



wacoss

Western Australian
Council of Social Service Inc

*Ways to make
a difference*

21 May 2007

Consumer Policy Inquiry
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Dear Commissioners,

**RE: PRODUCTIVITY COMMISSION REVIEW OF AUSTRALIA'S CONSUMER
POLICY FRAMEWORK**

Please find the attached response to the Productivity Commission's Issues Paper of January, 2007 from the West Australian Council of Social Service's (WACOSS).

WACOSS's response to the Issues Paper identifies and discusses issues pertinent to our members and their clients, namely those West Australian consumers of essential services and those experiencing, or at risk of financial hardship and other types of social vulnerability.

WACOSS welcomes the opportunity to contribute to the review, acknowledging its importance. Should the Commission require any further information in regards to our submission, please do not hesitate to contact us.

Yours Sincerely,

Lisa Baker
Executive Director

Ways to make a difference

{ Social Policy & Advocacy | Organisation Development Services | Member Services }

WACOSS Submission to the Review of Australias Consumer Policy Framework



wacoss

Western Australian
Council of Social Service Inc

*Ways to make
a difference*

***Submission by the Western Australian
Council of Social Service to the
Productivity Commissions Review of
Australias Consumer Policy Framework***

May 2007

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BACKGROUND TO WACOSS & THE CONSUMER UTILITIES PROJECT

The Western Australian Council of Social Service Incorporated (WACOSS) is the peak body of the community service sector across Western Australia. Since 1956, WACOSS has been developing and strengthening the non-government community services sector's capacity to assist all Western Australians. With over 298 members, WACOSS has strong relationships with the social services sector and seeks to represent their interests, and those of the disadvantaged individuals and families they assist at a service level. Given this relationship, WACOSS is in a unique position to comment on issues in our society that socially impact upon members of the community experiencing disadvantage.

WACOSS is respected within both government and non-government arenas as being an authoritative voice for consumers with regard to energy and water market reform in Western Australia. WACOSS has developed a strong network with utility policy workers across Australia, which provides us with information and expert opinion on these issues.

In January 2005, WACOSS commenced the Consumer Utilities Project. Building upon the utility policy work WACOSS had undertaken over the previous four years the Consumer Utilities Project works with consumers and representative organisations to achieve better outcomes in the provision of essential services.

WACOSS has direct access to the issues of consumers facing disadvantage or who are living on low incomes through our Consumer Reference Group, which includes representatives from the Emergency Relief sector, Unions, Financial Counselors and Community Legal Centres. These agencies provide us with policy information and direction in relation to our work and look to us to represent the interests of their clients with regard to utility issues. We have taken on this role due to the level and severity of the utility issues being raised by community agencies and the absence of any other resourced body in Western Australia representing these issues.

Further to the Consumer Utilities Project's work on the intersection between essential services and consumers facing financial hardship and other types of vulnerability, it is appropriate that a submission be made to the Commission's Review of Australia's Consumer Protection Framework. WACOSS believes strongly in the effective use of appropriate consumer protection regulation to protect people experiencing vulnerability in our society.

EXECUTIVE SUMMARY

WACOSS thanks the Productivity Commission for the opportunity to respond to its Issues Paper (hereafter referred to as the 'Issues Paper') on Australia's Consumer Protection Framework. As stated in the Issues Paper, it has been some years since the last, significant review of Australia's consumer protection framework, and much has changed in the meantime.

WACOSS has responded to the Issues Paper by identifying issues pertinent to our members and their clients, namely those West Australian consumers of essential services and those experiencing, or at risk of financial hardship and other types of social vulnerability. The content of WACOSS's submission to the Commission roughly follows the order in which issues have been addressed in the Issues Paper. Recommendations are provided throughout the submission which represent WACOSS's position on the issues discussed.

The Commission's Review and the associated Issues Paper take place at an important time in Australia's economic history. The contemporary withdrawal of government actors from essential service industries and accompanying deregulation nominally takes place with the intention of creating functional markets in these industries. There is an assumption by regulators and government that well-functioning markets are the most efficient mechanism of securing positive outcomes both for suppliers, whom will have increased access to a market, and for consumers, whom hopefully will realise the positive effects of competition.

WACOSS argues in this paper that this is not the case in regards to essential services such as gas, water and electricity. This is because increased competition to date has not resulted in the degree of 'natural' consumer protections promised by those responsible for deregulation.

WACOSS believes that effective industry-specific consumer protection regulation, in conjunction to more generalist approaches, is required to ensure equitable outcomes for more vulnerable consumers. Additionally, it is noted that the costs of market failure in the area of essential services are most frequently borne by consumers, where detriment is significant and compromises a basic` quality of life.

Adherence to consumer protection regulations is not only the law¹, but an important responsibility to the community by businesses given the opportunity of participating in Australia's economy. Further to this, WACOSS, like others² expresses concern at the Commission's focus on 'cutting red tape'. As this paper indicates, the cost of absent or ineffective consumer protection regulation is often externalised by business, to the detriment of vulnerable consumers. The objectives of the consumer protection framework review ought to be to secure the right balance of regulation to achieve efficiency without compromising effectiveness. Often motivations of 'cutting red tape' ignore the external costs to consumers and communities arising from moving away from regulatory protections.

¹ Sotkiewicz, P. M., 'Considerations for the Design of Restructured Electricity Markets & Institutions', October 2003, p. 9

² Consumer Action Law Centre, 'Empowerment & Protection – Updating Australia's Consumer Policy Framework' Speech to the National Consumer Congress 2007, p. 2

LIST OF RECOMMENDATIONS

RECOMENDATION 1

Recognition by the Commission that Energy and water services are essential and that the risks of market failure are so detrimental to consumers that industry-specific consumer regulation is required.

RECOMMENDATION 2

Recognition by the Commission that people experiencing financial hardship and other types of vulnerability are disproportionately, negatively affected by the failure of essential service markets, when compared to other consumers.

RECOMENDATION 3

Information provision to consumers, whilst important in informing choices, must be provided within context of comprehensive industry-specific consumer protection.

RECOMENDATION 4

That it be acknowledged that people facing different types of disadvantage and vulnerability face significant barriers to the effective use of information to inform choices. Given this fact, it should also be acknowledged that reliance on information provision as a primary consumer protection mechanism is inappropriate in essential service markets.

RECOMENDATION 5

That additional regulatory protection be available in essential service markets undergoing a process of implementing, or experiencing increased levels of competition.

