

4 December 2014

Competition Policy Review Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

By email:

Dear Panel

Competition Policy Review Draft Report (September 2014)

The Consumer Utilities Advocacy Centre Ltd (CUAC) is a specialist consumer organisation established in 2002 to represent Victorian energy and water consumers in policy and regulatory processes. As Australia's only consumer organisation focused specifically on the energy and water sectors, CUAC has developed an in-depth knowledge of the interests, experiences and needs of energy and water consumers.

We appreciate the opportunity to comment on the *Competition Policy Review Draft Report* (September 2014). We have focused our comments on electricity, gas and water, in line with the core work of our organisation and our expertise in these areas.

Electricity & gas

Draft Recommendation 16 of the Draft Report proposes that:

'State and territory governments should finalise the energy reform agenda, including through:

- *application of the National Energy Retail Law with minimal derogation by all National Electricity Market jurisdictions;*
- *deregulation of both electricity and gas retail prices; and*
- *the transfer of responsibility for reliability standards to a national framework.*

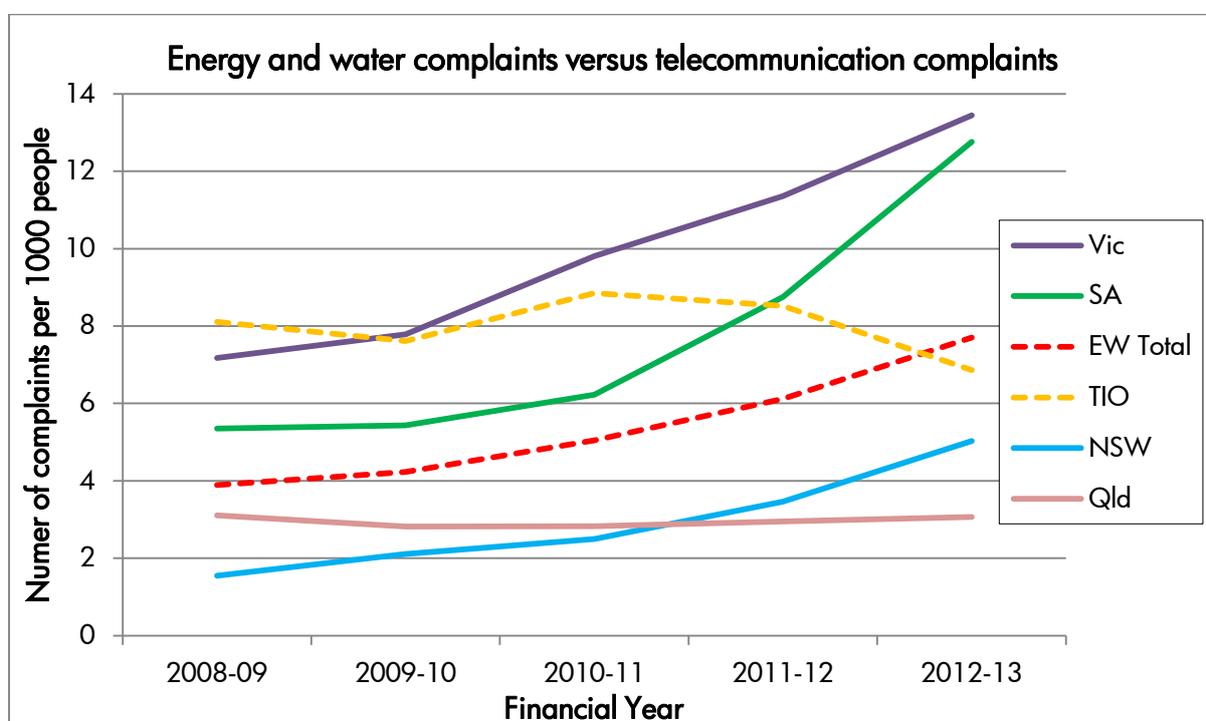
The Panel supports moves to include Western Australia and the Northern Territory in the National Electricity Market, noting that this does not require physical integration....'

The Australian energy market has evolved markedly over the past two decades. Across Australia, governments have implemented significant energy market reforms to improve the sustainability and efficiency of the energy markets and to increase consumer benefits. Victoria has been at the forefront of this reform process, completing disaggregation and privatisation of the energy industry, the introduction of a competitive market and retailer choice and retail price deregulation. While informed and savvy consumers are benefiting from this choice in the form of lower retail prices there is considerable evidence that the complexity of the market and information asymmetry between consumers and energy retailers is preventing many consumers from effective participation. Twenty per cent of the market remains disengaged for various reasons, a considerable proportion of which are lower income and vulnerable consumers who could most benefit from lower prices. We outline these issues in further detail below.

