

21 March 2018

By email: AERInquiry@aer.gov.au

Michelle Looi
Assistant Director, Retail Markets Branch
Australian Energy Regulator

Dear Michelle

Benefit Change Notice Guidelines Issues Paper

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to comment on the Australian Energy Regulator's (**AER**) benefit change notice guidelines issues paper. As stated in previous submissions to the Australian Energy Market Commission (**AEMC**) and Essential Services Commission (Victoria) (**ESC**), Consumer Action supports requiring retailers to notify customers when their benefits change.

It is important that the AER utilise behavioral economics insights to ensure that the notices are as effective at meeting the relevant policy objectives as possible. It is also essential that the notices are consistent across retailers and easily comparable to the Energy Made Easy (**EME**) website so that all households have the same opportunity to easily get the most out of EME.

We believe that these notifications will have little impact on the poor outcomes for consumers in retail markets that have been outlined in the ACCC Retail Electricity Price Inquiry preliminary report and the Independent Review of the Electricity and Gas Retail Markets in Victoria. For this reason, we will continue to advocate for stronger interventions in residential energy retail markets.

Our comments are detailed more fully below.

About Consumer Action

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just market place for all Australians.



Consumer Action's responses to specific consultation questions

1. Are there any benefit changes that should be excluded from the requirement to send a notice? Why?

We agree with the AER and AEMC positions as articulated on page 18 of the AEMC's Final Determination.¹ If benefits to a customer under a contract have not changed and they will be notified if a change does occur then there is no need to confuse households with notices where the contractual entitlement to a benefit is no longer present but there is no change.

2. Are there other risks or considerations should we be aware of?

Retailers should be required to keep records demonstrating where they have made the decision not to notify the customer of a change of benefit (at times where their contractual obligations to provide benefits change) that they consider excluded. This should be made available to the customer or their representative where a dispute arises.

3. Is including a comparison amount in the notice likely to encourage greater customer engagement with the market? What are the advantages or disadvantages of including an additional comparison amount?

We support including a comparison amount. We see the advantage being that the customer may find it easier to quickly assess how a change in benefit will impact their household when given two-dollar figures.

We note that there is a Federal Government proposal to improve disclosure of pricing on insurance renewal notices by including the previous year's premium.² This is based on experiments that have shown that this sort of information motivates consumers to switch.

For example, in 2014, the UK Financial Conduct Authority (**FCA**) launched a large scale randomised control trial with over 300,000 consumers across the UK to test reactions to different types of information provided at renewal and whether this prompted people to switch. The inclusion of last year's premium on renewal notices had the greatest impact, prompting between 11% and 18% more people to either switch provider or negotiate a lower premium when prices sharply increase.³

Similarly, Consumer Action commissioned research in 2015 which told us that 86 per cent of people would find it useful if renewal notices included the renewal price, last year's price and the reason for any change.⁴

We suggest a comparison based on the previous year's cost of energy with the forthcoming annual cost may similarly encourage consumers to consider switching.

¹ AEMC 2017, Notification of the end of a fixed benefit period, Rule determination, p.18

² Australian Government, *Response to the Senate Economics Reference Committee report: Australia's general insurance industry, sapping consumers of the will to compare*, December 2017.

³ FCA, Press release: FCA to require insurance firms to publish details of last year's premium, 3 December 2015, <https://www.fca.org.uk/news/press-releases/fca-require-insurance-firms-publish-details-last-year%E2%80%99s-premium>.

⁴ Consumer Action, Insurance companies: prove your loyalty to us, be upfront on prices, June 2015, <http://consumeraction.org.au/insurance-companies-prove-your-loyalty-to-us-be-upfront-on-price-rises/>.



A likely disadvantage may be that it is difficult to design a simple reflection of the customers options in the complex retail energy services market. As stated in our submission to the AEMC rule change on the notification of the end of fixed benefit periods we are skeptical that these changes will have a large impact on the significant market failure occurring for Australians accessing retailer services.