This regulatory protection should exist in addition to, and be complementary to already existing industry-specific and generalist consumer protections.

RECOMMENDATION 6

That it be recognised that increased levels of competition may not result in increased, effective levels of consumer participation and protection and that competition may not be an appropriate mechanism to achieve such goals.

RECOMMENDATION 7

Industry-specific consumer protection regulation is required for smaller-users of essential services and should be targeted at these consumers.

RECOMMENDATION 8

Within industry-specific consumer protection regulation, there should be specific and mandatory protections for people facing financial hardship and other types of social vulnerability.

RECOMMENDATION 9

Acknowledgement by the Commission that industry-specific consumer protections targeted at people facing hardship create significant benefit to the general community and prevent detriment that would otherwise exist.

RECOMMENDATION 10

That regulation mandate that market information aimed at people experiencing hardship and vulnerability be produced with the intention of reducing barriers to consumer participation in complex essential service markets.

RECOMMENDATION 11

That such information not be provided in place, but rather to compliment, other important consumer regulation designed to protect people facing hardship and vulnerability.

RECOMMENDATION 12

That regulation around consumer protection in essential service markets be subject to ongoing review and reporting as per best practice.

RECOMMENDATION 13

That processes of review include consumer representation as per above identified best practice.

RECOMMENDATION 14

That the existence of market conditions as be detailed below be viewed as indicative of a need for industry-specific consumer protection:

- The essentiality of the service
- The impact of market failure on people facing financial hardship and other types of vulnerability
- The predominance of credit as a purchase mechanism and the need for a variety of available payment options
- The need for special information &
- The need for mechanisms of redress

RECOMMENDATION 15

That the Commission acknowledge the high social and financial costs to consumers when essential service markets fail and that this high cost of failure recommends the adoption of industry-specific consumer regulation.

RECOMMENDATION 16

That the Commission acknowledge the limited capacity of government and non-government agencies to assist consumers in claims under more generalist consumer protection regulation.

RECOMMENDATION 17

That the Commission acknowledge the limited capacity of consumers facing financial hardship and other types of vulnerability to effectively utilise mechanisms of redress under more generalist consumer protection regulation in regards to matters concerning the essential service market.

RECOMMENDATION 18

That essential service markets undergoing processes of deregulation be subject to adequate industry-specific reporting and review regimes. Additionally, it is recommended that these regimes may inform the appropriate level of contestability in an essential service market.

RECOMMENDATION 19

That the Commission acknowledge that industry-specific consumer protection has the capacity to compliment more generalist consumer protection and that more generalist forms of consumer protection may not be appropriate in addressing the types of problems most commonly experienced by essential service consumers.

RECOMMENDATION 20

WACOSS supports the role of independent advocacy both generalist and industry-specific consumer protection. Independent advocacy may possess the capacity to approach matters systemically in a way that other mechanisms may not and are protected from industry and regulatory capture.

RECOMMENDATION 21

WACOSS recommends that industries be given price signals by independent dispute resolution schemes. Such schemes encourage processes of engagement for involved parties and provide industry with impetus to improve in cases where market contestability is low.

RECOMMENDATION 22

WACOSS recommends that non-regulatory approaches such as customer charters and other types of market information provision not take the place of appropriate, enforceable consumer protection regulation.

RECOMMENDATION 23

That the Commission acknowledge the limited utility of non-regulatory types of consumer protection in regards to essential service markets – especially in relation to people experiencing financial and other types of vulnerability.

THE RATIONALE FOR CONSUMER POLICY

Consumer policy has historically been a necessity for a number of reasons, including; the role of the state in promoting social justice; promoting equity in situations where there is an imbalance of information³ to the consumer and mitigating the potentially significant and negative impacts of market failure on consumers. When considering the appropriateness or applicability of regulation in the area of consumer policy, both regulators and market supply actors have it in their best interests to consider the barriers to effective market participation faced by some consumers.

There are a number of ways consumer policy can impact on a consumer's capacity to participate effectively in the marketplace of goods and services. Goods and services offered in most marketplaces are not exactly the same and therefore require adequate description. Also, consumers exist on a spectrum of effective market participation – some being able to participate in the market to their own advantage to a greater degree than others. Taken together, these facts call for the existence of effective consumer policy and a level of regulatory rigour, even where there are high levels of competition in the market.

Consumer protection frameworks must be designed to promote equitable outcomes for people facing financial hardship, living on lower incomes or experiencing other forms of disadvantage. It is important for regulators and policy-makers to have a good understanding of the difficulties faced by people experiencing financial hardship or other types of social vulnerability and the different methods of consumer protection to be considered within this context.

FINANCIAL HARDSHIP, VULNERABILITY & ESSENTIAL SERVICES

Financial Hardship

In 2000, approximately 13% (1 in 8) of all people in Australia experienced poverty⁴. While this number reflects the poverty of people living in Australia in relation to the majority of people in this country, a significant proportion of people in poverty experience the incapacity to pay for even the most essential of services; these services including water, gas and electricity⁵.

The Essentiality of Services

Water and energy services are necessary for the maintenance of life and for the individual's or group's ongoing participation in society. Living without these services, even for short periods of time, can have severe social and economic ramifications on communities, families and individuals. The essentiality of these services is such that the right of access to them is contained within United Nations human rights standards, accepted by the Commonwealth Government⁶. Additionally, the importance of essential service provision was recognised in the Senate Poverty Inquiry which stated that,

³ Consumer Utilities Advocacy Centre (CUAC), 'Submission to the Ministerial Council on Energy Standing committee of Officials', September 2006, p. 3.

⁴ NATSEM & The Smith Family, 'Financial Disadvantage in Australia: 1990-2000 – the persistence of poverty in a decade of growth', p. 4

⁵ Public Interest advocacy Centre (PIAC), 'Cut Off: The Impact of Utility Disconnections', February 2005, p. 9

⁶ United Nations Economic & Social Council, Committee on Economic, Social & Cultural Rights, 'The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights', November 2000, p. 6.

“Evidence indicated the importance of ensuring access to low income households to essential utilities such as electricity, gas, water and telephone services. Those services provide the basic means by which any household is able to function in a modern society.”⁷

Additionally, the Productivity Commission stated itself in its review of National Competition Policy in 2005 that,

“Reliable, affordable and sustainable energy services are critical to Australia's economic and social wellbeing ... they are essential for supporting basic quality of life.”⁸

The Serious Impact of Disconnection or Restriction of Essential Services

Within the context of essentiality, the effects of disconnection or the restriction of access to essential services exist upon a spectrum of severity. These effects are typically proportionate to the amount of time spent disconnected, and shown by the range of behaviours people display under during a period of disconnection⁹. In all cases, however, consumers experiencing disconnection absorb significant financial and social costs as a result of their inability to access essential services.