Consumer outcomes and complaints

CUAC agrees with the Panel that competition policy, laws and institutions serve the national interest best when focused on the long-term interests of consumers. However, energy market reforms, to date, have led to mixed outcomes for consumers. CUAC research has revealed concerns about the effectiveness of consumer participation in the energy retail markets and the quality of information available to consumers to facilitate their choices.¹

Increased levels of competition in the energy market have not translated into improved outcomes for all consumers. Complaints have also increased to worrying levels in Victoria. The Energy and Water Ombudsman (Victoria) received over 84,750 cases this past financial year (an average of 339 cases daily), which was an increase of 10 per cent from the previous financial year. In Victoria the case trend has increased substantially since the introduction of retail price deregulation in September 2009. The telecommunications industry has started to address consumer dissatisfaction and complaint levels through industry initiative, providing better clarity around common contract terms and the introduction of stronger consumer protections. CUAC believes that further action is needed to address poor consumer outcomes in the energy industry.



Affordability

Affordability of essential services has become a major problem for many Australians. For the first time, credit issues including energy disconnection replaced high bills as the highest issue category (1 in 5 customer contacts) and EWOV received an average of 37 cases daily about an imminent or actual disconnection.² The Essential Services Commission held a forum for energy retailers and consumer advocates in March 2014 alerting the industry to this trend in increasing disconnections and prompting the industry to take action to address this. Since then the Energy Retailers Association of Australia has held a national forum and instituted a series of industry and consumer working groups to develop a way forward. At the request of the former state government, the Essential Services Commission is also conducting a Hardship Review which is now underway.

¹ Consumer Utilities Advocacy Centre, *Improving Energy Market Competition Through Consumer Participation*, December 2011; Consumer Utilities Advocacy Centre, *Highlights from Improving Energy Markets Competition Through Consumer Participation*, December 2011; Consumer Utilities Advocacy Centre, *Market Power in the Victorian Retail Energy Market: An Analysis of Market Share and Concentration*, December 2012

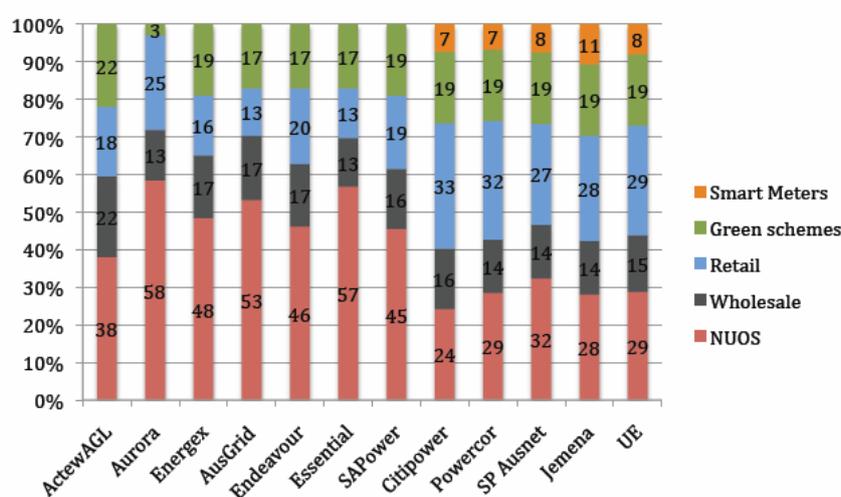
² EOWV Annual Report 2014.

Recent research by Ernst and Young which surveyed households in Victoria, New South Wales and Queensland showed more than one in 10 people have missed more than three electricity bill payments in the last 12 months and that 70% of customers were often or occasionally worried about being able to pay their electricity bill.³

Choice and lower retail price

We are not convinced that competition in retail markets has given consumers in Victoria access to better deals on price as expected in a well functioning competitive market. A recent report from the St Vincent de Paul Society, *National Energy Market - Wrong Way, Go Back?*, found that while Victoria’s deregulated market had led to lower network charges, the retail component of bills was significantly higher than anywhere else in the NEM.

