



15 November 2011

By email: declan.leamy@esc.vic.gov.au

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Essential Services Commission
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Dear Mr Leamy

Submission to ESC's Guideline 19 - Energy Price and Product Disclosure - Issues Paper

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to make a submission to the Essential Services Commission's (the **Commission**) *Guideline 19: Energy Price and Product Disclosure Issues Paper (Issues Paper)*.

Clear, simple and standardised information about the price and key terms of energy deals is essential if competition is to benefit consumers. Given this, we are very pleased that the Commission is examining the requirements around price and product disclosure and the way consumers are able to use this information in the market place. The changes proposed by the Commission reflect a fair understanding of the information barriers facing consumers, and we agree that simple changes to the regulatory framework will enable consumers to more confidently and easily participate in the market.

Access on retailer website

We share the Commission's concerns regarding accessibility of the standing offer on a retailer websites. We are disappointed that retailers have not interpreted the existing clause in Guideline 19 to proactively facilitate easy and logical access to pricing information by consumers, as should reasonably be expected.

We support the Commission's suggestion to change the name of the link on the retailer's websites to ensure it is clear and accessible to consumers. We are unsure, however, whether "Standing Offer—Price and Product Information Statement" is the most effective way of informing consumers that the link provides basic price information. We suggest an alternative such as "Energy offer price information", or something similar, be used. The title must resonate with a consumer who may be searching for a new retail offer or who simply wants to compare offers.

We suggest additional obligations on retailers to ensure that the price and product disclosure statement is not only prominently displayed but also requires only a single click through to obtain the actual information that consumers need to make informed decisions.

These changes to retailers' websites will be relatively straight forward and so implementation should be finalised within a reasonable and short timeframe following the Commission's final decision.

Process to access published details

We believe that consumers should be able to access price and product information from a retailer's website without being required to specify the technical information in clause 3.1 (a). Basic price and product information is essential to ensure consumers can participate in the market, and requiring technical information will only act as a barrier to accessing such information. We also believe that retailers must be able to provide the information without requiring a consumer to divulge any personal information.

We believe that retailers should be able to provide time of use (TOU) price and product information statements to customers under clause 3.1 (a) of the Guideline without further amendment. Retailers have an opportunity to be innovative in how they engage with consumers around TOU pricing and this clause does not limit this. We additionally encourage the Commission and energy retailers to ensure consumers have adequate information about their consumption prior to accepting a TOU offer. We strongly suggest consumers have access to a minimum of three months consumption data to inform their decisions in relation to TOU offers.

We also think it is unreasonable to expect consumers to know or understand their meter type. Consumers generally have a poor understanding of the types of meters available. If consumers do know something about their meter type, this generally extends only to knowing that a different type of meter may be necessary in order to obtain different tariff types (eg peak/off peak, time of use) or perhaps simply that they have a 'smart meter'. On this basis, meter type definitions should definitely be standardised across industry in simple English so consumers have a basic understanding of their meter type and potentially what that means to them.

Link to the Commission's YourChoice website

Consumer Action supports the simplification of links from the YourChoice website to the retailers' websites, by taking a consumer directly to the specific offer on a retailer's website, enabling them to act on that offer once they have completed their comparison.

We are concerned with the ongoing difficulty consumers have accessing offers on retailer's websites and suggest that relying on links from the YourChoice website should serve to simplify this.

Provision of information requirements

We support the proposal to merge the Price and Product Information Statement and the Offer Summary into a single document. Should this occur, it is imperative that it include only information that is specific to the offer is provided including, for example, how an offer differs from a standing offer, including variations to contract terms. The Guideline may need to be amended to ensure this.

We are very supportive of the Guideline being amended to confirm that the Offer Summary must always be provided to customers during any sales or marketing activity. The failure of retailers to proactively, or even in response to direct requests, provide an Offer Summary at the time of marketing has been an ongoing concern for Consumer Action. If consumers are not provided an Offer Summary it fails to provide them an opportunity to consider and compare the offer in their own time.

Exit fees and complaint handling information

We strongly support the Guideline including an obligation on retailers to ensure they include the additional material outlined in 'a - e', as proposed by the Commission.

In relation to obligation 'b', however, the inducements referred to must also be clearly defined. Inducements by way of magazine subscriptions, for example, can influence a consumer's decisions about signing a contract. The relative cost of the subscription to the supplier (which is relatively low) means that consumers could make better savings when looking at the price of the offer alone. The statement of costs therefore must be completely transparent and truly reflect the relevant costs a consumer must pay.

It is essential consumers have adequate information to enable them to make a complaint about the marketing practices or otherwise of energy retailers. We support this complaint being made to the relevant retailer, alongside their relevant self-reporting obligations to the Commission, as well as to the ombudsman scheme if they are unsatisfied with the outcomes of their complaint.