Financial costs to consumers with restricted or no access to essential services may include buying take-out food because of an inability to refrigerate, spending additional funds on alternative accommodation (including transport to alternative accommodation) and the ‘flow-on’ effects on household finances of entering into unsuitable repayment arrangements with the utility. Psycho-social effects may include absences from work or education (10% of all respondents in one study)¹⁰ and significant feelings of isolation and shame.

Risks to Personal and Community Safety

In addition to significant impacts on household finance and psycho-social wellbeing, people experiencing disconnection from essential services also experience additional risks to safety and wellbeing that may result from using alternative strategies in response to the lack of essential service. These strategies may include a dependence on candles for lighting, obtaining power from neighbours through extended power leads, trying to reconnect illegally and dangerously and heating a house using an oven or stove. Additional risks to wellbeing may result from the absence of the service itself including injuries caused by absence of light, inability to maintain a reasonable standard of hygiene and other health impacts¹¹.

Who is Most Affected and How Often?

Whilst people in a range of circumstances may experience disconnection of or restriction from an essential service, it is most often people living on lower incomes – particularly Centrelink benefits – or facing other types of barriers to social inclusion that experience the significant and detrimental effects of the absence of energy or water. One survey conducted showed that 53% of respondents who experienced disconnection had been on Centrelink benefits at the time of disconnection. Several other factors were identified as potentially contributing vulnerability; 38% of respondents were sole parents, 37% were unemployed and 22% were from a non-English-speaking background¹².

⁷ Australian Senate, ‘Report from the Australian Senate Community Affairs References Committee Inquiry into Poverty and Financial Hardship (Senate Poverty Inquiry)’ 2004, Ch 9, pg. 191,

⁸ Australian Productivity Commission, ‘Review of National Competition Policy’, April 2005, §8.2, pg. 180,

⁹ PIAC, p. 18.

¹⁰ PIAC p. 19.

¹¹ PIAC, p. 20.

¹² Ibid., p. 12.

In Western Australia, knowledge about the rate of disconnection from essential electricity services is very limited and has only recently been reported for the first time. The rates are very high at 1.16% of the total of approximately 800,000 residential customers¹³ over the 2005/2006 financial year. This figure, approximately 9,300 households, presents as the highest known rate of disconnection from electricity services in Australia. Taking into account what we know of people who are disconnected from essential services, these figures highlight the need for effective industry-specific consumer protection in the essential services market where many people continue to be unable to effectively participate.

RECCOMENDATION 1

Recognition by the Commission that Energy and water services are essential and that the risks of market failure are so detrimental to consumers that industry-specific consumer regulation is required.

RECOMMENDATION 2

Recognition by the Commission that people experiencing financial hardship and other types of vulnerability are disproportionately, negatively affected by the failure of essential service markets, when compared to other consumers.

WHAT IS EFFECTIVE PARTICIPATION IN ESSENTIAL SERVICE MARKETS?

Consumer regulation and policy exists to remedy areas where there is the potential for serious, negative impacts from market failure and to activate and promote the effective market participation of consumers. In order to gauge the extent to which current and proposed consumer regulation (or absence of regulation) serves the interests of consumer participation, it is important first to define exactly what is meant by effective consumer participation in essential service markets.

In the context of essential service markets, the effectiveness of participation by consumers is influenced by a range of conditions. These conditions all affect the equity of outcomes for essential service consumers. This is especially the case in regards to the capacity of those experiencing financial hardship and other types of vulnerability to act freely and in their own best interests. These conditions include:

- The capacity of the consumers to afford 'reasonably' priced essential services, which affects their capacity to act as a demand signal.
- The availability of 'reasonably' priced essential services.
- The capacity for consumers to access appropriate and usable market information
- The availability of appropriate and usable market information
- The capacity for consumers, based on the available market information, to make choices that serve their best interest
- The capacity for consumers to access a number of appropriate payment options
- The capacity of consumers to seek independent redress

Many essential service consumers have limited capacity in a range of the areas listed above. Whilst some of these conditions are out of the control of providers and regulators, many are determined wholly or partly by the behaviour of essential service providers and relevant regulators. Without the capacities outlined above, or assistance from consumer

¹³ Economic Regulation Authority (WA), 'Annual Report – Code of Conduct (For the Supply of Electricity to Small Users)', April 2007 pp. 4-5.

representatives, many people are not able to fully and effectively participate in essential service markets.

THE LIMITS OF INFORMATION PROVISION AS CONSUMER PROTECTION IN ESSENTIAL SERVICE MARKETS

In its Issues Paper, the Productivity Commission cites the provision of information to consumers as a potential tool for promoting effective market participation by consumers. Such information provision; either instigated voluntarily or under regulation by market suppliers, government or non-government actors is intended to ensure all participants have sufficient information to participate in the marketplace, thereby acting as a 'protection'. Such information provision also has potential benefits for suppliers as stated by the Trade Practices Commission in their 1984 annual report:

"Consumers not only benefit from competition, they activate it, and one of the purposes of consumer protection law is to ensure they are in a position to do so"¹⁴

There are, however, significant limits to the potential for information as a consumer protection mechanism. There is also evidence to suggest that public knowledge regarding basic market mechanisms is extremely limited¹⁵. This further highlights the need for additional protections in markets that are often informed by complex reasoning of governments on a microeconomic level. The role of information in the marketplace is complex and needs to be examined within the context of barriers to market participation, trends of increasing complexity in product offerings and the intrinsic limitations of information as a consumer protection mechanism.

Trends – Here and Elsewhere

Currently, the Australian energy industry is undergoing a process of regulatory reform, through the formation of the National Electricity Market, and a range of other reforms including the expansion of competition across the states. The reform processes are different across the individual states, however, there is a clear trend towards full retail contestability in the retail energy market. Western Australia does not currently experience full retail contestability at the small-user end of the market, with currently only 1.6% of small-use electricity customers currently being contestable¹⁶. 4). While the gas market is designed for full contestability, no new competitors have entered the small market, and water is provided by a number of geographically located monopolies, the largest which is the state owned Water Corporation.

