



18 October 2017

Professor Jane Doolan
Commissioner
National Water Reform Inquiry
Productivity Commission
GPO Box 1428
Canberra City ACT 2601

Dear Prof. Doolan

Submission: National Water Reform inquiry draft report

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to comment on the Productivity Commission's National Water Reform draft report. This submission focusses on chapter 6 of the draft report 'Urban Water' and our comments roughly follow the structure of that chapter.

We generally support moves to reform the urban water sector. However, what often gets lost in high-level reform processes is that at its core urban water systems exist to serve people. Our hope is that consumers are placed at the centre of urban water reform processes so that decisions and priorities reflect what is in the best interest of consumers.

Our comments are detailed more fully below.

About Consumer Action

Consumer Action Law Centre is an independent, not-for-profit consumer organisation based in Melbourne. We work to advance fairness in consumer markets, particularly for disadvantaged and vulnerable consumers, through financial counselling, legal advice and representation, and policy work and campaigns. Delivering assistance services to Victorian consumers, we have a national reach through our deep expertise in consumer law and policy and direct knowledge of the consumer experience of modern markets.

General comments on urban water reform and consumer interests

Water is arguably the most essential of services: without it we would not live. In 2010 the United Nations General Assembly recognised the human right to water and sanitation.¹ Access to safe, affordable water is a key determinant in the health, wellbeing and social participation of all

¹ Resolution A/RES/64/292. United Nations General Assembly, July 2010.

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Australians and we are pleased to see the Commission recognise the impact water has on the quality of people's lives.² Most of us access water every day for drinking, cooking, washing/hygiene and efficient removal of waste. For some though, water is becoming harder to access due to its rising costs. This is compounded by increasing costs of living, and the failure of wages, government payments and utility concessions and/or grants to keep pace with this growth. It is vitally important when discussing large scale reform in the water space not to lose sight of the sole parent who bathes their kids every 2-3 days or individuals who don't shower at home because they are struggling to keep up with their water bills.³

The unique position water holds in our lives places responsibilities on government to ensure access to water and also necessary constraints on urban water reform. We are concerned with the lack of consideration of consumer issues in urban water reform and under the National Water Initiative (NWI). These concerns have been raised in previous submissions to the Productivity Commission by the Consumer Utilities Advocacy Centre (now Consumer Policy Research Centre), most notably in response to the inquiry into Australia's Urban Water Sector in 2010-11, which Consumer Action endorsed, and remain pertinent in 2017.⁴ Looking forward to the development of future national water reform agreements, we urge the Commission to recommend explicit consideration of consumer issues as a key component of urban water reform objectives. These issues should include consumer rights and protections, consumer engagement in water policy and decision making, and consideration of the social implications of water reform.

Costs of reform

The Commission notes in Chapter 2 that cost-reflective pricing has reduced government subsidies to the water industry and that most service providers are generating enough revenue from users to operate without government subsidies. Chapter 6 notes that "past urban water reforms have delivered significant benefits."⁵ While we are not opposed to cost-reflective pricing—consumers of a service should be expected to pay for using it where they have capacity to do so—we do note that water bills for households have climbed steeply in recent years. Customers in metropolitan Melbourne saw their household bills increase by an average of 83% over the period 2007-08 to 2015-16.⁶ Sydney Water and Hunter Water customers saw bills increase an average of 38.7% over this period.⁷ While individual government concessions do exist for eligible customers, the increases to customer bills is dramatic, well above CPI and, in Victoria, not matched by a comparable increased cap on the State Government's Utility Relief Grant scheme. We are concerned that moves toward cost-reflective pricing and establishment of financially self-sufficient water corporations have meant that the financial and social impacts on consumers is sometimes forgotten.

² Productivity Commission, *National Water Reform Draft Report*, p 160.

³ VCOSS, *Power Struggles*, available at: <http://vcoss.org.au/documents/2017/08/POWER-STRUGGLES-2017.pdf>.

