure that information that the participant is required to provide to any person under this Part (including customers) is—

(a) complete and accurate; and

(b) not misleading or deceptive; and

(c) not likely to mislead or deceive.

(2) If a participant becomes aware that the information the participant provided under this Part does not comply with subclause (1)(a) to (c), even if the participant has taken all practicable steps to ensure that the information complies, the participant must, as soon as practicable, provide such further information as is necessary to ensure that the information complies with subclause (1)(a) to (c)." Code, 11.2.

[16] However, in each matter is to be considered on its facts taking into account the automated process, subsequent discussions with the complainant, terms and conditions etc.

Summary Switching Issues Paper

UDL notes the analysis of the *Switching Issues Paper* of comparing our telecommunication practices with overseas models; qualitative and quantitative analysis of reasons for consumer dissatisfaction; and consumer research driven proposals for making switching easier.
Briefly UDL notes:

- Broadband switching in New Zealand is below that of the UK, while mobile switching by some margin lags behind Australia and the UK.[17]

- Survey data shows that about 30% of mobile and broadband consumers say switching takes too much work. More concerning is that just under 30% of switching customers say they are unlikely to switch again.[18]

- In other countries often: the switching process is led by the gaining retailer; there is a short and defined time for cancellation of a switch; there is a clear and publicised switching process; there is often no requirement for the consumer to contact the losing retailer; and fees are linked to the date of the switch.[19]

- Electricity switching is more streamlined than in the telecommunications sector, however electricity unlike telecommunications rarely requires a change in technology or equipment.[20]

- The *Switching Issues Paper* identifies the following problems and solutions in telecommunication switching:[21]

Problem	Characterisation of Problem	Solutions for Consideration
Switching Process	Consumers advise: a. they experience unexpected delays in switching. b. are unsure of who to contact for help and have difficulty in accessing that help c. they do not know when it is required to contact their losing provider (not required when porting – ie when a number is transferred).	**Improved Communications at:** **a. all stages of switch process.** **b. setup procedure.** **c. billing.** **Gaining provider should have dedicated switching teams who can be contacted by a direct number or email.**

[17] See *Switching Issues Paper*, 28-29.
[18] Ibid., 11.3, 31-32.
[19] Ibid., 26-45.
[20] Ibid.,46-50.
[21] The chart below is UDL's summary. Readers should carefully go through *Switching Issues Paper* 67-126 for the Commission's detailed analysis.

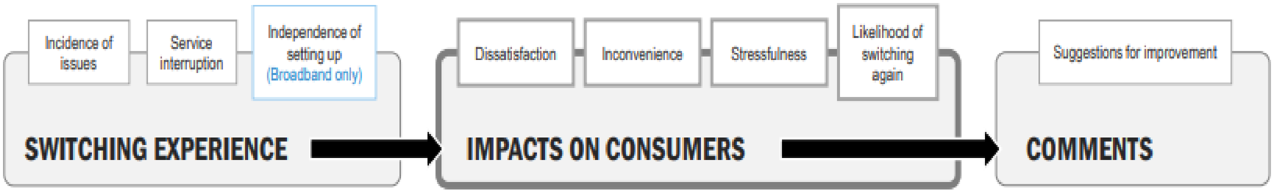
	d. that the requirement to contact the losing provider often lengthens the switching process.	
Notice Periods for Mobile and Broadband	Consumers often have to give 30 day notice periods. Consumers were of the view: a. the notice period was poorly explained. b. it meant they were double billed. c. they did not know who to contact to trigger the 30 day notice period.	**Notice periods to be removed.**
Switching – Lack of knowledge	Consumers advise that they lack information of where they are in the switching process.	**A One Touch Computerised tool to manage a standard switch process, which does not require contact with the losing provider (UK model).** **There should be a portal where consumers can see at what stage the switch is at.** **Gaining provider required to pro-actively contact consumer when there are delays in switching.**
Billing	When changing a plan consumers: a. experienced difficulty in retrieving credits from the losing plan. b. said they received a higher bill than expected.	**Charging should end when the service ends.** **Material should be provided setting out what the first bill will include.**
Manual Switching of Mobile	Consumers have a lack awareness that they can port their number.	**See above - communication**
SIM Cards	Consumers found changing the SIM difficult, and experienced unexpected service interruptions.	**The industry should look for improvements in the SIM activation process making it simpler.** **Porting should not occur until it is confirmed the consumer has received the SIM.** **There should be a requirement for SIM cards to be accompanied by clear instructions.**
Landline	While landline use is declining it is an important service for medical alarms; areas with poor mobile reception; and for some security alarms.	**See above communications and suggestions re process.**

	Issues raised by consumers include: a. porting can take three days. b. 74% of customers needed some consumer assistance. c. unexpected service interruptions. d. costs appeared not clearly set out. e. not knowing the status of the switch.	
Broadband Technology	Consumers sometimes experience the change in technology required by a broadband switch as: a. complex. b. causing a delay. c. accompanied by inadequate instruction. d. requiring customer support. e. resulting in a higher first bill.	**Providers should test their modem set up with older consumers and consumers who are less tech savvy.**