It is important to draw attention to issues faced in other locations where greater retail contestability exists as these situations may indicate potential issues created by expanded contestability in Western Australia and other states. The impacts of existing contestability ought to inform future regulatory decision-making in regards to the appropriateness of competition in essential service markets.

¹⁴ Trade Practices Commission, 'Annual Report', 1984 in 'Empowerment & Protection – Updating Australia's Consumer Policy Framework' Speech to the National Consumer Congress 2007, Consumer Action Law Centre, p. 5

¹⁵ Hayward, David, 'The Public Good and the Public Services: What Role for the Private Sector?', *Dissent*, Autumn/Winter 2002, p. 10

¹⁶ Economic Regulation Authority, p. 4

Switching and the Capacity of People to Participate in the Market

Where competition does exist, the ability of consumers to easily switch from one provider of services to another is vital in order to effectively promote greater competition between providers¹⁷. It is frequently assumed that greater competition will result in the benefits of lower prices and greater efficiency. Current research from the United Kingdom¹⁸ suggests that switching rates in energy markets remain relatively low – even in markets where there has been a nominally high level of retail contestability in the market for some time.

It is also important to note that where there are high levels of switching, the rates do not necessarily equate to positive outcomes for consumers. This is because switching behaviour may be the result of inadequate regulation in areas such as the definition of informed consent by consumers and the absence of appropriate cooling-off periods for contracts. Alternatively, simply measuring the rate of switching does not measure the quality of outcomes for consumers whom have made the choice to change their essential service provider, as the switch may have actually resulted in higher bills.

The Efficacy of Competition as 'Natural' Consumer Protection

It is important to question the extent to which competition and its emergent properties are able to effectively protect the rights of consumers and promote their effective participation in essential service markets. The ways in which information operates within essential service markets, including considerations regarding its availability, access and the way in which it is provided also need to be taken into account when considering the effectiveness of competition in promoting equitable outcomes for consumers.

It is often assumed that consumers, acting rationally will make decisions of greatest utility, benefiting themselves or their circumstances as much as is possible. No market exists, where all parties immediately have access to perfect information. Even in cases where an adequate quantity of information is available to the consumer, a significant number of consumers will still make choices not in their best interest.

One study conducted in the United Kingdom noted when examining rates of switching in the area of energy services that there was a persistent bias by consumers to seek a 'flat rate' tariff in relation to volumetric consumption charges. This behaviour was observed to occur even when the consumer's choice of a 'flat rate tariff' resulted in their paying in excess of 100% more for the service than they would have under available multi-tariff schemes¹⁹.

Complexity and Unfamiliarity of Product Offerings

It is reasonable to say that the behaviour outlined above will also be observed in Australia in situations of increasing retail competition due to the resultant increase in the complexity and unfamiliarity of the choices being presented to consumers²⁰. Such offers and products as may exist, as in the case of dual fuel offers (primarily gas and electricity) and differing tariff schedules not only enhances the inherent complexity of products, but in fact may make them incomparable. This situation has the potential to create 'pure consumer error'²¹, either intentionally or non-intentionally. Indeed, even industry acknowledges this situation is challenging. Mr. Simon Thackray of Synergy

¹⁷ Australian Energy Market Commission (AEMC), 'Review of the Effectiveness of Competition in the Gas and Electricity Retail Markets: Draft Statement of Approach', March 2007, p. 15.

¹⁸ Wilson, C. & Waddams-Price, C., 'Do Consumers Switch to the Best Supplier?', April 2007

¹⁹ Ibid, p. 3

²⁰ Economic Regulation Authority, p. 10.

²¹ Wilson & Waddams-Price, p. 4.

Energy in his representations to the Productivity Commission's public hearing in Perth on 23.03.2007 stated that:

"... electricity is a homogenous product. It's very difficult to differentiate ... especially from a retailer's point of view ... there must be flexibility in the in terms of the regulatory environment in which service providers have the ability to compete and differentiate their service offerings ...

... [complexity of dual-fuel offerings are] really a challenge for the industry: that they have to make it as simple as possible for customers to see the benefit of their product offerings.²²

Given that it's the 'service' not the 'product' being differentiated by retailers, it is vital that consumers are protected by a baseline of regulated service provision so that consumers are not having to 'shop around' for basic protections.

Difficulties in accessing and interpreting market information give rise to significant personal costs in searching behaviour, to locate the best price²³, effectively decreasing information available to the consumer. Indeed, many consumers do not have the capacity to undergo adequate searching activities²⁴. It is a fair assumption that people experiencing disadvantage may face additional barriers to effectively accessing and using market information. This may result in consumers retaining the status quo, even to their significant financial detriment²⁵.

By setting in place minimum protections, regulators may remove poor product outcomes from the competitive market and so guarantee that consumers will not unwittingly or unknowingly choose them. This situation can be viewed as analogous to that of product safety, where regulators remove certain products from the market to prevent consumer detriment.

Behavioural Economics

The effects of market and product complexity have been widely reported in the field of behavioural economics. Australia has a lengthy history of essential services being provided by government-controlled state monopolies. Views expressed by the general public have held that these organisations have traditionally acted in the public's best interest²⁶. This view may inform the need for significant consumer protections in newly contestable energy markets where 'the endowment effect'²⁷ may be encountered with the result of consumer's maintaining the status quo, regardless of the possible benefits of change. Additionally, where the perceived risks of switching behaviour are high, the status quo will also be maintained, regardless of the potential gain²⁸.

²² Productivity Commission, 'Inquiry into Australia's Consumer Policy Framework: Transcript of Proceedings', 23 March 2007, Perth, p. 199.

²³ Wilson & Waddams-Price, p. 5.

²⁴ Essential Services Commission of South Australia, 'Compilation of Speeches', 2003, p. 35

²⁵ Wilson & Waddams-Price, p. 3.

²⁶ Haward, p. 8

²⁷ Kahneman, D., Knetsch, J. & Thaler, R., 'Anomalies: The Endowment Effect, Loss Aversion & the Status Quo', *Journal of Economic Perspectives*, V. 5, No. 1, Winter 1991, pp. 196-197.,

²⁸ Rabin, M & Thaler, R., 'Anomalies: Risk Aversion', *Journal of Economic Perspectives*, Vol. 15, No. 1, Winter 2001, p. 220.

