

13 February 2008

Consumer Policy Inquiry
Productivity Commission
PO Box 80
Belconnen ACT 2616

Dear Sir/Madam

REVIEW OF AUSTRALIA'S CONSUMER POLICY FRAMEWORK – DRAFT REPORT

The Energy Retailers Association of Australia (ERAA) welcomes the opportunity to comment on the Productivity Commission's Draft Report on the Review of Australia's Consumer Policy Framework.

The ERAA is an independent association representing thirteen retailers of electricity and gas throughout the National Electricity Market (NEM) and the jurisdictional gas markets. ERAA members collectively provide electricity to 11 million customers in the NEM and are the first point of contact for end-use customers for both gas and electricity.

In reviewing the consumer policy framework the Association strongly believes that competition represents the best form of consumer protection. This is based on the principle that the entry or threat of entry of new firms into a market forces incumbent firms to operate efficiently and make the most competitive offers to customers in order to gain market share. However, to realise the development of such markets, policy makers must focus on ensuring the barriers to market entry are kept as low as possible. This necessitates a light-handed approach to consumer protection with intervention only considered as an option where consumers and suppliers have been shown to be unable to develop adequate solutions to specific problems or "market failures." Importantly, any such intervention should only be as a last resort and only after efforts to resolve such problems have been attempted and failed. Interventionist policy based on the assumption that suppliers and consumers will be unable to resolve these problems should only be made in exceptional circumstances.

The ERAA is largely supportive of the Commission's findings as outlined in the draft report. The report identifies and appropriately reflects on a number of issues that the business community has raised in recent years including:

- To develop and implement a single consumer protection regime for energy services under the auspices of the Ministerial Council of Energy (MCE) (Draft recommendation 5.3);

- The removal of retail price caps (Draft recommendation 5.4)
- Ensuring disadvantaged consumers continue to have sufficient access to utility services at affordable prices through transparent community service obligations, supplier provided hardship programs, or other targeted mechanisms (Draft recommendation 5.4); and,
- The establishment of a national energy and water ombudsman that incorporates relevant existing State and Territory Alternate Dispute Resolution bodies (Draft recommendation 9.2).

While these factors can contribute significantly to the economic prosperity of the nation, they should only be pursued in a manner that simultaneously offers consumers, including those that are vulnerable or disadvantaged, with an improved mechanism of protection that is underpinned by enhanced consumer education.

The recommendations of the draft report seek to achieve much in terms of changes to the consumer policy environment. It is the hope of the ERAA that many, if not most, of the recommendations can be implemented as soon as is practicable. These will deliver better outcomes for consumers and business alike and ensure that Australia retains its reputation as having one of the most advanced and effective consumer protection frameworks in the world. Of particular interest to the ERAA and its members within the draft report are the recommendations that deal with consumer policy matters directly related to the retailing of electricity and gas. The ERAA makes the following comments on these specific areas.

Energy Specific Regulation

The Association believes the current consumer protection arrangements governing the retailing of gas and electricity are complex, divergent and inefficient. Compliance with these multi-jurisdictional regulations impose significant costs upon retailers, which both deters the entry of new retailers and diminishes the benefits that would otherwise flow from energy market reform to consumers.

In the retailing of gas and electricity the ERAA has been a strong supporter of the national reforms that are occurring through the Ministerial Council on Energy to encourage competition through the harmonisation and streamlining of the electricity and gas markets across Australia. The ERAA is currently involved in the Retail Policy Working Group which is looking at the harmonisation of the regulations governing the retail energy markets. While this group has begun to make some progress toward the task of a nation retail regulatory framework, retailers are concerned that some jurisdictions may not proceed with removing duplicate or unnecessary pieces of legislation.