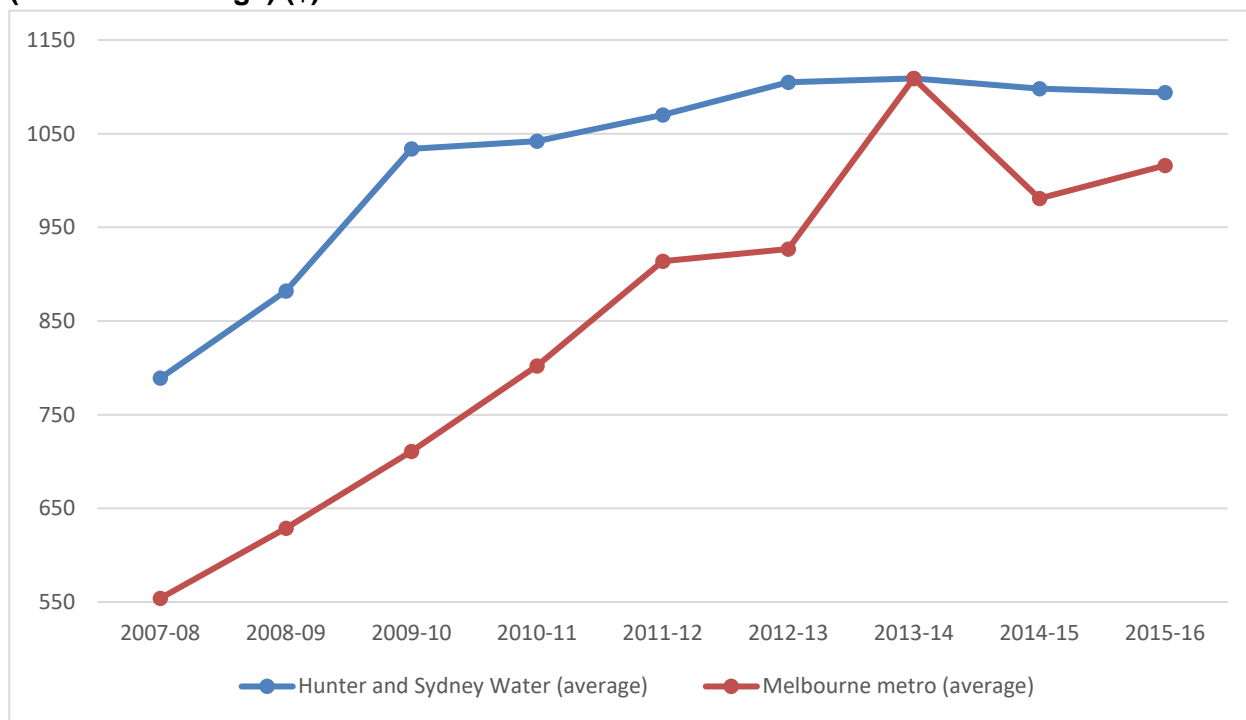
⁴ Consumer Utilities Advocacy Centre, submission to Productivity Commission Urban Water Inquiry, 2011, available at: <https://www.pc.gov.au/inquiries/completed/urban-water/submissions/sub046.pdf>.

⁵ Productivity Commission, *National Water Reform Draft Report*, p 163.

⁶ Bureau of Meteorology, National performance report 2015-16: urban water utilities. Typical Residential Bill (water & sewerage) based on average residential annual water supplied. Average of City West Water, South East Water and Yarra Valley Water. Dataset available at: <http://www.bom.gov.au/water/npr/docs/2015-16/complete-dataset.xlsx>.

⁷ Typical Residential Bill (water & sewerage) based on average residential annual water supplied. Average of Sydney Water and Hunter Water.

Figure 1: Metropolitan Melbourne and Sydney Water/Hunter Water Typical Residential Bill (water & sewerage) (\$)



It is vital that any decisions to further reform the water sector take into account impacts, benefits and potential detriment to consumers. Australian consumers and stakeholders should be involved and consulted on decisions being made as they are the ones paying for these services. Any policy decisions to further reform the water sector should address the question: will this policy or change make somebody better off while making no one worse off?⁸

Scarcity pricing

Over the years the Productivity Commission has highlighted potential benefits that could be achieved through scarcity pricing. It is often suggested that scarcity pricing may balance water supply and demand more efficiently.