The Need for Industry-Specific Consumer Regulation

Given the experience of markets undergoing the process of reform towards full retail contestability²⁹ and of those that already profess to experience it³⁰, the need for additional consumer protection is clear. Additional industry-specific consumer regulation is required in situations where complex or unfamiliar choices, inadequate competition, inadequate information or low rates of switching behaviour resulting in consumer detriment exists³¹.

WACOSS agrees that additional information provided by markets and Government³² may assist some consumers in making 'good' choices. There are significant barriers to many consumers effectively using information, however, including vulnerability. Because of this, any strategy of information provision must take place within the context of comprehensive consumer protection, addressing issues of consumer hardship and vulnerability.

RECCOMENDATION 3

Information provision to consumers, whilst important in informing choices, must be provided within context of comprehensive industry-specific consumer protection.

RECCOMENDATION 4

That it be acknowledged that people facing different types of disadvantage and vulnerability face significant barriers to the effective use of information to inform choices. Given this fact, it should also be acknowledged that reliance on information provision as a primary consumer protection mechanism is inappropriate in essential service markets.

RECCOMENDATION 5

That additional regulatory protection be available in essential service markets undergoing a process of implementing, or experiencing increased levels of competition.

This regulatory protection should exist in addition to, and be complementary to already existing industry-specific and generalist consumer protections.

RECOMMENDATION 6

That it be recognised that increased levels of competition may not result in increased, effective levels of consumer participation and protection and that competition may not be an appropriate mechanism to achieve such goals.

CONSUMER POLICY MUST PROTECT THE MOST VULNERABLE

People experiencing financial hardship and other types of disadvantage are significantly more vulnerable to the effects of market failure than people not facing those sorts of barriers to effective market participation. This fact, coupled with the previously-discussed essentiality of services such as water and energy services calls for the existence of

²⁹ Essential Services Commission of South Australia, p. 13.

³⁰ Wilson & Waddams-Price

³¹ Allens Arthur Robinson, 'Energy Industry Consumer Protection Remains', Focus Energy, December 2004, p. 1

³² Consumer Affairs Victoria, 'Choosing Between General and Industry Specific Regulation', Research paper No. 8, November 2006, p. iii.

industry-specific consumer protection regulation targeted to assist people experiencing vulnerability³³.

Essential Services & Household Debt

In Australia, household debt continues to grow apace, with consumer credit card-related debt making-up an increasing share of the total³⁴. Water and energy services differ from other types of marketplace commodities not only in their essentiality, but also by the fact that they are most often purchased on credit. Purchase on credit for essential services continues to be the prevailing payment arrangement. It is also the most desirable method as it most readily facilitates uninterrupted supply. Because of this dominant relationship, however, essential service-related debt has a capacity to contribute to spiralling household debt³⁵.

Work undertaken by the Committee for Melbourne has shown that utility charges and associated debt can significantly contribute to severe personal debt 'spirals' and poverty. The study found that,

"Australian households reporting utility stress are about 12 times more likely than other households to suffer 'financial hardship'"³⁶

and more generally that,

"those people that report having financial difficulties in paying their bills on time are much more likely to be in income poverty, and to report experiences of hardship than others"³⁷

In addition to this, it can also be suggested that people experiencing these significant barriers to effective market participation also find it harder to negotiate debt with service providers – their vulnerable status further marginalising efforts to retain an essential service. They also typically have larger bills, meaning that their total proportion of debt in relation to household income is significantly higher for this group³⁸.

Consumer Regulation – A Targeted Approach Is Necessary

The Issues Paper suggests the need for consumer regulation to be targeted, as more universally applied protections, if aimed at a relatively small proportion of consumers, places an unreasonable cost burden on service providers. WACOSS agrees that whilst much generalist protection is necessary, effective industry-specific regulation may target specific public accordingly, as well as reducing the regulatory burden on industry.

Currently, the behaviour of many essential service providers suggests that there is insufficient focus on providing higher-quality, equitable services to smaller-scale (i.e. residential) users when compared with larger, commercial entities³⁹. This situation exists because whilst numerically superior, residential and smaller commercial users of essential services make up a smaller proportion of total business than do larger users of

³³ Consumer Action Law Centre, 'Consumer Protections in the National Energy Market – the Need for Comprehensive Energy-Specific Consumer Protections', November 2006, p. 21.

³⁴ Consumer Action Law Centre, 'Empowerment & Protection – Updating Australia's Consumer Policy Framework' Speech to the National Consumer Congress 2007, p. 3.

³⁵ PIAC, p. 14.

³⁶ Committee for Melbourne, Utility Debt Spiral Project 'Utility Debt Spiral Study', 2004, p. 6.

³⁷ Ibid, p. 75

³⁸ Ibid, p. 75

³⁹ Essential Services Commission of South Australia, p. 17.

services. Because of this, there needs to be a 'safety net'⁴⁰ of consumer regulation, targeted at smaller users.

Increased focus by providers on larger-scale consumers who have higher levels of access to competitive markets reduces the need for additional industry-specific, consumer-related regulation for this group. State-based, industry-specific consumer protections, such as the *Code of Conduct for the Supply of Electricity to Small Users*, within the Western Australian *Electricity Industry Act 2004*, may provide an appropriate basis for industry-specific consumer protection⁴¹, focussed on residential consumers and those within the small business sector. Such legislation may also be harmonised, across state borders.

The Need for Hardship and Vulnerability Provisions

In addition to the need for industry-specific consumer protection to be aimed predominantly at smaller-scale consumers of essential services, it is also necessary that there be specific provisions for those facing financial and other types of hardship. People facing hardship do not exist within an unchanging demographic – anyone may experience hardship and vulnerability at some point in the lifespan. As such, hardship principles applied to industry-specific consumer protection can be seen as servicing the entire community, while focusing on a specific group at any given time.

Focussing on a specific group, industry-specific consumer protections aimed at people experiencing hardship and relative vulnerability, while potentially appearing to serve the interests of a relatively small number of consumers, may have significant beneficial effects on the wider community by way of ensuring ongoing attendance at employment and education and the maintenance of community hygiene and safety standards⁴². Conversely, the effects of the absence of relevant and appropriate industry-specific consumer protection regulation may be seen to have significant and negative effects on the cost of health care, workplace productivity and education.

It is acknowledged that the non-financial benefits and indirect financial costs of regulatory intervention are potentially difficult to quantify⁴³. This, however, does not suggest that they should be ignored, but rather, that greater resources should be marshalled for their study. As is the case in relation to environmental regulations regarding industrial pollution⁴⁴, the cost of regulation's absence is only likely to be visible after the fact, and to the detriment of the greater community.