Chart 6 Estimated bill-stack, average annual bill based on the July 2009 to July 2014 period (for electricity regulated/standing offers, 6,000kWh per annum, single rate)¹⁶



National Energy Market - Wrong Way, Go Back?, p.11

These observations support earlier work by the Essential Services Commission of Victoria on *Retailer Margins in Victoria’s Electricity Market*, which found large and growing retail margins in Victoria. The analysis of electricity retail prices and retail margins suggested that, host retailer standing offer prices (single rate) typically increased by more than 70 per cent between 2006-07 and 2011-12 and increases in market offer prices (single rate) were typically between 55 and 60 per cent over the same period.⁴

Wrong Way, Go Back? also notes that ‘the vast generalisation of networks counting for 50% of the bill.....drives governments’ narrow focus on ‘fixing the network issues’ (p.14). We agree with the *Wrong Way, Go Back?* report that competitive pressures in Victoria have not resulted in prices trending to the efficient cost of retail services, and this is worthy of consideration.

Complexity

As previously mentioned, a significant portion of consumers are not engaged in the energy market in Victoria. Despite the high churn rate, 22 per cent of consumers remain on standing offers with higher than market offer prices. Some research suggests that apathy appears to be a significant reason why consumers have not entered into the energy market.⁵ However, CUAC’s research indicates that this could be an over-simplification. Further work is needed to understand the “lived experiences” and outcomes

³ Ernst & Young (2014), *The Voice of the Customer is Getting Louder: Customer Experience Series (Wave 3)*, at 3.

⁴ Essential Services Commission 2013, *Retailer Margins in Victoria’s Electricity Market — Discussion Paper*, May, at 14.

⁵ Wallis Strategic Market & Social Research, *Victorian’s Experience of the Electricity Market 2013 – Final Report*, at 24; available at: <http://www.esc.vic.gov.au/getattachment/c9d3a916-1448-4c6e-bea5-48f3efc5c68a/ddd.pdf>

for consumers who have tried to negotiate the market. This includes required the impact of complexity on the choices made and the actual price outcomes of consumers.

Smart meters and the introduction of flexible pricing have made navigating an already complex market more challenging for consumers. In Victoria, the increasing range of market offers and their structural complexity makes it extremely hard for consumers, and harder still for low income and vulnerable consumers who lack the tools and resources to engage effectively with the market, to choose an offer that best meets their needs. To overcome this information asymmetry CUAC supports the initiative taken by the Victorian Government to introduce the independent comparator website My Power Planner (MPP) and the Australian Energy Regulator's website Energy Made Easy.⁶ However, even with the aid of these comparator tools, complexity remains a barrier for consumer participation. For example, approximately 120 options will present for an individual search online based on an individual's postcode and consumption information. In addition, CUAC has been assisting the Victorian Government with a program aimed at increasing the access of low income and vulnerable consumers. We have found that these consumers benefit from "face to face" assistance in navigating their options, combined with advice on what to look for and what to watch out for in terms in assessing discounts and contract terms. Many consumers including older consumers also often lack access to or the confidence to use online services. For these consumers independent telephone advice and hard copy information can be of assistance.

Regulatory settings to support consumer confidence

Earlier this year, CUAC together with the Consumer Action Law Centre applied to the Australian Energy Market Commission (AEMC), to have the national rules changed so that energy prices were fixed for the length of a contract. This followed research conducted by both organisations that confirmed that many consumers have signed fixed term contracts believing they came with a fixed price. CUAC's research found that 86 per cent of consumers surveyed thought this was unfair.⁷ The AEMC recently rejected the application, requiring instead that consumers be provided with extra information before signing a contract. CUAC remains concerned that the ability of retailers to vary prices in a fixed term contract will lead to an erosion of confidence in the market. We have been pleased then that the previous and current Victorian Governments have committed to legislating that energy retailers will no longer be able to use the term 'fixed' when referring to contracts with variable pricing. We welcome this change for Victorian consumers, but note that this will not address the issues for consumers in the National Energy Customer Framework (NECF) and may lead to further derogation ahead of any transition into the NECF by Victoria.