Consumer Action is opposed to scarcity pricing where it is targeted at residential customers because of the potential adverse impacts it might have, particularly on low income and vulnerable consumers. The price of water impacts on access to water: water is vital to human life and effective participation in society and should not be priced so as to exclude universal access. Low income households have less capacity to absorb price increases where they are already using water efficiently. Conversely, high income households, whose water bills make up a smaller percentage of household expenditure, are better able to adjust to price fluctuations and therefore may have less incentive to curb their water use as a result. We think it is unfair to price water in a way that potentially makes it unaffordable to vulnerable consumers, those on low incomes, large families or individuals who use above average water due to health reasons.

The water sector is different from other network based utilities and this also plays a role in managing demand. Using scarcity pricing to send price signals to users about the need for efficient

⁸ Adapted from Consumer Affairs Victoria (2006) *Consumer Advocacy in Victoria*, Research Paper No. 7, 7.

water use is complicated by longer time frames for information to flow through to consumers (bills in Victoria are usually posted quarterly) and then for consumers to act on these signals and change behaviour. Importantly, water has low price elasticity of demand. Additionally, the Commission has previously found that “[g]enerally, water use is relatively unresponsive to changes in price, indicating that consumers place a high value on water consumption.”⁹ Other ways to manage and reduce household water consumption include water efficiency standards for buildings and appliances, community education campaigns (for example, Victoria’s Target 155 program), and water restriction policies that target outdoor non-essential use. A cautious approach to water demand management that is in the best interests of consumers, including low income and vulnerable consumers, is necessary.

Clarifying decision making and supply augmentation

Governments have a role to ensure water is available to their constituents at an affordable price. We question the Productivity Commission’s criticism of the Victorian Fairer Water Bills Initiative as political interference.¹⁰ Governments are of course ultimately accountable to the public and have an interest to ensure water corporations—government owned monopolies in most states and territories—are operating efficiently and providing safe and sufficient water to consumers. The construction of the desalination plant in Wonthaggi, Victoria, and the flow on cost implications saw water bills soar for Victorian consumers. The Victorian government, as the shareholder, demanded greater efficiency of water providers and savings to be passed on to consumers in order to ease cost burdens on water users. Putting the merits or otherwise of that particular decision aside, governments are sometimes justified in intervening and directing water companies to find efficiencies in their businesses.

Increasing consumer expectations and demands has been cited as a challenge facing water management in coming years.¹¹ We also see this as an opportunity. The current price review underway in Victoria has required water companies to undertake customer engagement in the development of their pricing submissions. The aims of this approach are to better align the interests of water businesses with the customers they serve.¹² For many water businesses, engaging with customers in a genuine way has been a significant cultural shift and we note that this is still in its early stages. However, we see great benefits under the new PREMO model¹³ and hope to see this approach refined and become embedded in future price reviews. Initial anecdotal comments from water corporations have been positive with many praising the Essential Services Commission (**ESC**). We have been impressed by enthusiasm displayed by many Victorian water businesses in taking up this challenge and tapping into their communities to receive input and guidance in shaping the plans. We believe other states and territories would benefit by replicating the consumer engagement approaches being led by the ESC in Victoria.

⁹ Productivity Commission, *Australia’s Urban Water Sector*, 2011, p. XXI, available at: <https://www.pc.gov.au/inquiries/completed/urban-water/report/urban-water-volume1.pdf>

¹⁰ Productivity Commission, *National Water Reform Draft Report*, p. 168.

¹¹ Hart, B.T. and Doolan, J. (eds.), 2017, *Decision Making in Water Resources Policy and Management: The Australian Experience*, Elsevier, New York, p. 344.

¹² Essential Services Commission, *2018 Water Price Review Guidance Paper*, November 2016, 3

¹³ The ESC’s ‘PREMO’ model seeks to link the return on equity permitted by a water corporation to the ‘level of ambition’ in a pricing submission. The ‘E’ in PREMO stands for engagement. Water corporations are required to engage customers in the development of their price plans so that outcomes align with what customers value and expect. For more information: <http://www.esc.vic.gov.au/document/water/36646-2018-water-price-review-guidance-paper-november-2016/>.