RECOMMENDATION 7

Industry-specific consumer protection regulation is required for smaller-users of essential services and should be targeted at these consumers.

RECOMMENDATION 8

Within industry-specific consumer protection regulation, there should be specific and mandatory protections for people facing financial hardship and other types of social vulnerability.

⁴⁰ Allens Arthur Robinson, p. 2.

⁴¹ CALC, p. 13.

⁴² PIAC, p. 19.

⁴³ Alexander, B. & the National Consumer Law Centre, 'Consumer Protections Proposals for Retail Electric Competition: Model Legislation and Regulations', October 1996, p. 40.

⁴⁴ Ibid., p. 40.

RECOMMENDATION 9

Acknowledgement by the Commission that industry-specific consumer protections targeted at people facing hardship create significant benefit to the general community and prevent detriment that would otherwise exist.

MARKET TRENDS & DEVELOPMENT

As stated above, in addition to greater contestability, many essential service markets are also experiencing commensurate increases in product complexity. To a certain extent, differentiated product offerings, for instance, differing tariffs for time of use, may suit certain consumers to a greater degree than homogenous, 'flat-rate' charges. In this regard, the service provider can be seen to be benefiting the consumer as a direct result of its desire to differentiate itself from its competitors. Problems arise, however, when consumers are not able to readily differentiate between difficult-to-compare products or else do not have the requisite skills to do so.

Given the significant barriers to consumer participation posed by hardship, vulnerability and the potential inability to effectively use available market information, alongside the essential nature of certain services, consumers experiencing vulnerable situations require additional market information, targeted to meet their needs⁴⁵. Useful information may include both print and web-based tools to compare product offers and calculate price and cost comparisons. It is important to note that this additional provision of information should not take place to the exclusion of other types of consumer protection, such as enforceable industry codes. Information, however effectively promulgated, will always have a limited impact on consumer behaviour.

RECOMMENDATION 10

That regulation mandate that market information aimed at people experiencing hardship and vulnerability be produced with the intention of reducing barriers to consumer participation in complex essential service markets.

RECOMMENDATION 11

That such information not be provided in place, but rather to compliment, other important consumer regulation designed to protect people facing hardship and vulnerability.

HOW WELL IS THE CURRENT CONSUMER PROTECTION FRAMEWORK WORKING?

As stated in the Productivity Commission's Issues Paper, the current review of Australia's Consumer Protection Framework is the most significant in over 30 years. Much has changed within the country over this time, not least its economy, which continues to experience the significant market reforms of the 1980's and 1990's. When considering the role that consumer regulation has to play in today's and the future's economy, it important to consider the significant costs of market failure in essential services. Market failure may present itself in many different forms including demand-side

⁴⁵ Consumer utilities Advocacy Centre, 'Submission to the Ministerial Council on Energy Standing Committee of Officials', September 2006, p. 3.

barriers to participation, supply-side barriers to service provision and consumer detriment which may be the result of industry externalising the 'cost of business'.

Benchmarking and Data

It is vital when considering consumer protection regulation that policy-makers' decision-making be informed by the consideration and quantification of both 'public good' and 'public harm'⁴⁶ in addition to the financial costs of regulation. Currently, as is reflected in the Issues Paper, there is a significant focus of the costs of consumer regulation on industry. Whilst this consideration is an important one, in the area of essential services it is important that the 'public goods' associated with effective market participation by consumers and the 'public harm' that results from market failure also inform decision-making to a greater extent than at present. Additionally, the cost of the absence of appropriate regulation on consumers and the broader community should also be accounted.

Consumers of essential services have not historically been saddled with the significant and hard to quantify costs of the 'burden of choice'. This burden currently manifests itself as consumer confusion and high searching costs. Such costs should also be investigated when considering the appropriateness of increasing levels of retail competition in essential services and the level of complexity that many providers employ in effectively differentiating products.

Given the rate of change observed in the past, it is important that consumer protection regulation contain appropriate mechanisms for review and reporting on effectiveness⁴⁷. Such mechanisms would be assessable benchmarks which may be used to inform the relevant regulator as to their efficacy. Such mechanisms for review are currently contained within the *Electricity Code of Conduct for the Supply of Electricity to Small Users* within the *Electricity Industry Act 2004* whereby consumer representatives are included in the process of review. This situation represents current good practice as further discussed in WACOSS's discussion paper *Consumer Consultative Committees – facilitating consumer protection in essential service markets*, which is attached for the Commission's benefit.

In assessing the benchmarks around the efficacy of consumer protection regulation, regulators and the Commission in the course of its review should be cautious in its interpretation of data. For instance, whilst considering that an increase in complaints may be indicative of greater public awareness of a complaints-handling process, this does not detract from the existence of the complaints themselves and the possible consumer detriment therein. Likewise, issues faced by more disadvantaged and vulnerable consumers may be seen as "signposts for larger-scale consumer detriment"⁴⁸ and high rates of switching may be the result of poor service standards, not good levels of competition⁴⁹

RECOMMENDATION 12

That regulation around consumer protection in essential service markets be subject to ongoing review and reporting as per best practice.

⁴⁶ Australian Productivity Commission, 'Performance Benchmark of Australian Business Regulation: Overview', February 2007, p. xxvi.

⁴⁷ Consumer Affairs Victoria, 'Choosing Between General and Industry-Specific Regulation', p. 14.

⁴⁸ CALC, 2007, p. 8

⁴⁹ CUAC, 2006, p. 3.

RECOMMENDATION 13

That processes of review include consumer representation as per above identified best practice.

WHAT POLICY TOOLS SHOULD INFORM REGULATION?

The Commission's Issues Paper acknowledges that a range of policy tools are required for Australia's consumer protection framework to meet the likely challenges that it will encounter in an ever-changing environment. It is also important to note that not all mechanisms may be appropriate in all situations and that a "one size fits all" approach is unlikely to be effective, or pose reasonable regulatory certainty for the market.

There are a number of market conditions which "influence the range of available policy tools and the choices about what tools to employ in different circumstances"⁵⁰. The elements listed below are intended to be indicative of the need for and appropriateness of industry-specific consumer protection regulation in any given sphere.