Innovation and regulatory gaps

According to the Australian Energy Regulator (AER), the current retail market entry framework (authorisations and exemptions) was not designed to address some of the emerging innovative energy selling business models and that there is a potential regulatory gap. On 18 November 2014, the AER published an issues paper in relation to regulating innovative energy selling business models under the National Energy Retail Law. (NERL)⁸ Technological innovations which allow customers to generate and store their own electricity onsite, and smart technologies change how customers interact with their retailers, moving them from a more passive relationship to a more informed and engaged one where the customer manages their own energy usage. As storage becomes a more viable financial alternative for customers, it may not be too far down the road that a Solar Panel Purchase Agreement (SPPA) supplier who is also providing storage to the customer, become the customer's principle energy supplier. The AER has, thus, expressed concern that the NERL may not be equipped to address these emerging business models:

While the AER has used the exemptions framework to regulate businesses selling energy through SPPAs, we are concerned that the Retail Law is not equipped to deal with many emerging energy retail models. As such, there are

⁶ Available at <http://www.energymadeeasy.gov.au/>.

⁷ CUAC (2012) *Fixing Up Fixed Term Contracts for Energy Customers*, p. 1.

⁸ Australian Energy regulator, *Issues Paper Regulating Innovative Energy Selling Business Models Under the National Energy Retail Law*, November 2014; available at: <http://www.aer.gov.au/sites/default/files/AER%20-%20Issues%20paper%20-%20regulating%20innovative%20business%20models%20under%20the%20NER%20-%20November%202014.pdf>

significant challenges in applying the authorisation/exemption distinction in those cases and it may be timely to revisit the framework more generally.⁹

⁹ Australian Energy Regulator, *Issues Paper Regulating Innovative Energy Selling Business Models Under the National Energy Retail Law*, November 2014, at 6.

Review of Victoria's retail electricity market

The Victorian Department of State Development, Business and Innovation has begun a public review of Victoria's retail electricity market, with a focus on:

- Investigating possible steps to improve competition and address the possible existence and extent of retail electricity margins
- Regulatory and market barriers
- Identifying possible responses to address informational, economic, behavioural and demographic factors that inhibit how consumers engage with the retail energy market and their ability to effectively switch.¹⁰

We recommend that the COAG Energy Council undertake a similar review nationally with a focus on the reform outcomes in Victoria. Future policy and regulatory frameworks should promote the long term interests of consumers, through a more transparent, informed and responsive market and engaged consumers.

Application of the National Energy Retail Law

The Panel noted that the full implementation of the National Retail Energy Law (NERL) has not yet been finalised and expressed concern that template legislation has been changed in some jurisdictions, detracting from the purpose of harmonisation.

We have concerns that the NERL has not developed to meet the needs of consumers in the Victorian jurisdiction. Important regulatory protections were developed in Victoria to ensure consumers were sufficiently protected in the reform process of privatisation and price deregulation. This includes the following protections which are not currently covered by the NERL:

- Wrongful disconnection payment scheme
- Prohibition of late payment fees
- Advanced Metering Infrastructure consumer protections
- Recent reforms in the area of fixed term contracts (see Box 1) and back billing

The rule change process should be reassessed to ensure that it can respond effectively to market conditions and changes, incorporating a flexible design that recognises the changing conditions and regulatory adjustments needed to respond to market conditions.

Recommendation 1:

- a. That the COAG Energy Council review the outcomes of the energy market reform process, particularly taking into account the consumer outcomes in Victoria.
- b. That the review informs the future regulatory settings needed to provide for further energy reform in the long term interests of consumers.
- c. That the reform process include reviews of the effectiveness of the regulatory framework every three years to determine whether it is meeting the needs of consumers in a dynamically changing energy market.

We also suggest that the COAG Energy Council give due consideration to the impacts on vulnerable consumers in policy positions on competition. Vulnerable consumers, especially, require targeted support to ensure that they are able to realise the full benefits of the competitive market and to manage their energy costs and usage. A formal public policy link between market outcomes and social and equity issues lies at the heart of addressing issues of debt, disconnection, and affordability.

Recommendation 2:

That the COAG Energy Council implements a range of strategies to support consumers with different capabilities and readiness to participate in the market.

Electricity networks

CUAC agrees that there is a need to reform the way distribution networks and services are priced, in order to drive greater efficiency of use, avoid unnecessary investment and drive more efficient prices charged to all consumers.

The preference of consumers for variable, rather than fixed charges, has meant that for several decades the costs of electricity supply have been recovered in a manner not reflecting their imposition: a portion of fixed costs have been ‘smeared’ on to variable charges. The conditions for such cost recovery are increasingly vanishing, with changes to patterns of consumption catalysed in large part to the emergence and spread of new technologies (e.g. air conditioners and distributed renewable energy).