UDL Comments

The general importance of the consumer viewpoint for businesses is seen in this phrase from Jeremy Cain: "what matters to customers matters to you".[22] Therefore UDL supports the Commission's analysis and makes the following comments:

1. The Statistical report highlights that switching difficulties for the consumer lead to dissatisfaction, inconvenience, stress, and impacts future switching: [23]



2. The gateway to lowering these indicators is customer service. The importance of good customer service is seen in the Energy Complaints Scheme where in the last reporting year some 38% of complaints had some customer service issue.

3. The Energy Complaints Scheme has seen a sharp increase in complaints where the consumer has not been able to contact their provider, and/or contact them through their preferred form of contact:

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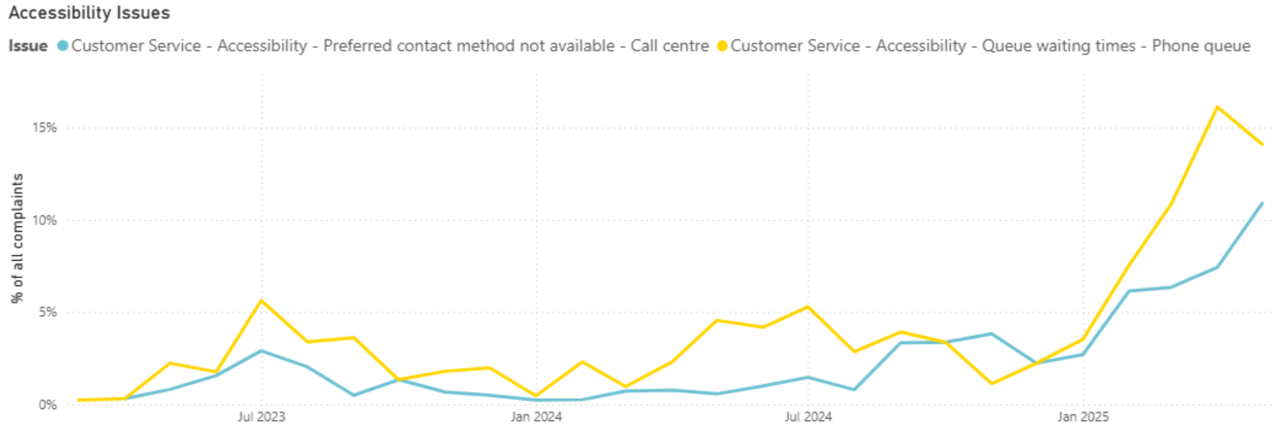
[22] See Jeremy Cain - Concept Consulting Group NZ, "Economic Regulation - Forget the Theory, What it Means in Practice," Water and New Zealand Conference and Expo, 2024, 10. He further elaborated on this in the webinar: *Economic Regulation– no such thing as a stupid question webinar*, Water New Zealand, 5 March 2025.
[23] Commission (Report gravitasOPG), Switching Telecoms Providers, June 2024, 5.



4. The increase could be due to a number of factors, including a change in business practice or a resourcing issue. On occasion, UDL has followed up on these issues with retailers. For this submission the chart illustrates that if consumers can't get into contact with their provider, it affects consumer good will and leads to complaints.

5. AI and automated processes appear at this stage not to be mature enough to consider some complex or unusual cases.

6. Therefore, UDL supports the proposals in relation to customer service, and having designated switching teams accessible by phone and/or email. The Commission may also wish to provide guidance on response times, and hours of operation (based on the needs of consumers).

7. The Commissioner, in the Energy Complaints Scheme, has also considered complaints where more than one call agent has contacted the consumer, each not having caught up with the consumer's file. This has caused consumer confusion. Such has been the consumer distress and/or miscommunication in some cases the Commissioner has had to set down a prescribed form of contact and that it be with a designated person. The Commission switching recommendations may also wish to address the issue of continuity of contact.

8. UDL supports the removal of notice periods in the telecommunications sector, and that charging should begin when services commence and terminate when services end. This principle is easily understood by consumers, as it is common to many goods and services. It would take out any "surprise" factor.

9. This principle would appear especially important where services are bundled.[24] If the termination periods are aligned, this will make it simpler for consumers. The present

[24] See Commission, *Energy/Broadband Bundling Guidelines -Progress Review*, 3 December 2024; and *Product Disclosure – Retail Service bundling Guidelines*, 22 November 2023.

bundling guidelines do address this issue, but the language could be further strengthened.[25] More generally such is the close relationship between electricity and telecommunications it is recommended that all fees, terms and conditions be synchronised between these utilities as much as possible.

