28 May 2010

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

By email: AERInquiry@aer.gov.au

Dear Tom,

ORIGIN SUBMISSION TO NATIONAL HARDSHIP INDICATORS ISSUES PAPER

Thank you for the opportunity to provide input to the Australian Energy Regulator's (AER) *Developing National Hardship Indicators – Issues Paper.* We recognise the importance of having these discussions and appreciate the AER's efforts in this area.

While Origin understands the ideals behind hardship indicators, and recognises the position of the AER in trying to understand and be able to report on hardship programs' success (or otherwise), we are concerned that the proposed indicators may not prove effective in informing either the comparison of retailer programs or the further development of these programs to better serve the needs of hardship customers.

The proposed approach combines information that is 'nice to know' from a policy perspective with other data that might directly inform a view of retailer program performance. These are all presented as indicators of the effectiveness or otherwise of energy retailers' hardship programs.

This reflects a risk to retailers as it sets expectations about hardship programs that are not substantiated, and this is particularly the case where the AER has focussed on customer debt and behavioural outcomes rather than the program 'inputs' that retailers can actually control.

Unless there is a clear link to defined policy expectations (including what an 'effective' program might look like) and retailer compliance requirements there is a real risk that the community and other stakeholders will build a confused or unrealistic view about what retailers can be responsible for.

If you have any queries about this submission please contact Dr Fiona Simon in the first instance on 0409 028 740.

Yours sincerely

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Developing National Hardship Indicators – Issues Paper

Submission of Origin

May 2010

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Executive Summary

Thank you for the opportunity to provide input to the Australian Energy Regulator's (AER) *Developing National Hardship Indicators – Issues Paper.* We recognise the importance of having these discussions and appreciate the AER's efforts in this area.

While Origin understands the ideals behind hardship indicators, and recognises the position of the AER in trying to understand and be able to report on hardship programs' success (or otherwise), the approach taken to date leaves open the risk of misinterpretation. The proposed indicators do not link specifically to the policy objective and regulatory requirements of energy retailers, and instead are built on specific assumptions about what would be 'nice to have' in terms of outcomes. We believe that while there is no clarity about what an effective energy hardship program would look like in a practical sense, the proposed indicators may not prove effective in informing either the comparison of retailer programs or the further development of these programs to better serve the needs of hardship customers.

Origin is also concerned about the apparent view of the AER that the effectiveness or otherwise of a energy retailer's hardship program can be measured by looking at a customer's ongoing behaviour and debt profile, rather than measuring and assessing what retailers actually provide. This is because energy bills comprise a very small part of a household's expenditure, and because hardship situations bring stress and esteem issues for customers that retailers cannot control and often do not even have access to.

If there has been a shift in community expectations such that energy retailers are to have hardship programs that specifically reduce debt – and the chances of falling into debt – permanently for their customers, then the policy on this needs to be explicit, the subject of public debate, and based on solid and comprehensive research into household expenditure and the role that energy bills play in this total picture and in the consumers' psychology. This has not occurred to our knowledge.

Having said this, we certainly believe that collecting the information outlined by the AER still has value as it will help inform public policy and stakeholder expectations of retailers. The fact that this information is collected at all can therefore be a positive step (depending on its use), as it brings us closer as an industry and community to having a more informed and practical discussion about what can be done to support citizens experiencing financial hardship generally, what 'works' and what does not, and the role that an energy retailer should (and can) play.

The challenge for the AER is then to be clear in its public reporting where data is for information purposes only (such as where it perhaps is 'nice to know' from a policy perspective or might help explain other data that look problematic) versus where data relate to a specific energy retailer hardship program performance indicator under the Retail Law. The risk to the industry is where this is not clear and the community and other stakeholders build a confused or unrealistic view of what retailers can be responsible for.

This is particularly important as the AER's retailer performance reports will be widely disseminated and will receive strong media and political attention. The AER is (and will be) understandably seen as a credible and authorised source of the 'truth'. As such, Origin believes that there needs to be a clear sense of a realistic 'good' outcome in the eyes of the AER, a strong 'science' behind the indicators used and their relevance to actual customers, along with a deep analysis in the associated commentary within a performance report.

We do not mean to make the AER's task more difficult, but the fact is that as energy retailers in a highly political environment we are regularly judged by our key stakeholders on how we meet customer needs – as we should be – and this includes how we meet the needs of our more vulnerable customers. Given this, Origin feels that it is only 'fair' if public reporting on retail performance is clear in what it is trying to achieve, and clear in the messages being sent explicitly or implicitly to our stakeholders about what is expected of energy retailers.