4. What type of comparison amount is likely to be the most effective?

This issues paper suggests comparing historical billing information or the sum of the value of the benefit. Displaying the future projected cost of energy use using the EME website's algorithm with the benefit still applied (if the price structure wasn't changing) and without the benefit (as will be the case from the benefit change onwards) would be most effective as this would be readily comparable to other offers on the EME website. The format should also explicitly state in dollar terms the additional projected cost of doing nothing and base this on the projected cost of the cheapest EME offer available to the household from any retailer.

5. What format should a comparison amount be presented in?

Our organisation does not have design expertise in this area but would suggest that behavioral economics insights should be drawn on to create the design. Features that clearly and simply indicate a negative financial impact to a household should be incorporated in a prescribed format.

Our Power Transformed report outlines behavioral economics insights that may be useful in section 3.2.⁵

6. What other risks or considerations should we be aware of?

Wider issues around customer trust and complexity in competitive energy markets already make it likely that many households will err on the side of not making a decision to switch even when given clearly laid out information that supports that decision.⁶

We acknowledge there is a risk of confusing customers with projected future costs. We also feel there is a risk that consumers are overwhelmed by information overload if a notice is too complex and that this is likely to curtail the intended objectives of notifying households of benefit changes.

7. Are there any other challenges retailers may encounter in providing consumption data (in addition to those described above)? Are these specific to electricity or gas?

We are not aware of other issues but consider that it is inappropriate for a retailer to risk bill shock for its customers by providing only estimated billing over an extensive period.

8. How should assumptions underpinning estimated energy consumption data and the AER benchmark consumption data be disclosed?

This disclosure should align with EME's disclosure for simplicity. Accessing this information could be made available by external source such as a website link. Taking such an approach will limit the amount of information on the notice and abate the risk of information overload for a reader.

⁵ CALC 2016, Power Transformed; Unlocking effective competition and trust in the transforming energy market, p.25

⁶ Deller, Giulietti, Loomes, Moniche Berjamo Waddams Price, Young Jeon 2017. Switching Energy Suppliers: It's Not All About the Money; CCP Working Paper 17-5, University of East Anglia.



However, wherever a weblink is given in relation to an essential service other accessible options for those without access or the ability to access the internet should also be available.

9. What other risks or considerations should we be aware of?

As in our response to consultation question 6 above it is important that the notice does not compound information overload for customers.

10. Do you agree with our proposed approach? What are the benefits of a more prescriptive or less prescriptive approach to the manner and form of the notice?

We support the proposed approach to prescribing some aspects of the notice and its delivery according to customer preferences for communication. We also support utilising the work of the behavioral insights team to inform the decision about the notice's presentation.

Prescription around the notice will benefit all households in terms of the consistent standard for information that will be provided to all.

11. Are there additional elements to those described above that should be prescribed by the Guidelines?

As described in our response to consultation question 4, we would prefer to see a reference to the cheapest available price for the customer from EME. Even if this is not possible within the rules it is essential that information about EME on the notice is prescribed by the AER and this prescription be informed by behavioral insights about the best design to achieve objectives.

12. Is a headline statement or call to action an effective way to prompt meaningful customer engagement with the content of the notice?

We believe a headline statement will be more effective at prompting a customer to take action and support the AER testing the effectiveness of headline statements with behavioral economics research.

13. Are there examples in other industries of effective headline statements or calls to action?

Having an emotive name for a change of benefits may elicit more effective outcomes. A recommendation from the United Kingdom market investigation was to rename Standard Variable Tariffs, to something like 'default,' 'emergency' or out of contract tariff.⁷ A similar prescribed naming could be formulated for benefit changes, for example: *"You are on an expired deal, which is likely to be more expensive."*

14. Do stakeholders have comments on these additional considerations?

We support retailers using the same algorithm as EME for simplicity as stated in our responses above. We also consider there is merit in short and concise statement that makes clear the nature of the benefit that is changing.

⁷ CMA 2016, Energy Market Investigation final report, available at: <https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>, p. 813



Please contact Jake Lilley on 03 9670 5088 or at jake@consumeraction.org.au if you have any questions about this submission.

Yours Sincerely,
CONSUMER ACTION LAW CENTRE



Gerard Brody
Chief Executive Officer

