

27 November 2014

Australian Energy Market Commission
PO Box A2449
Sydney South
NSW 1235

Submission to the 2015 Retail Competition Review Approach Consultation Paper (RPR0003)

Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to provide input into the approach to the Australian Energy Market Commission (**AEMC**) 2015 Retail Competition Review. Effective competition is critical for energy consumers to the extent that it drives lower prices and responds to the consumers' needs to provide more useful and appropriate products.

Consumer Action strongly supports the principles behind the review and the need for ongoing monitoring of retail competition, and is committed to working with the AEMC to ensure good outcomes for consumers in the National Electricity Market (**NEM**). In line with this, we bring to your attention some fundamental elements of effective competition that we believe were overlooked in the 2014 review. We believe that these core indicators and measures must be included in the 2015 review if it is to give a complete picture of the state of competition in the NEM and the extent to which it delivers good outcomes to consumers.

The AEMC has posed three questions in the consultation paper:

1. Will the framework set out in section 3 of the paper enable the AEMC to adequately assess the state of competition in NEM jurisdictions?
2. Which elements of the 2014 review were of most value that you would like to see repeated in the 2015 review, noting the scope of similar work being undertaken by other organisations?
3. Were there any issues not considered in the 2014 review that you would like the AEMC to consider in the 2015 review that are within the scope of the terms of reference?

We provide a combined response to these questions below.

Building on the 2014 Review

The inaugural Retail Competition Review in 2014 found that competition was effective for consumers in Victoria, based on (amongst other things) a high level of consumers on market offers, a relatively high level of switching between retailers and high levels of reported satisfaction from survey participants. This was despite the finding that many customers' reported satisfaction was more related to the reliability of supply rather than retailer customer service or the product offerings available.¹

The 2014 review also found that retailer margins in Victoria are much higher than elsewhere. If true, this points to a concerning failure of competition. Both the previous and current reviews pre-suppose

¹ AEMC (2014). 2014 Retail Competition Review Final Report, page ii.

that deregulation necessarily equates to effective competition, as highlighted by the statement that ‘reviews are to principally cover jurisdictions that are subject to retail price regulation’ and jurisdictions where prices have been deregulated are to be included for ‘comparison purposes’ only.² We do not believe that this assumption is borne out by the AEMC’s own findings of higher retailer margins in Victoria, or the extremely low levels of trust that consumers have in energy retailers.³

While we support the methodology of market research surveys and forums used in the previous review, the 2015 review needs to go further to look at the causes of consumer disengagement in deregulated jurisdictions (principally Victoria) and assess whether measures to educate and engage consumers are effective and capable of being understood by consumers.

Consumer Action warmly welcomed the consumer impact principle proposed by the AEMC in the recent draft determination on distribution network pricing, particularly with respect to its finding that consumers must be capable of understanding any changes to network tariffs proposed. We believe that a similar principle should be employed by the AEMC in the context of the effectiveness of retail competition and consumers’ ability to meaningfully engage and make choices that meet their needs.

In light of this, we recommend that the AEMC principally focus on two areas in the 2015 review to build on the previous review:

1. The level of consumer engagement and understanding; and
2. Retailer profit margins in Victoria and their impact on efficient service delivery and effective competition.

1. Include a Consumer Engagement Indicator

In our interaction with energy consumers through both the MoneyHelp financial counselling service and our legal advice line, we see a lot of evidence of consumers’ lack of engagement with the energy market. We also frequently find that consumers do not understand the products that they have signed up for, or their rights in the energy market. In a recent survey of consumers by CHOICE, energy retailers scored very low on consumer trust, at just 9%.⁴ This evidence is not congruent with the previous review’s finding that competition is effective in Victoria.

Lack of engagement by consumers is frequently cited by many energy market institutions as an impediment in a range of contexts, including the adoption of demand-side technologies and flexible pricing structures to drive more efficient use of network assets, greater competition and switching behaviour with respect to retailer product offerings, and better knowledge of, and access to, retailer hardship programs. This collective acknowledgement of low levels of consumer education and engagement highlights the widespread nature of the problem and its impacts on energy market growth and change to meet changing needs.