Identifying success in a realistic manner

The fundamental question that needs to be asked is: what does an effective hardship program look like? If we go back to the original concerns of policymakers and consumer advocates, an effective hardship approach should result in customers in financial hardship not being disconnected, where their capacity to pay is taken into account in the creation of payment plans, where there is access to other forms of support such as energy efficiency advice and government programs. We suggest that these criteria are really all that retailers should be judged on, as well as any other regulatory compliance obligations.

However the current indicators and statements from the AER in its Issues Paper highlight a set of specific expectations about hardship program outcomes that are not clearly relevant to the general purpose and which Origin finds concerning.

For example, the current indicators suggest an expectation that a successful hardship program will result in a reduction of debt between entry and exit to the program. This would seem to indicate that the AER and others believe consumers' lives are static, that their levels of income and their costs of living do not change. It also assumes a level of control over our customers' lives that retailers just do not have. Further, expecting a customer to not be disconnected within two years after being in an (effective) hardship program appears to imply retailers' hardship programs have some permanent effect on customer circumstances. This contrasts with practical experience which shows that all we can say *for sure* is that anyone can fall into hardship for any reason, or an unfortunate constellation of reasons, and so their propensity to travel through a cycle of disconnections and reconnections for non-payment is not clear.

Further, there is an often vexed relationship between debt and disconnection that needs to be accounted for in any assessment of 'effective' performance. While in theory a 'good' hardship program might be one that has very low debt levels for customers upon exiting, low disconnection and low (enough) payments for even the most chronic hardship situation, these are rarely going to co-exist unless some external change allows for it, such as an unexpected financial windfall for the customer. Very low payment levels and low use of disconnection is more likely to lead to debts rising than in eradication of debt.

A further issue of concern to Origin is the matter of customers who do not engage with retailers, and how this is viewed by various external parties. At what point is it accepted that a retailer has 'done all it could'? Is this when we have tried to contact a customer twice, three times or six times? What kind of contact is 'enough' for retailers to have met regulatory and societal expectations? At what point do we acknowledge that the customer has some obligation to return a phone call or respond to a letter offering support, and that a retailer has a right to recover debt?

None of these issues are clear, other than through the regulatory requirements, which we note do not have a clear relationship with the proposed indicators.

The regulatory requirements and testing inputs over consumer behavioural outcomes

It appears as though the AER has made some broad assumptions around interpretation of the Retail Law, and we believe that these assumptions could reflect a significant risk to retailers and their customers. To be clear, there is *nothing* in the obligations under the proposed Retail Law that requires retailers' programs to identify customers in hardship before they themselves know they need help, or in other words, for a retailer to know when a bill is going to be 'unmanageable' for a customer ahead of time. There is nothing that requires a program to explicitly reduce a customer's debt permanently, and to reduce the customer's chance of being disconnected in the years after leaving the program. Yet these appear to be the assumptions outlined in the AER's Issues Paper.

In fact, all that is required under the proposed Retail Law are processes to support customers coming into the programs in the first place, responsive and timely assistance once someone is in the program, including flexible payment options and no disconnection, and clear means of linking customers in hardship into other programs available to them, like concessions and access to financial counsellors.

The AER's proposal to regulate its own assumptions into life as hardship program indicators, with associated public reporting and enforcement of 'compliance', could potentially create a new set of default stakeholder expectations of retailers and their capacity to 'fix' customer hardship. While those in the industry and some in the consumer sector will know these expectations are not realistic, this will not be clear to people less directly involved.

We suggest that in the current environment that a hardship program can *only* be judged by what it does, not just on 'outcomes' that are not demonstrably (a) directly controlled or even influenced by retailers, and (b) particularly meaningful on their own as indicators of a program's benefits to its constituency. Therefore, the only feasible approach for measuring retailer performance in any quantitative sense (at least at this stage) is to look at inputs. The policy objective is to *assist hardship customers to better manage their energy bills on an ongoing basis*. Therefore retailers should demonstrate that they provide this assistance, and that such assistance is fundamentally driven by principles and practices that promote a customer's ongoing 'better' management of their bills.

The customer's response (that is, that she/he 'better managed' their bills) will always be a struggle to prove as we will never have the counterfactual data available of how much worse a customer's situation would have been had we *not* provided assistance. (While customer surveys may shed light on this aspect – and we support such qualitative data collection – they will never provide the raw numerical data we believe is sought by the AER.) Therefore, the matter of what support customers require to 'better manage' will come down to retailers asking their customers and their representatives, and being aware of consumer research and reports in this area.