1. That Some Markets are Essential, Not Optional

When considering the appropriateness of industry-specific consumer protection regulation, the effects of the absence of the protection should be considered. In the case of essential utilities such as water and energy, the effects of the service's absence are such that they significantly affect the wellbeing of the individual, even to the extent that life may be dependant on their presence. The absence of the service should be seen as the likely end result of a market failure, as is the case in essential services where consumers are unable to effectively participate in the marketplace due to financial hardship and other types of disadvantage. Conditions defining the essentiality of essential utilities have been discussed previously.

2. That Financial Hardship Impacts on Effective Market Participation

If the service or commodity is seen to be essential, it is then important to consider the extent to which financial hardship and other types of disadvantage impact on the individual or group's capacity to participate in the market. Unlike other markets, for instance that of luxury vehicles, market participation is essential and must be facilitated by regulation. In cases where financial hardship and other types of vulnerability exist as a barrier to effective market participation, then industry-specific regulatory responses targeting this consumer group should exist. As previously discussed, financial hardship and other types of vulnerability pose significant barriers to effective market participation.

3. That There is Need for Targeted Information Provision

Essential service markets, particularly those that are undergoing processes of reform, require a strong and well-informed demand-side in order to function appropriately. Given the unfamiliarity and complexity of choice and the potential barriers to the effective use of information posed by financial hardship and other types of vulnerability, essential services require industry-specific regulation exist to ensure necessary market information reaches consumers.

4. That There is Need for Independent Mechanisms for Redress

Given the potential impacts of non-participation in the market for consumers, it is vital that consumers have access to appropriate mechanisms for redress. Generalist

⁵⁰ Australian Productivity Commission, 'Consumer Policy Framework: Issues Paper', 2007, p. 17

consumer regulation, such as that contained within the Trade Practices Act and Fair Trading Acts across the states require that consumers or their representatives enter into an adversarial environment for redress and resolution – namely the Courts. Relevant state and commonwealth regulators have limited resources to prosecute minor breaches of the law and prohibitive costs and unavailability of free advice mean that private action brought by consumers in the area of essential services is likely to be low.

Independent, essential service Ombudsman schemes, as currently exist in Victoria and New South Wales, and as exist in Western Australia for gas and electricity (but not water) represent current good practice in accessible, affordable mechanisms for consumer redress. Such schemes are typically funded by the contributions of service providers whom are party to the scheme as a condition of their operating license. This provides industry with an incentive to reduce the rate of complaint and provides consumers with an independent arbiter, able to address systemic issues as they present themselves.

5. That There is a Need for a Variety of Purchase Options

As discussed previously, essential services are predominantly purchased on credit from providers. This has been shown to be the method which best guarantees the continuous supply of the service. There are times when, as a result of financial hardship or other type of vulnerability, consumers are unable to satisfy the payment demands of the essential service provider. In such instances, as is the case with the majority of essential service providers, there should be provisions for alternative payment regimes. These options may include payment instalments, bill smoothing or shorter billing periods.

Whilst the availability of such options for people experiencing financial hardship or other types of vulnerability are vital, and need to be assured within the context of regulation, consumers should not have these alternative billing methods imposed on them against their will.

RECOMMENDATION 14

That the existence of market conditions as be detailed below be viewed as indicative of a need for industry-specific consumer protection:

- The essentiality of the service
- The impact of market failure on people facing financial hardship and other types of vulnerability
- The predominance of credit as a purchase mechanism and the need for a variety of available payment options
- The need for special information &
- The need for mechanisms of redress

GENERIC VS. INDUSTRY-SPECIFIC CONSUMER REGULATION

As alluded to above, there are a number general principles which may be used to inform the decision as to whether or not industry-specific consumer regulation is required. There are significant advantages to industry-specific regulation, especially in markets “characterised by complex technology or having a natural monopoly”⁵¹. Most certainly, essential service markets fall into this category, with its continually growing investment in technology and strong tendency towards natural monopolies.

⁵¹ Organisation for Economic Co-operation and Development: Directorate for Financial, Fiscal and Enterprise Affairs: Committee on Competition Law and Policy, ‘Relationship Between Regulators and Competition Authorities’, June 1999, p. 105

Generalist Approaches – Problems with Effective Redress

Under more generalist consumer protection, such as the Fair Trading Acts and Trade Practices Act, consumers currently have access to mechanisms of redress such as the courts and the relevant State Ombudsmen schemes. Whilst these mechanisms are vital to the proper functioning of markets and present as methods for redress, relevant Administrative Tribunals and smaller claims courts have limited capacity to address systemic problems and affect change within organisations⁵². Additionally, already stretched to their limits, government and non-government organisations offering legal advice have little capacity to assist with civil matters.

The effects of hardship and its relationship to essential services have been discussed in-depth within the body of this paper. It is important to recognise that in addition to posing as a barrier to the effective use of market information, financial hardship and other types of social vulnerability also pose sometimes insurmountable barriers to accessing many forms of redress. The methods of redress contained within the more generalised forms of consumer protection, such as those available within Fair Trading and Trade Practices Acts are either challenging or impossible to employ for people facing the barriers of hardship and other types of vulnerability.

Generic Approaches – Unable to Focus on Important Consumer Problems

The effects of significant market failure in the area of essential services⁵³ are severe in their impact on people facing financial hardship and other types of vulnerability. Because of this, more generalist approaches to consumer protection cannot be seen as adequate in the task of addressing the problems most likely to be faced by consumers of essential utilities⁵⁴. Lack of effective access to civil means of dispute resolution and the potential inappropriateness of bodies such as the ACCC dealing with lower-level complaints also suggests the need for accessible industry-specific consumer protection regulation⁵⁵.

In order for regulation not to pose an unreasonable cost on industry, it should be appropriately targeted towards those with the greatest level of need. Industry-specific mechanisms for redress, mandated by regulation provide the most appropriate avenue by which mechanisms of redress can be made available to those who most need it. If appropriately reported, industry-specific regulation could also provide guidance as to the current level of effective competition in a market⁵⁶.

Different Markets – Different Needs

The maturity of essential service markets across Australia undergoing processes of regulatory reform differs greatly. The maturity of the consumer-relation regulation governing the behaviours of providers in this sector can similarly be viewed as existing on a spectrum between those markets where there is more developed consumer regulation (for instance Victoria) and those where it is currently under development (Western Australia). WACOSS recommends that such markets, undergoing processes of development, be subject to greater levels of reporting and review. WACOSS also suggests that such information as may result from frequent reporting may mediate against the decision to further reform the regulation an essential service market. It is important to note that genuine retail competition only occurs in markets with relatively

⁵² CALC, 2006, p. 11

⁵³ Consumer Affairs Victoria, November 2006, p. 10.