Any review of existing network tariff structures should consider the system as a whole and revisit the underlying assumptions of the original tariffs, rather than seeking to simply ‘bolt on’ provisions for new technologies. In particular, considerations of cost-reflective network tariffs should consider the extent to which energy systems are the providers of essential services and how cost-reflectivity is balanced against the ability of all groups to pay for these services. Additionally, the paradigm of cost recovery for past expenditure should not be taken as a given where private investment has been made on expectations that have not been fully met.

We therefore welcome the AEMC rule change on Distribution Network Pricing Arrangements. If this is done effectively, it will create great potential for consumers to take better control of their energy consumption and expenditure, potentially allowing many low income and vulnerable consumers to save money on their energy bills.

We support the use of Long Run Marginal Cost (LRMC) as the basis for developing network tariffs, but note that the principle of least-distortionary cost recovery – relevant because LRMCs will not be sufficient to cover the DNSPs revenue requirements – must be balanced against the principles of gradualism, fairness, and equity. We expand on these arguments in our [joint submission to the AEMC Rule Change on Distribution Network Pricing Arrangements Draft Determination](#). We also support the AEMC’s Power of Choice reforms and the establishment of the AER’s Consumer Challenge Panel – effective consultation of consumers is critical.

However, as outlined above, CUAC considers the rule change process generally not responsive enough to deal with the significant structural changes to the energy market, and we are concerned about addressing ‘yesterday’s problems’.

While the Rule Change on Distribution Network Pricing Arrangements does not include in its scope the issue of approved revenue, as this is determined in the AER’s distribution determinations, it is the case that, in some areas, demand has not increased to the extent or in the manner that DNSPs expected. In many areas, demand has decreased. DNSPs’ incorrect forecasts have contributed to their investment in infrastructure that has not been needed. While this matter not the subject of any current review, it is strange – even perverse – to consider the efficient recovery of costs of investment that is itself inefficient and/or excessive. For such investment, the relevant question is *why* consumers should pay for it, not *how*.

Recommendation 3:

That the COAG Energy Council ensures that energy markets are developed having regard to principles beyond economic efficiency, including:

- Consumer impact – the need for DNSPs to consider the impact of price changes on consumers; ability of consumers to relate price structures to their usage decisions
- Fairness and equity

Gas

According to the Draft Report:

The Panel notes the findings of the Eastern Australian Domestic Gas Market Study that competition is largely working, but that there may need to be further monitoring of the market as it is currently in a transitional phase. The Panel supports a further, more detailed review of competition in the gas sector as proposed in the Study.

CUAC has an ongoing interest in gas, given the high degree of gas penetration and usage in Victoria. To enable more and better engagement from the consumer and community sectors, we released the report, [Making the Gas Connection: an introduction to the gas sector for consumer organisations](#) last year. In August of this year, we released a further report: [Our Gas Challenge: The role of gas in Victorian households](#).

We welcome proposals to examine barriers to entry in the gas market, whether access regimes are working effectively to encourage upstream and downstream competition, and regulatory and policy impediments to the efficient operation of Australia's gas market. We would also support the Federal Government, through the Energy White Paper, committing to a more detailed review of competition in the gas sector.

However, beyond these, CUAC's reports identified areas of concern including:

- Lack of consumer awareness of rising gas prices
- Significant reliance by households, especially large proportions of Victorian households, on gas for essential services
- The vulnerability of low income and vulnerable consumers to sudden bill spikes
- Entrenched attitudes at both household and government level that 'gas is cheaper'
- Barriers to comparing life-cycle costs of electric and gas appliances
- Policies encouraging installation of gas appliances where this may be inappropriate in the long term.

Until market reforms have progressed sufficiently – and we expect this process to be lengthy and ongoing – these problems must be dealt with through other channels.

Recommendation 4:

That the COAG Energy Council examine the areas of concern identified by CUAC's research:

- Lack of consumer awareness of rising gas prices
- Significant reliance by households, especially large proportions of Victorian households, on gas for essential services
- The vulnerability of low income and vulnerable consumers to sudden bill spikes
- Entrenched attitudes at both household and government level that 'gas is cheaper'
- Barriers to comparing life-cycle costs of electric and gas appliances
- Policies encouraging installation of gas appliances where this may be inappropriate in the long term.