Overall, establishing *proof of (accessible) assistance*, and the key elements of the assistance implied by the proposed Retail Law, is quite different from establishing *proof of customer bill affordability outcomes* that the AER is seeking from its proposed hardship indicators. Proof of assistance is about showing what retailers have done, which is all that is within the retailers' control. Affordability, or to use the AER's term, bill manageability, is driven by the customer's circumstances and lifestyle first and foremost, and the degree to which they find an energy bill manageable more likely than not will be set by the *non-energy* components of household expenditure (based on ABS household expenditure data this is more than 95 per cent). Therefore the effect of an energy retailer's hardship program on debt patterns both now and later will be impossible to unpick.

Using the Victorian precedent

As noted by the AER, the ESC is currently undertaking a review of energy retailers' hardship programs, including further analysis of the 2008-09 hardship performance indicators. The AER advised that it would be monitoring the outcomes of the ESC's review to ensure this work informs the development and implementation of the National Hardship Indicators. The Victorian outcomes are imminent, and Origin is keen to see the ESC's views.

Prior to these views being published, we believe it would be useful to assess what we have learned to date from the Victorian experience – issues that the AER can also learn from in how it develops its own performance reporting framework. The key issues to note are that definitions have never been clear from a policy perspective and retailer understanding of the indicators does not seem to be consistent.

Further, the Victorian experience has shown a disconnect between the public reporting approach, which anticipates a market where retailers all do much the same thing, and the more specialised and varied reality that has come from different retailers meeting broad hardship policy and regulatory objectives in their own way. We would be concerned if this disconnect was to be extended to the national market, particularly as a reading of the AER's Issues Paper shows that it may even be reinforced.

The indicators

A core principle for any development of performance indicators should be to have some understanding about what the results of any particular query are likely to tell us about how the policy objective is met. We believe that most of the current indicators are not indicative of the effectiveness of retailers' programs as such, as they cannot do this. This is a conclusion that cannot be denied given that neither the AER nor any other party seems to have any clear view of what an effective program would look like.

However, all of these data, when collected over a period of time, might help establish expectations about what is 'normal', and show trends in energy bill affordability. We do not doubt that there is value to this type of data collection, but we ask that the following is clear in the view of the AER, and also established clearly in any reporting: *at the moment this is about data collection and not an 'indicator' of any predetermined definition of program effectiveness (or otherwise)*. Our comments on the current indicators are below.

Overall, the AER has proposed the following indicators:

- *Entry*
  - o total number of customers currently on the hardship program;
  - o number of hardship program participants who receive any appropriate government energy concessions;
  - o number of customers entering the hardship program; and
  - o number of customers denied access to the hardship program.

  In our view, the overall effectiveness of the above four indicators as a measure of the retailer's performance of their hardship obligations will be limited. The indicator which tells us the most relates to customers in the hardship program, supplemented by those currently entering the program. Energy concession status means nothing at this stage re the performance of the regulatory obligations, so this is more usefully defined as part of the information collection process and used to understand the totality of support provided to relevant customers. Customers denied access remains problematic until some policy objectives and definitions are clarified.

- *Participation and assistance*
  - o average debt upon entry into the hardship program;
  - o average debt upon exiting the hardship program;
  - o number of customers exiting the hardship program and those excluded for noncompliance with program requirements;
  - o number of customers who were disconnected and who had been on the hardship program in the previous 24 months; and
  - o number of customers who were reconnected within seven days of being disconnected and who had been on the hardship program in the previous 24 months.

  Origin believes that the assumptions underpinning most of these indicators reflect assumptions about retailers' programs and consumers' behaviour that are not supported by evidence. We support this information being collected, but it should be with the strong caveat that it is about information collection to inform public policy, not as a tool to manage retailers or set community expectations about compliance obligations.

  The most useful indicator relates to customers exiting the program and exclusions for non-compliance, but as we note above, this also requires stronger analysis of available data and a clearer set of expectations.

The AER has advised that is has sought not to focus on specific hardship indicators regarding the types of assistance provided under hardship policies, which "ensures that retailers have some flexibility in developing their hardship programs to ensure the assistance they offer to customers will best meet their individual needs".

Origin believes that performance indicators are either linked to regulatory compliance obligations or they are not. So far, the indicators addressed have not demonstrated links to compliance obligations; they have been more about information collection.