An area of growth in energy regulation more recently, but not captured by the Commission Draft Report has been in the area of renewable energy. There are currently at least a dozen different national and State based schemes that regulate the sale of renewable energy to consumers including:

- Queensland Government 13% Gas Scheme;
- New South Wales Government Greenhouse Gas Abatement Scheme;

- National Mandatory Renewable Energy Trading Scheme;
- Victorian Government Renewable Energy Trading Scheme;
- The proposed National Emissions Trading Scheme;
- The Victorian Government Energy Efficiency Target;
- NSW Government Climate Fund (formerly known as the Energy Saving Fund);
- National Framework for Energy Efficiency;
- New South Wales Renewable Energy Trading Scheme (currently being drafted);
- Victorian Government compulsory feed-in tariffs for buy-back of renewable energy – on top of which the Queensland, South Australian and ACT Governments are also in the process of developing similar schemes in their own jurisdictions; and,
- Greenpower Accreditation Scheme (non-government voluntary scheme).

The ERAA would recommend that COAG assume the responsibility for the oversight of renewable energy regulation with the aim of ensuring any such policies do not duplicate the role of a national emissions trading scheme.

Retail Price Regulation of Energy

Energy price regulation represents a significant barrier to new energy retailers entering existing state and territory markets. Retail price regulation is a transitional measure introduced to protect customers while the energy markets were maturing. Although the level of competition in the Victorian, ACT and South Australia markets has developed to an effective level, policy makers remain reluctant to abolish price regulation. While retail price regulation remains in place, efficient market outcomes will be distorted and effective competition will continue to be inhibited – negatively impacting retailers and consumers alike.

The ERAA therefore supports the current process by the Australian Energy Market Commission (AEMC) to review the effectiveness of competition of the retail energy markets which have introduced full retail competition. These reviews are undertaken with the objective that for those markets where competition is found to be effective that price regulation should be removed. In 2007 Victoria was the first market subject to a review of the level of competition by the AEMC. The AEMC found that that retail energy competition in that state was highly effective and is leading to beneficial outcomes for households and businesses. The ERAA supports the AEMC's assessment of the Victorian retail energy market. On this basis, the ERAA strongly endorses the Productivity Commission's recommendations for the removal any price caps still applying in contestable retail energy markets.

Energy Hardship

Ongoing use of price regulation by State governments is often proposed as a way of addressing the issue of energy hardship. However it is our view and the view of many commentators that the ongoing existence of price regulation fails to target those most at risk. In assisting those customers in energy hardship the ERAA endorses the view that targeted and transparent Community Service Obligations are more effective in helping those most in need without distorting competitive market outcomes. The ERAA therefore strongly supports

the Productivity Commission's recommendation that disadvantaged customers are best assisted through transparent community service obligations, supplier-provided hardship programs, or other targeted mechanisms that are monitored regularly for effectiveness.

Ombudsman Schemes

During the many interactions that take place each year between energy retailers and their customers there will, from time to time, be complaints and disputes over certain matters. While the majority of these are generally resolved to the satisfaction of the customer via the complaint and dispute management programs of retailers, there are instances where the outcome is not to the satisfaction of the customer. To facilitate the resolution of disputes in these instances where customers and retailers cannot come to a mutually agreeable outcome, Governments in a number of States have introduced energy industry specific dispute resolution schemes – generally referred to as Energy Ombudsman schemes.

The ERAA supports the establishment and operation of such schemes and the assistance they provide customers in resolving disputes. However, ERAA member experiences with these schemes and developments taking place in schemes operating within other industries, both nationally and internationally have identified that there are opportunities for such schemes to operate more efficiently and to better serve the needs of customers, retailers and Governments alike.

The ERAA supports the Commission approach to harmonise the operation of the current ombudsman across the jurisdictions to achieve greater consistency in the resolution of disputes relating to national energy legislation. The ERAA believes that the consistency in the dealing with matters at a national level is paramount. However in achieving this, the ERAA would urge the drafting of a clear and strict charter in consultation with all stakeholders in order to prevent the body becoming overly bureaucratic and detached from the jurisdictions in which the disputes arise.

Should you require any further information in relation to this matter please feel free to contact me on (02) 9437 6180.

Yours sincerely

[Transmitted Electronically]

Cameron O'Reilly
Executive Director
Energy Retailers Association of Australia