Genuine customer involvement in setting government policy and major augmentation decisions has real potential to improve outcomes:¹⁴

Decisions about water supply security are not solely technological or economic questions, but involve 'values, objective-setting processes, and complex trade-offs'.¹⁵ The impacts of such decisions are varied, difficult to compare, and in many areas, unquantifiable. Because of this, such decisions cannot be made on scientific, engineering or economic grounds alone, but should include deliberative processes that 'elucidate the preferences, values and choices of citizens who are able to have access to information and to engage in questioning of experts and dialogue with each other in a well-facilitated process.'¹⁶

We agree with the Commission that governments and utilities need greater clarity to handle major supply augmentation and decision making generally. Decisions around supply augmentation should also engage customers. Customer engagement is a key component of good planning and we recommend the Commission incorporate this into recommendation 6.3.

Competition in water

Moves to explore competition in the water sector should only be undertaken so that it results in consumer benefits, and protections for consumers are put in place. Importantly, we do not view competition as an end in itself. Any approach to introduce competition in water should be informed by research, lessons learnt by other countries when introducing greater competition in the water sector, and a thorough analysis of the benefits and potential disadvantages competition may bring to consumers. Additionally, customer involvement and engagement is critical and would reflect innovative approaches to consumer consultation such as that seen in Victoria under the current PREMO model.

Integrated water cycle management (IWCM)

Consumer Action is generally supportive of the Commission's finding and recommendation regarding IWCM. We believe that IWCM has the potential to deliver broader societal benefits and enhanced liveability in the areas where these projects are implemented. Where IWCM delivers wider benefits to communities, local government and water companies, it would be inappropriate that costs for these projects be passed on to customers through water bills for example. Water bills are an unfair, arbitrary way to recover costs—they are not progressive taxation. However, where there are direct benefits to individual consumers then passing on costs may be more justifiable.

IWCM presents an opportunity for collaboration between different stakeholders and consumer engagement in aspects of IWCM planning and decision making. We view the Victorian government's policy in this area as a starting point but emphasise that a consultative approach is important to ensure relevant stakeholders are included in the development of IWCM policy and that decisions around costs are properly thought through.

Consumer representation in water

With the abolition of the National Water Commission there is an immediate need for stronger consumer advocacy in national water reform processes. Effective consumer representation in

¹⁴ Consumer Utilities Advocacy Centre, submission to Productivity Commission Australia's Urban Water Sector inquiry, p.3, available at: <https://www.pc.gov.au/inquiries/completed/urban-water/submissions/sub046.pdf>.

¹⁵ White, Stuart, Kate Noble and Joanne Chong, 'Reform, Risk and Reality: Challenges and Opportunities for Australian Urban Water Management', Australian Economic Review 41 (4) p. 433.

¹⁶ Ibid.

water is currently constrained by a lack of resources and has been this way for a number of years. Compared to the energy sector, the opportunities to secure funding for consumer advocacy in water is severely lacking.

Consumer advocates have the potential to provide expert knowledge and vital representation of consumer issues to inform and improve policy development in water. We are also strongly in support of greater Indigenous involvement in water and recognition of water's importance to Traditional Owners. The challenges facing urban water provision include the impacts of climate change, including more severe and frequent droughts, which means all Australians will be increasingly affected by water policy decisions made by governments at state and national levels.

We note that in 2011 the Commission recommended that COAG implement "measures to support consumer advocacy and research" in water.¹⁷ This was consistent with previous recommendations made during the Commission's 2008 Review of Australia's Consumer Policy Framework. We strongly support measures to ensure consumer advocacy in the water sector and urge the commission to examine funding options, potentially an industry levy, which could support ongoing consumer representation and advocacy in water policy.

A national approach

Consumer Action is concerned about the void that exists in water governance and institutions at the national level. The abolition of the National Water Commission meant that large scale innovation, reform and research in the urban water space ceased or was transferred to other areas. The national expertise and momentum to coordinate and meet future challenges around water provision such as population growth, climate change and drought, has also slowed. This is an unfortunate and unsustainable state of affairs. Water cannot be relegated to solely a state issue, and water policy challenges do not respect state boundaries. Water is the most essential of services and water sustainability an issue of national importance. A nationally-driven approach to water issues will become increasingly critical in the years ahead. As such, a dedicated national water policy body should be established to fill the role of the former National Water Commission, to ensure that this important policy area is not neglected.

Please contact Patrick Sloyan, Policy Officer (Water)
if you have any questions about this submission.

Yours sincerely

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¹⁷ Productivity Commission, *Australia's Urban Water Sector*, 2011, Recommendation 8.3, p. LIII.