As such, we are not sure why having 'indicators' about forms of support necessarily means that flexibility is impeded. Rather, we believe that asking about the forms of assistance is the *only* way to develop a sense of what hardship programs do and not do, and whether programs can be compared on any reasonable basis.

Further, and as argued above, the provision of assistance is all the retailer has in its control, and is the fundamental aspect of the purpose under the proposed Retail Law. Not collecting information about forms of support seems short-sighted and will only help perpetuate the confusion around the various issues.

Therefore, Origin strongly recommends that the AER re-instate the forms of support reported by to the ESC such as energy audits, and also consider additional indicators that capture the forms of support offered, such as:

- Subsidies/Incentives applied to customers' accounts
- Types of payment support afforded to customers and their success rate
    - standard payment plans
    - incentive payment plans
    - subsidised payment plans
- Energy field audits offered at no cost to customer during the reporting period
- Retrofits undertaken
    - average cost of retrofit
    - average rating of appliances
    - average cost of appliances

Even if these do not become part of public reporting (which we would understand given our previous discussion about indicators as forming a basis for community expectation and our recognition that the above go beyond compliance) these data could at least help inform the AER in telling the story of each retailer's program, as below.

Overall our suggestion is that most, if not all, of the information discussed by the AER is collected, in addition to the forms of assistance as noted above. However, most of this should not be branded 'performance indicator data', at least not until there is genuine evidence that connections can be made between cause and effect in the way apparently intended by the AER. This information would instead be used to inform the interpretation of the 'actual' indicators of retailers' hardship program performance, which would be:

- total number of customers currently on the hardship program, where there is a clearer understanding of what this means and links to payment plans;
- number of customers entering the hardship program, where there is a clearer understanding of what this means and links to payment plans;
- (possibly) number of customers denied access to the hardship program, but only if policy assumptions are clear and 'denied entry' is defined;
- number of customers exiting the hardship program and those excluded for noncompliance with program requirements, but only if policy assumptions are clear and 'denied entry' is defined.

In conjunction with more qualitative analysis of programs based on the other data collected, we believe this will meet the AER's regulatory requirements under section 306 of the proposed Retail Rules, and also position the AER better for future assessments, including compliance evaluations based on exception reporting.

Telling the story

Origin believes that there is a need for the AER to look at the numbers for each retailer and weave these into a narrative about that retailer's overall hardship approach and its relative effectiveness in the AER's view. If the AER cannot come to a view about effectiveness because the indicators are unclear or ambiguous then this should be stated also, at least to offset other people coming conclusions that may well be incorrect.

We also recommend the AER spends some time with each retailer's hardship team to better assess their program 'on the ground'. A further means of understanding the complexity better would be to provide case studies to explain how a customer might pass through a program, either successfully or unsuccessfully. We would be very happy to discuss this further, and to provide information that may shed light on to the often complex situations encountered.

Detailed analysis within each retailer's data might also better identify anomalies. Some of the data from the last ESC reporting period seemed to lack internal consistency, which might have been avoided if there had been analysis by the ESC and some 'story' attached to the data reported. Instead, interpretation of ambiguous data was left to the reader, which we believe is inadequate.

1. Introduction

Thank you for the opportunity to provide input to the Australian Energy Regulator's (AER) *Developing National Hardship Indicators – Issues Paper.*

Origin is very keen to engage with the AER on this issue, and we welcome the chance to put forward our views. While it is understood that the AER's Issues Paper will not be the final word on the subject at this time and that we will have further chances to provide input, we have sought to be comprehensive in our response. This primarily reflects our belief that the analytical framework requires modification if it is to have the best chance of providing the foundation for an effective performance reporting and compliance approach.

Origin notes that under section 306 of the proposed Retail Rules, the AER must determine National Hardship Indicators and these indicators must cover:

- entry into hardship programs;
- participation in hardship programs; and
- the assistance available and provided to customers under these hardship policies.

We believe that the AER's regulatory obligations can be delivered without pursuing the path currently contemplated in the National Hardship Indicators Issues Paper. Indeed, if the proposed approach is not modified to adjust for practical experience and to form clearer and more robust links with the proposed Retail Law, it may create confusion about the purpose of hardship programs and set unrealistic and even inappropriate targets against which to assess the absolute and relative performance of energy retailers.

The reasons for our belief are set out in the following pages, where we identify what we see as misplaced assumptions about cause and effect, and a lack of clarity about what the various indicators can actually tell us about the effectiveness, or otherwise, of hardship programs.