Water

Draft Recommendation 16 of the Draft Report proposes that:

All governments should re-commit to reform in the water sector, with a view to creating a national framework. An intergovernmental agreement should cover both urban and rural water and focus on:

- *economic regulation of the sector; and*
- *harmonisation of state and territory regulations where appropriate.*

Where water regulation is made national, the body responsible for its implementation should be the Panel's proposed national access and pricing regulator (see Draft Recommendation 46).

There has been substantial technical innovation and reform by industry and state governments in meeting urban water needs across Australia in recent years, in large part driven by the challenges of changing climate conditions and drought. We believe that these initiatives were greatly assisted by the national

focus that resulted from the establishment of the National Water Commission (NWC) in 2004, and the development of the National Water Initiative (NWI) which marks its 20th anniversary this year. This focus included the establishment of a body of knowledge that can be accessed by all stakeholders and continues to build national and international expertise.

Nonetheless, the innovation and reform of water services has been inconsistent in the various jurisdictions across the country, particularly as it relates to water regulation frameworks, the inclusion of consumers in determining the planning and price considerations of the services they pay for and government assistance. The result is that consumers in different parts of Australia can expect a very different standard and price mix for their water services, including access and assistance programs to address affordability. We believe that the bar needs to be raised to ensure that services are provided in the long term interests of consumers, at best practice standards, at efficient prices and where universal access needs are taken into account.

We therefore support a move to a more nationally consistent approach to economic regulation in the water sector. We note that the Federal Government recently introduced *the National Water Commission (Abolition) Bill 2014* which proposes the disbanding of the NWC and distribution of some of the NWC's functions to the Productivity Commission (PC) and Bureau of Meteorology (BOM). Rather than disband the NWC, we believe that greater national leadership, including a national reform body, are needed to ensure that the benefits of urban water reform and the principles articulated by the NWI are incorporated into policy and decision-making across Government and delivering good consumer outcomes. There is a need for the Federal Government to re-focus its attention to urban water reform and ensure that it is in the long term interests of consumers. While we support the Panel's recommendation for a national body, we are not convinced that PC and BOM are the appropriate bodies to support further reform.

We suggest that an independent NWC continue or a 'like' national body be established charged with the following functions:

- Research, reporting (monitoring, comparison and analysis)
- Advice to government (COAG and jurisdictions)
- Leadership in encouraging reform (NWI subject to ongoing and timely review)
- Forum for stakeholder engagement and participation (including industry and consumers)
- Promotion of excellence in innovation
- Source of information/education (all stakeholders, consumers)
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Recommendation 5:

That the Federal Government re-focuses its attention on urban water reform, and ensure that it is in the long term interest of consumers.

That the Federal Government support the continued existence of an independent NWC or establish a 'like' national body charged with the following functions:

- Research, reporting (monitoring, comparison and analysis)
- Advice to government (COAG and jurisdictions)
- Leadership in encouraging reform (NWI subject to ongoing and timely review)
- Forum for stakeholder engagement and participation (including industry and consumers)
- Promotion of excellence in innovation
- Source of information/education (all stakeholders, consumers)

Consumer Access to Data to Improve Competition

We agree with the Panel that, *'[m]arkets work best when consumers are engaged, empowering them to make informed decisions;*' and that, *'[t]here is capacity to enhance Australian consumers' access to data on their own usage of utility services in a usable format to assist consumers to make better informed decisions.'*

In the utilities space, smart meters and the information they provide can empower consumers with more knowledge and awareness of energy as well as how to reduce consumption and save money. Information on usage helps consumers to manage their own consumption, tariff choices and ultimately energy costs. We support customer access to secure, easy, and prompt access to real time data and historical data to better manage their consumption and to choose the best offer. Routes for data access needs to be secure and easy to use for all consumers. Access to smart metering data can either be provided via the customer's retailer, distributor or third party subject to appropriate consumer (including privacy) protections. It is important that consumers have confidence that their smart metering data is appropriately protected. Consumers also need certainty about who they should approach to obtain their usage information and for specific services. There is, therefore, a need for greater clarity about the different roles and responsibilities around the provision of usage information and other smart meter enabled services, from industry and third parties.

