



AUSTRALIA & NEW ZEALAND
ENERGY AND WATER
OMBUDSMAN NETWORK

17 April 2008

Review of Australia's Consumer Policy Framework
Productivity Commission
PO Box 1428
Canberra City ACT 2616

By email: consumer@pc.gov.au

Dear Commissioners

ANZEWON is an informal network of Australian and New Zealand energy and water Ombudsmen. In this short submission, we wish to clarify the role of Australian and New Zealand Energy Ombudsmen, including specific clarification of certain issues raised in a submission by TRUenergy to you on 11 February 2008.

We should say at the outset that ANZEWON members with jurisdiction over TRUenergy, enjoy positive working relationships with the complaint handling teams in TRUenergy as well as with other energy providers.

Jurisdiction and merit

All Ombudsman schemes have a process by which they initially test a complaint against their jurisdiction. If it is within jurisdiction, it must be accepted. Then there is an investigation which is about the merits of the complaint. This process is reflected in the Charters of our schemes. The company about which the complaint is made is a participant in that investigation, along with the complainant.

We cannot stress this point too much. It is the essence of an Ombudsman scheme to be fair, impartial and independent and to accord with well-established principles of procedural fairness. We must investigate merit, having ascertained that a complaint is within jurisdiction. Investigation of merit is the heart of the role, and a suggestion that we might make a premature judgement about merit and dismiss a case on that basis

without hearing from both sides is contrary to our fundamental processes of procedural fairness.

Complaint numbers

TRUenergy refer to different complaint rates in different states. This point requires clarification. Complaint rates are, for example, higher in Victoria and South Australia than in New South Wales. Population alone is not a good predictor of complaint rates. Those states which have had vigorous energy retail competition for longest, namely Victoria and South Australia, have higher complaint rates. It may be there are other factors at work too: the Telecommunications Industry Ombudsman, a national scheme, reports a similar state distribution of complaint rates. The following table shows the number of complaints received per 1,000 people, as reported in its 2007 Annual Report.

South Australia	6.3
Victoria	6.0
ACT	5.8
National average	5.1
Queensland	4.9
New South Wales	4.5
Western Australia	3.8
Northern Territory	2.8

Consistency of schemes

ANZEWON promotes the desirability of minimising those differences between ANZEWON members and has worked hard to do so. We work towards consistency of policy and procedures across all key areas. We share information extensively. We have achieved consistency across top-level issue categories. Differences in aspects of case handling, such as case registration and referral, have been eliminated. ANZEWON has had a project for more than two years to achieve consistency across a number of dimensions.

Costs of the schemes

The industry-based energy schemes mostly use variable funding for the majority of the schemes' costs. That is, there is a per complaint (or per case) charge so that the more complaints a company receives, the more it pays. Furthermore, no scheme accepts a complaint for investigation without the company having had an adequate opportunity to resolve the matter itself. This is a vital point: a company can avoid charges for referred or investigated complaints by dealing with those complaints in the first instance. Further, we work with our scheme participants to improve their internal dispute resolution.

The charging model serves the interests of companies and consumers alike. The variable charging model, with strong built-in incentives for internal dispute resolution, and with the equitable outcome that the companies with the most complaints pay the most, has been proven as effective and fair.

Handling cases

The power of the Ombudsman to make a Binding Decision is used very rarely. For example, the Ombudsman in Victoria has not made a Binding Decision in over four years despite having handled almost 19,000 fully investigated complaints in that period. The Ombudsman in New South Wales has made Binding Decisions in less than 1% of cases

Cases from business customers

The Energy and Water Ombudsman (Victoria) (EWOV) does accept cases from customers whose usage of electricity and gas is beyond the limits set for coverage of the Victorian Essential Services Commission's *Energy Retail Code* (160MWh per year), but it is exceptional for them to be large users of energy. Of the 1,420 businesses that brought cases to the Victoria scheme in 2007:

- 1,200 used less than 40 MWh per year
- 154 used between 40MWh and 160 MWh per year, and
- 66 (4.6%) were users of more than 160 MWh per year.

Compensation to consumers

One remedy offered to consumers as part of the resolution process in ombudsman schemes is monetary compensation. This can be in the form of payments by utilities to acknowledge deficiencies in customer service, refunds for errors in billing, waiver or reversal of fees and charges, compensation for damage to consumer appliances or property.

Conclusion

Overall, our experience is that energy ombudsman schemes enjoy entirely impartial, and at the same time, very effective relationships with both business and consumer stakeholders of our schemes.

In summary:

- all energy ombudsman schemes accept cases on the basis of our jurisdiction (which is fundamentally the same in all schemes) and then investigate the merits on a case by case basis;
- all but a very small minority of cases are conciliated, and not decided by a Binding Decision of the Ombudsman;
- all industry schemes derive the majority of their funding from per-case charges, which energy and water companies avoid by effectively resolving complaints before they come to an ombudsman office;
- ANZEWON members have achieved a high degree of consistency in our approaches and will continue to work towards this end; and
- most businesses which complain to an ombudsman are small businesses.

We hope this information is helpful in clarifying the role and operational processes of Energy Ombudsman throughout Australia.

If you have any questions, please contact Fiona McLeod, Energy and Water Ombudsman (Victoria) on (03) 9649 7599.

Yours sincerely



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