⁵⁴ Ibid, p. 14.

⁵⁵ Ibid, p. 5.

⁵⁶ Australian Energy Market Commission, p. 16.

low entry costs for suppliers⁵⁷, however, essential service markets typically have high entry costs.

RECOMMENDATION 15

That the Commission acknowledge the high social and financial costs to consumers when essential service markets fail and that this high cost of failure recommends the adoption of industry-specific consumer regulation.

RECOMMENDATION 16

That the Commission acknowledge the limited capacity of government and non-government agencies to assist consumers in claims under more generalist consumer protection regulation.

RECOMMENDATION 17

That the Commission acknowledge the limited capacity of consumers facing financial hardship and other types of vulnerability to effectively utilise mechanisms of redress under more generalist consumer protection regulation in regards to matters concerning the essential service market.

RECOMMENDATION 18

That essential service markets undergoing processes of deregulation be subject to adequate industry-specific reporting and review regimes. Additionally, it is recommended that these regimes may inform the appropriate level of contestability in an essential service market.

Generalist Approaches - Strengthening Enforcement & Redress

WACOSS asserts that appropriate industry-specific consumer protection does not duplicate more generalist consumer protection regulation; it complements it in areas where it may not be appropriate to regulate for all businesses⁵⁸. Currently, within the context of generalist consumer protection regulation, governments experience significant difficulty in enforcing policy and rulings that may result from smaller-claim cases in the courts. This difficult appears to point to the need for additional, generalist mechanisms for consumer protection, in addition to those that already exist.

Courts, as currently available to individual parties and groups seeking redress under generalist consumer protection regulation, are an adversarial environment. This type of environment does little to encourage the effective cooperation of industry⁵⁹. Independent schemes for complaint resolution – whether they be industry-specific ombudsman schemes or mechanisms for higher-level, systemic advocacy, also have the potential to provide industry with price signals proportionate to the level of genuine complaint brought against them⁶⁰.

The Need for Independent Advocacy

WACOSS supports the role of independent consumer advocacy within the context of a broader consumer protection framework. Independent consumer advocacy may either take place within the context of organisations concerned with a specific area of

⁵⁷ Cohen, M. G., 'From Public Good to Private Exploitation: Electricity Deregulation, Privatisation, and Continental Integration', July 2002, p. 37.

⁵⁸ CALC 2006, p. 5.

⁵⁹ Consumer Affairs Victoria, p. 20

⁶⁰ CALC, 2006, p. 11.

consumer behaviour (for instance, the Council On The Aging (WA)) or organisations specifically concerned with broader consumer protection issues, as is the case with CHOICE, formerly known as the Consumers Association of Australia.

Additional attention and funding is required to enhance the capacity of non-government, independent organisations to advocate for consumers. Such funding should be used not only to enhance the capacity for organisations to advocate for specific consumer groups, but also to coordinate activities between organisations, including information-sharing and joint submissions. There is currently a significant power imbalance between independent consumer advocacy and industry, within the context of generalist consumer protection regulation. This power imbalance further reduces the efficacy of more generalist regulatory approaches in protecting the rights of consumers.

Self & Non-Enforceable Regulatory Approaches

In its Issues Paper, the Commission cites self and industry-regulated consumer protection as being important regulatory, consumer protection mechanisms. Whilst such mechanisms have the potential to engage industry in maintaining standards of service, they are problematic for consumers as, in the case of essential utilities, such tools are relatively unenforceable. The above discussion of the relatively high cost of market failure on consumers also mitigates against the utilisation of self-regulation as a primary method of consumer protection in essential services.

Whilst potentially acting as guides for best practice, many non-regulatory instruments serve primarily as methods of information provision to consumers. Whilst non-regulatory approaches such as information provision are important, as previously discussed, they have limited efficacy in essential service markets, especially in situations of greater product complexity and financial hardship and other types of vulnerability. Because of this, mandatory, enforceable regulation is required in the design of industry-specific consumer protection⁶¹.

Non-enforceable regulatory approaches which go beyond minimum levels of protection can assist retailers to differentiate themselves from competitors, however, such approaches should complement enforceable regulation, not act in place of it.

RECOMMENDATION 19

That the Commission acknowledge that industry-specific consumer protection has the capacity to compliment more generalist consumer protection and that more generalist forms of consumer protection may not be appropriate in addressing the types of problems most commonly experienced by essential service consumers.

RECOMMENDATION 20

WACOSS supports the role of independent advocacy both generalist and industry-specific consumer protection. Independent advocacy may possess the capacity to approach matters systemically in a way that other mechanisms may not and are protected from industry and regulatory capture.

⁶¹ Sotkiewicz, Paul M., 'Considerations for the Design of Restructured Electricity Markets and Institutions', Public Utility Research Centre, p. 10.

RECOMMENDATION 21

WACOSS recommends that industries be given price signals by independent dispute resolution schemes. Such schemes encourage processes of engagement for involved parties and provide industry with impetus to improve in cases where market contestability is low.

RECOMMENDATION 22

WACOSS recommends that non-regulatory approaches such as customer charters and other types of market information provision not take the place of appropriate, enforceable consumer protection regulation.

RECOMMENDATION 23

That the Commission acknowledge the limited utility of non-regulatory types of consumer protection in regards to essential service markets – especially in relation to people experiencing financial hardship and other types of vulnerability.

CONCLUSION

WACOSS supports the Productivity Commission's current review of Australia's Consumer Protection Framework. This review, discussed in the Commission's Issue Paper, is the first major review of Australia's consumer protection policy, on a national level, for over 30 years. Because of this, the review provides the capacity to bring the current framework in-line with the needs of contemporary consumers and industry.

Consumer protection, in addition to promoting an informed demand-side within the economy, also has the important role of promoting fairness in our society, protecting the public from serious detriment and ensuring that people facing barriers to participation in certain markets are able to participate appropriately.

In order for the test of fairness to be met, WACOSS strongly recommends the continued use of industry-specific consumer protection regulation to protect consumers in essential service markets. Consumers of essential services can face multiple barriers to effective participation in markets and require the additional protection that only enforceable regulation can provide. The recommendations WACOSS has provided in this submission will seek to achieve greater protection for consumers and regulatory certainty for providers.

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