² AEMC (2014) 2015 Retail Competition Review Consultation Paper, page 2.

³ Energy retailers score as low as appliance salespeople on levels of consumer trust. Choice (2014) Pulse Check, National Findings 2014. Accessed at: <http://www.choice.com.au/media-and-news/consumer-news/news/choice-cost-of-living-report-highlights-tough-times-for-many.aspx>

⁴ Choice (2014) Pulse Check, National Findings 2014. Accessed at: <http://www.choice.com.au/media-and-news/consumer-news/news/choice-cost-of-living-report-highlights-tough-times-for-many.aspx>

The 2015 review has a role to play in assessing the extent of consumer disengagement, and its primary drivers. We believe that a new headline indicator must be adopted in the review, dedicated to **consumer engagement, education and trust**.

Measures reported against this new indicator should include:

- Level of trust in energy retailers;
- Consumers' ability to find and understand market information;
- An evaluation of consumer decision making during their product choice process and the information that they access and is useful to them in making energy market choices; and
- An assessment of what products consumers believe they have signed up for compared to what they are actually receiving.

On this, we note with interest that the AEMC has included the Victorian Energy Statement amongst its list of inputs, highlighting its intent to look at 'informational, economic, behavioural and demographic issues inhibiting consumer engagement'. We strongly support this information being a focus within the AEMC's review, but highlight that the Victorian Energy Statement was a policy commitment by the incumbent government and has not been commenced ahead of the Victorian election. It is therefore not guaranteed that this review will be undertaken. To ensure that this information is available for the AEMC's review, we believe that the AEMC should undertake this assessment itself as a measure under a new Consumer Engagement indicator.

In particular, we believe that limited forms of product standardisation will help to enhance competition through providing simple and fair choices that will increase consumers' ability to engage. This has been recognised in other key consumer markets, including a ban on home loan exit fees, rules requiring credit card providers to apply interest rates and repayments according to statutory formulas, and the insurance 'standard cover' regime to name a few. We expect the 2015 review to consider the potential benefits of limited product standardisation for enhanced competition.

2. Investigate Retailer Profit Margins

Consumer Action was extremely concerned by the finding of the 2014 review that retailer margins are higher in Victoria than in other states. If this is the case, it is an indicator of a failure of competition to provide the lowest prices to consumers and points to the fact that deregulation does not automatically lead to effective competition. We strongly believe that effective competition needs effective regulation.

Of course we expect that retailers will make a profit, but the evidence presented by the AEMC, and more recently highlighted by the St Vincent de Paul Society in their ongoing tariff tracking,⁵ uncovers a trend toward high profit margins that are currently unexplained and going in the opposite direction to what one would expect in a competitive market.

In light of this, the 2015 review needs to build on the work of the 2014 review to look at the cause of high retailer margins in Victoria. While we acknowledge that the Victorian Energy Statement has

⁵ St Vincent de Paul Society (2014). Victorian Energy Prices July 2014. Accessed at: http://www.vinnies.org.au/icms_docs/192728_Victorian_Energy_Prices.pdf

already committed to this, we refer to our previous concern that this commitment will not go ahead pending the outcome of the Victorian election.

We therefore expect the 2015 review to undertake a substantial review of retailer profit margins and assess what this means for efficient service delivery and effective competition.

Summary of Recommendations

Consumer Action recommends that the 2015 Review of Retail Competition:

1. Includes a new **Consumer Engagement** indicator, including measures that assess consumer trust and ability to make informed choices in the energy market.
2. Explicitly assesses the role of limited **product standardisation** in enhancing competition through providing simple and fair choices for consumers.
3. Investigates the **causes of high retailer margins** in Victoria and assesses what this means for efficient service delivery and effective competition.