



1 November 2010

By email: AERInquiry@aer.gov.au

Mr Tom Leuner
General Manager
Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Dear Mr Leuner

Submission to the AER Retail Pricing Information Guidelines - Position Paper

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to make a submission to the Australian Energy Regulator's (the **AER**) Retail Pricing Information Guidelines - Position Paper (**Position Paper**).

We largely support the AER's position in relation to the majority of the Position Paper for the Retail Pricing Information Guidelines. The consultation process, while still informal, has provided the AER with a good insight into the needs of consumers in a complex market, particularly as exists in Victoria, and has balanced these with the obligations on businesses to more effectively facilitate informed consumer engagement in the competitive market.

We have provided a direct response to the questions posed by the AER coupled with overall observations below.

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.

Methods of presenting retail offer information

The AER seeks stakeholder feedback on its preliminary approach to presenting energy prices.

Consumer Action supports the AER's preliminary approach to presenting energy prices. We firmly believe that standardised unit pricing information must remain the building block of pricing information for consumers.

It would be very valuable however for consumers to be able to assess their annual cost under both flat and time of use tariffs. The complexity created by time of use tariff structures and other complex tariffs could be partly overcome by providing for the inclusion of annual cost information which would clearly show the amount of usage within each different tariff period that the annual cost examples are based on. This would particularly be useful if deemed load profiles are used because they may bear no relation to that customer's actual usage patterns. Further, of course, it should be made clear to consumers that it is based on a deemed or average usage pattern but is not specific to their circumstances.

Scope of the Guideline

The AER seeks stakeholder views on whether the Guideline should supplement requirements on retailers to notify customers of any variations to their offers.

The AER also seeks views on how the Guideline could supplement the requirements in the Retail Law/Rules.

Consumer Action strongly supports the AER inclusion in the Guideline of the requirement that information on retail offers be provided to customers during:

- in person marketing activities, such as door to door sales
- telemarketing activity
- and the internet.

The Wallis report's findings focus on direct sales from a retailer and price as being the biggest reasons behind customer switching, emphasising two things, predominantly that there is a significant role and need for retailers to provide transparent access to pricing

information and further, that the way in which energy prices are disclosed must enable consumers to make a fully informed decision.

A disclosure statement where the placement of relevant information on the page, the font size and the extent of information is similar across retailers, will ensure that consumers have the ability to compare offers more effectively.

Energy pricing information must be presented at the time of any direct marketing, specifically at the door, and must not be conditional on a consumer signing a contract. As such, we strongly support the AER requiring retailers to provide it on the offer that they are marketing - at the time of marketing - regardless of whether a consumer takes up the offer. Failure to provide this information to all consumers marketed to, as frequently occurs in Victoria in relation to 'offer summaries', means that consumers have no reference document when considering or comparing offers and more specifically, limited knowledge of their commitments and expectations under contract. Most importantly however, the AER will need to consider how it will administer and enforce this obligation. Failure to enforce this obligation will seek to make it redundant and the information asymmetry for consumers will remain.

The requirement for information provided at the time of telemarketing, should be provided to the customer within 5 working days. In addition to this emphasis needs to be placed on the obligation to inform consumers of the cooling off period at all times.

The placement of the disclosure statement on the retailers' websites will require more guidance for retailers to ensure clear and easy access for consumers. The AER must ensure that the link from a retailer's website's homepage means that information in relation to pricing is only one click away, not a series of clicks and screens, or requests for different information.

It is essential that retailers are required to advise customers of changes and variations to retail offers prior to them taking place. This obligation will therefore automatically require that a revised disclosure statement is sent to a customer, well before the next bill (unless that of course is prior to the change). Notifying consumers of any changes to their offer will more effectively facilitate competition, allowing consumers to shop around and switch retailers if they wish on the proviso their contract enables this without impediment.

Presentation of information

The AER seeks stakeholder views on this issue. If stakeholders are supportive of mandatory inclusion of such examples, should they provide examples of the types of information that would be most useful for inclusion in the Guideline.

We continue to advocate strongly for disclosure statements to be clear, easily accessible and simple to understand. The most effective way of achieving this is for the AER to prescribe a template for information provided on the internet, in brochures or in any marketing material published in written form under the Guideline. That is the only way to

ensure standardisation of the information for comparison purposes and to ensure that the sufficient level of information – balancing detail with simplicity – is achieved.

Contrary to retailer concerns regarding a template stifling innovation, we would point the AER to the issue that innovation should be in the price and product, not the colour or font style or size of the disclosure statement. As stated in the Wallis report, consumers are making price based decisions. The more easily accessible the information is the more effective competition will be, while the more obscured this information is, the more complicit the retailers are in preventing effective competition.

We support the AER conducting further research in relation to the title for the disclosure statement. Further, we are of the strong belief that other information relating to the overall price paid must also be covered by the Guideline. The AER categorises information on incentives such as direct debit rebates and loyalty rebates as 'information other than price' but, in fact, they are part of the mix of what will make up the final price the consumer will pay, thus in our opinion they constitute pricing information. These must be disclosed separately from the underlying price for the energy services supplied. This is particularly important because an offer may be marketed on the basis of the total final price inclusive of all discounts where the design of that offer means some or all of the discounts are conditional on the consumer meeting certain requirements, for example to pay by a particular time. To provide their explicit informed consent to such a contract, consumers need to see all relevant aspects of their offer.

We note that prices included in the statement must be those prior to a discount being applied if the discount is based upon customers having to meet conditions such as pay on time requirements.

Finally, in relation to additional information that enables consumers to further consider and compare prices and offers available from retailers, a definition of kWh, as kilowatts per hours, would be valuable, combined with the mandatory inclusion of a key which describes what one kWh of electricity can achieve in various appliances. We support a similar format as provided in the appendices to the Wallis report, for Energy Company A. We would add three more items, including a plasma TV, a hot water heater system and an air conditioner as these can increasingly be found in Australian homes and all of which are energy intensive.

We thank the AER again for the opportunity to provide further input into the Guideline. Should you have any questions about this submission, please contact Janine Rayner on 03 9670 5088.

Yours sincerely

CONSUMER ACTION LAW CENTRE



Janine Rayner
Senior Policy Officer