In Victoria, government's price comparator My Power Planner (MPP) provides an estimated consumption profile based on a set of questions the consumer responds to about their energy use. While this provides a reliable indicator for the consumer's market choice, the most accurate profile would be based on the consumer's individual consumption history being available for input into MPP. The need to access this data in a usable form through one's energy retailer or distribution business presents a significant barrier to the realisation of this consumer benefit. In light of this, we suggest that the Federal Government develop a data access scheme in consultation with industry, regulators and consumers that would provide specifications that facilitate timely consumer access to data, and their comparability, with appropriate consumer protections.

Recommendation 6:

That the Federal Government develop a data access scheme in consultation with industry, regulators and consumers that would provide specifications that facilitate timely consumer access to data and their comparability, subject to appropriate consumer protections.

Institutional structures for future competition policy

Competition and consumer protection functions

Draft Recommendation 45 of the Draft Report proposes that:

Competition and consumer functions should be retained within the single agency of the ACCC.

We agree with the Panel that the ACCC should continue to combine competition and consumer regulation because there are synergies from having the competition and consumer functions within the one regulator. By carefully balancing its consumer protection function with its competition-related regulatory tasks, we believe that tensions arising from these synergies can be minimised and addressed appropriately.

Recommendation 7:

That the competition and consumer functions be retained within the single agency of the ACCC.

ACCC accountability and governance

Draft Recommendation 47 of the Draft Report proposes that:

The Panel believes that incorporating a wider range of business, consumer and academic viewpoints would improve the governance of the ACCC.

The Panel seeks views on the best means of achieving this outcome, including but not limited to, the following options:

- *replacing the current Commission with a Board comprising executive members, and non-executive members with business, consumer and academic expertise (with either an executive or non-executive Chair of the Board); or*
- *adding an Advisory Board, chaired by the Chair of the Commission, which would provide advice, including on matters of strategy, to the ACCC but would have no decision-making powers.*

The credibility of the ACCC could also be strengthened with additional accountability to the Parliament through regular appearance before a broadly-based Parliamentary Committee.

We take a cautious stance towards the proposed changes to the governance of the ACCC. We are of the view that the Panel has not provided sufficient justification for changing the governance of the ACCC (i.e. replacing the current Commission with a board), particularly as the ACCC has been performing to a high standard and no significant problem has actually been identified.

The idea of an Advisory Board appears to duplicate functions which are currently undertaken by the ACCC's Consumer Consultative Committee (CCC). The CCC forum allows consumer advocates to meet with ACCC Commissioners and other senior staff. Any new advisory board should build on the CCC rather than replace it with something new.

Recommendation 8:

That no changes to the ACCC's accountability and governance structure be made.

Access and pricing regulator

Draft Recommendation 46 of the Draft Report:

The following regulatory functions should be transferred from the ACCC and the NCC and be undertaken within a single national access and pricing regulator:

- *the powers given to the NCC and the ACCC under the National Access Regime;*
- *the powers given to the NCC under the National Gas Law;*
- *the functions undertaken by the Australian Energy Regulator under the National Electricity Law and the National Gas Law;*
- *the telecommunications access and pricing functions of the ACCC;*
- *price regulation and related advisory roles under the Water Act 2007 (Cth).*

Consumer protection and competition functions should remain with the ACCC.

The access and pricing regulator should be established with a view to it gaining further functions as other sectors are transferred to national regimes.

We are against the creation of a separate access and pricing regulator as outlined above. We believe that significant benefits can be attained in maintaining one national regulator responsible for competition, consumer protection and economic regulation, for the following reasons:

- The above three functions are inter-related and are based on an economic understanding that fair and effective markets are in the long-term interests of consumers.
- Retaining the access and pricing functions within the Australian Energy Regulator (AER) and ACCC ensures that these organisations are aware of access and pricing issues.
- It is also unclear where the AER's role in consumer protection under the NERL will reside if access and pricing functions are diverted to a new body.

However, in the event that such a new body is established, we believe that:

- The body should work closely with the ACCC because competition and economic regulation are closely inter-related and a coordinated response is necessary.

- The body needs to be have represented by consumer expertise at the board level so that consumer perspectives are given due consideration.
- Consumer engagement needs to be embedded within the business as usual of the body. Access and pricing are complex matters and it will be challenging for most consumers and consumer advocates to contribute to the discussion.

Recommendation 9:

That the ACCC, encompassing the AER, retain its current functions.

Thank you for the opportunity to participate in this consultation. If you have any queries on the submission, please do not hesitate to contact the undersigned on (03) 9639 7600.

Yours sincerely



Jo Benvenuti
Executive Officer