We do not believe that it is efficient or necessary to have a complaint made to the EAL Code Compliance Office by consumers. Consumers are better off dealing with the relevant retailer or the ombudsman who are in a position to deal with a complaint as it relates to a particular retailer. The EAL Code is designed to deal with complaints about particular salespeople—we believe that it is more effective for the complaint to be made against the retailer who are in a position to improve marketing practices, rather than use the complaints process to blame a "rogue" salesperson. Moreover, once a complaint is made to a retailer about relevant marketing practices, they must report it to the EAL Compliance Office themselves—it is not efficient to have consumers make two complaints. Further, we understand that EAL is not equipped or resourced to deal with complaints directly from consumers. We do not support this proposal.

Format requirements

We strongly support the proposed requirement for energy retailers to present their tariff information in a standard format, using standardised terminology. This will aid consumers in how they interpret the information presented to them and enable them to understand how discounts are calculated. To facilitate this and to simplify any transition to national regulations, we suggest this be done in collaboration with the Australian Energy Regulator based on the similar work they are already undertaking.

We also refer the Commission to the recent changes occurring in the United Kingdom with Ofgem proposing to require energy retailers to offer simpler energy offers¹, such as reducing the number of standard tariffs and introducing a single unit price. We believe Australian consumers would benefit from similar introductions.

YourChoice - Timing of updates

We believe that this current failure to provide the Commission with the relevant pricing information within the designated time frames is evidence of non-compliant behaviour by retailers and is unacceptable. Retailers must provide the Commission with the relevant information within five business days of changes to information to enable the YourChoice website to be an effective and accurate tool for consumers.

Energy retailers have staff, and in many cases, teams of staff, dedicated to pricing strategies—we can foresee no valid constraints to retailers from meeting their regulatory obligations and providing the Commission with the relevant information within five business days.

Retailer obligations to provide information

We support the Commission's proposal to include a specific reference to the Order in Council S315 (Nov 2008) that obliges retailers to provide the Commission with at least one market offer. This will ensure retailers are able to refer to the Guideline and as such unequivocally understand what is required of them.

Distribution zones

There is no plausible reason why energy retailers are not able to refer to distribution zones by the same and accurate names. Those currently used by retailers, as stated by the Commission, are historical only, and must be updated. We strongly support the Commission drawing upon the zones identified in the Department of Primary Industries tool and the proposed requirement for retailers to use the same.

¹ <http://www.ofgem.gov.uk/Media/FactSheets/Documents1/Simpler%20energy%20tariffs%20107.pdf>

Time of Use (TOU)—customer information requirements

We believe that much more consultation and research needs to be done on what information customers may require to accept a TOU offer and to enable consumers to make an effective choice.

For example, it is essential that prior to TOU plans being widely available that consumers have a broad understanding of what time TOU will mean for them. This will require an advance communication campaign by all retailers to communicate the potential TOU tariff structures and how it will affect the way a consumer is charged, depending upon their consumption behaviour.

Consumers must be able to ask their existing retailers for their individual consumption information and it needs to be provided in a format that is comparable across all retail offers enabling consumers to switch to the most appropriate offer. .

A simple example of low, medium and high energy usage will not necessarily translate to various TOU plans. Users in each of these categories may have widely varying consumption patterns, affecting their overall cost under TOU. Information provided by the AER's bill benchmarking work may go some way towards this, though it is unclear whether that work will reflect TOU data.

We do support however, the inclusion of information which outlines practical tips for the cheapest (and most expensive) time to use various, particularly discretionary, appliances under particular TOU plans. This should be accompanied by information about how to maximise energy efficiency and potential savings from any TOU plan.

About Consumer Action

Consumer Action is an independent, not-for-profit, campaign-focused casework and policy organisation. Consumer Action provides free legal advice and representation to vulnerable and disadvantaged consumers across Victoria, and is the largest specialist consumer legal practice in Australia.

Consumer Action is also a nationally-recognised and influential policy and research body, pursuing a law reform agenda across a range of important consumer issues at a governmental level, in the media, and in the community directly. Consumer Action has been actively involved in energy advocacy work in Victoria and nationally since the 1990s. Over this time we have provided key consumer input into important energy regulatory processes for consumers, including the current Victorian smart meter rollout and initiatives relating to improved energy price and product information disclosure following the deregulation of Victorian retail energy prices.

Since September 2009 we have also operated a new service, *MoneyHelp*, a not-for-profit financial counselling service funded by the Victorian Government to provide free, confidential and independent financial advice to Victorians with changed financial circumstances due to job loss or reduction in working hours, or experiencing mortgage or rental stress as a result of the current economic climate.

Consumer Advocacy Panel grant recipient - disclaimer

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The views expressed in this document do not necessarily reflect the views of the Consumer Advocacy Panel or the Australian Energy Market Commission.

Should you wish to discuss this submission further, please contact me on 9670 5088 or at janine@consumeraction.org.au.

Yours sincerely

CONSUMER ACTION LAW CENTRE

A handwritten signature in cursive script that reads "Janine Rayner".

Janine Rayner
Senior Policy Officer