10. The Commission's bundling guidelines set out that there should be the prominent disclosure of early termination fees. *Prominently disclose* is defined as follows:

    prominently disclose means to display, in a position that is visible without requiring additional actions to view, in a manner that an ordinary consumer is likely to notice and understand;[26]

    This definition, particularly the aspect which stipulates a consumer *must be likely to understand the notice*, may be helpful in any communication guidelines the Commission makes concerning: consumer billing (first and last bills); communications about set up processes; and the switching process.

11. Some guidance may also be found In *the Consumer Care Obligations* for electricity, where there is the requirement for a retailer to use *reasonable endeavours* to interact with a consumer "in a manner which is understandable, timely, clear and accessible" and to "adapt its communications based on the needs of the customers or residential consumers receiving them."[27]

12. Commission guidelines may also wish to include a recommendation for the retailer to advise the consumer periodically if another plan offered by the retailer would better suit their usage. While this would not be an external switch, it would help the consumer and may promote a switching culture.

13. The Commission may also wish to consider the issue of saves and win-backs. A save is when a customer is contacted by a losing retailer before a switch is completed. A win-back is when the losing retailer contacts their former customer after a switch. The Code for electricity prohibits saves and win-backs for 180 days.[28] As the Commission is aware the telecommunications industry has also addressed this issue, but the area may require further review.[29]

14. Since the consumer obligation to contact the losing retailer has caused difficulty and misunderstanding, the proposal to take away this onus appears an immediate way to simplify the switching process.

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[25] "ensure that all goods and services in the energy bundle have the same contract end date where possible, or otherwise prominently disclose any differences in contract term and end dates to the consumer", *Product Disclosure – Retail Service Bundling Guidelines*, 9.2.

[26] Ibid., 6.

[27] Consumer Care Obligation, 4. See also 17(b).

[28] See Code 11.15AA-11.15AC.

[29] See for example New Zealand Telecommunications Forum, *Code of Transfer of Telecommunication Services*, 23 Feb 2013, 43.

15. The benchmark for easy switching appears to be the *One Touch Switching tool*, used in the UK. However, this tool comes at a cost.[30] The submissions of other industry actors will help assess both the need and affordability of this technology.

16. If the One Touch Switching tool is out of reach, other options will need to be put in place, such as the suggested portal, and/or app alerts, messages, which signal to the consumer which stage they are at in the switching process.

17. AI and automated processes have an ability to assist the consumer greatly in making informed decisions about goods and services. However experts advise, they can also funnel consumers into a single manner of practice which may not respond to consumer needs.[31]

18. Therefore, just as the Commission recommends consumer testing of modem set ups with older consumers and those that are not tech savvy; UDL recommends similar testing of any renewed switching process with these same groups and a cross section of the public. UDL also supports any technological advances such as improving the process for SIM activations, so that process is simplified.

19. The analysis highlights that there is a large group of customers, who having switched once are reluctant to switch again because of this experience. The changes canvassed by the Commission are then unlikely on their own to bring a change in switching practices because of this perception of risk.

20. The Electricity Authority, in its switching paper recognised this when it said as well as supporting a switching website, it wished to: fund community advisors to target groups who may benefit from switching, and to roll out a switching promotional campaign.[32] It pointed to occasions when similar campaigns had been successful.

21. The low switching rates identified by the Commission would seem to affirm the necessity of these more direct approaches. This is in addition to considering comparison websites, which have the financial backing and input of industry actors, such as in electricity, Powerswitch. Cultural change will require both lowering the risk of an irregular switch and also showing Kiwis that the switching process is now easier to use.

22. The Commission will be aware of the Customer and Product Data Act 2025 (Data Act). The Data Act allow consumers and accredited requestors to obtain information from data holders such as retailers. Accredited requestors, with the appropriate permissions from the consumer, may then be able to investigate the best plans and products for the consumer's needs. Consideration should be given to including telecommunications as a designated

[30] "Implementation of the One Touch Switch process took a total of three years for providers to build and implement.20 The process is now live for customers. It is estimated that the cost to implement was £51m – £71m with an ongoing annual cost between £7.7 - £8.8m. Based on 26.1 million fixed residential connections in the UK this equates to approximately 2p - 3p per connection per month (NZD $0.04 - $0.07)." *Switching Issues Paper*,35.
[31] See discussion Pew Research Centre (Janna Anderson and Lee Rainie), *The Future of Human Agency*, Pew Research Agency, 24 Feb 2023, 7. The varying views throughout this document illustrate the work ahead for regulators such as the Commission in managing the use of new technologies,
[32] *Options to Support Consumer Plan Comparison and Switching*, 9.7-9.10.

industry. This would allow accredited requestors to research the best telecommunications plans for consumers and facilitate a switch.

If you have any questions, please at the first instance contact me at: paulb@udl.co.nz Thank you for the opportunity to comment on the *Switching Issues Paper*.

[redacted]

Paul Byers
Legal and Policy Officer | Pou Ture Me Ngā Kaupapahere