Before proceeding, it is worth addressing the AER's role to set expectations, and evaluating the Victorian experience to date with hardship indicators. As the AER is aware, Victoria is the only Australian jurisdiction to have used formal hardship indicators, and we note the parallels between the ESC and AER positions. Finally we briefly address the value in seeing the data collected under this performance reporting regime as informing public policy about consumer financial hardship rather than purely as retailer performance reporting.

1.1 Setting expectations

While we understand the ideals behind hardship indicators, and recognise the position of the AER in trying to understand and be able to report on hardship programs' success (or otherwise), the approach taken to date reflects a risk to retailers in the short term, and to the effective focus and development of the programs in the long term.

The AER's retailer performance reports will be widely disseminated and receive strong media and political attention, and this will be in an environment of rising prices and increased concerns about bill affordability. The AER will understandably be seen as a credible and authorised source of the 'truth'. Given this, Origin believes that there needs to be a strong 'science' behind the indicators relied on by the AER, a deep analysis in the associated commentary within a performance report, and a clear sense of a realistic 'good' outcome in the eyes of the AER.

Observers will be reading the performance reports to identify the 'good' and the 'poor' performances and to prioritise certain actions over others. Indeed through a recent review of our *Power On* program, we sought feedback from several Victorian based consumer advocates, one of which provided feedback solely based on the Victorian ESC's Comparative Performance Report and our perceived performance in relation to the other energy retailers.

Therefore, in our view the AER will be responsible for providing guidance about its view of 'good' and 'poor' outcomes, and to do so in a way that clarifies where the indicators themselves may be ambiguous. There should, at the least, be some theoretical framework that clearly sets out what might be viewed as 'success' and therefore what counts as relative failure. It will be a challenge to measure whether a hardship program is effective if we have not established our expectations of what this would look like – or, more importantly, what an ineffective or failed program would look like. We accept that this is problematic, but we strongly encourage the AER to go through this process for each indicator. We have started this with our own analysis in the following pages.

It is our belief that the AER has made some very broad assumptions around interpretation of the Retail Law, and these assumptions reflect a significant risk to retailers and their customers. To be clear, there is *nothing* in the obligations under the proposed Retail Law that requires retailers' programs to identify customers in hardship before they themselves know they need help, or in other words, for a retailer to know when a bill is going to be 'unmanageable' for a customer ahead of time. There is nothing that requires a program to explicitly reduce a customer's debt permanently, and to reduce the customer's chance of being disconnected in the years after leaving the program. Yet these are the assumptions appear to be outlined in the AER's Issues Paper.

In fact, all that is required under the proposed Retail Law are processes to support customers coming into the programs in the first place, responsive and timely assistance once someone is in the program, including flexible payment options and no disconnection, and clear means of linking customers in hardship into other programs available to them, like concessions and access to financial counsellors.

The AER's proposal to regulate its own assumptions into life as hardship program indicators, with associated public reporting and enforcement of 'compliance', is extremely concerning to us as this will create a new set of default stakeholder expectations of retailers. While those in the industry and some in the consumer sector will know these expectations are not realistic, this will not be clear to people less directly involved.

We also ask that the AER familiarise itself with the work that has occurred to date on how customers in financial hardship can best be assisted by retailers. The primary example of thinking in this area is the Victorian Inquiry into the Financial Hardship of Energy Consumers, carried out in 2005. The outcomes of this work are, in fact, what drove the legislative changes in Victoria regarding financial hardship for energy consumers, which, in turn, provided the basis for the reporting framework, which was developed much later in 2007 (and which, we suggest, was already starting to lose the links with the findings of 2005).

As we discuss in this submission, the Inquiry addressed the causes of hardship and the means of assistance provided in some detail, and a key learning from the process was that retailers *do not* have at their disposal objective algorithms to identify customers in hardship, and that providing an environment conducive to customer *self-identification* is the best we can realistically expect from retailers. This point appears to have been lost a little in more recent policy and regulatory discussions, which creates a real risk that as a community we will pursue a set of assumptions and approach that may actually deprive customers in hardship of the support that might have been provided in a practically focussed environment.

1.2 Using the Victorian precedent

As noted by the AER, the ESC is currently undertaking a review of energy retailers' hardship programs, including further analysis of the 2008-09 hardship performance indicators. The AER advised that it would be monitoring the outcomes of the ESC's review to ensure this work informs the development and implementation of the National Hardship Indicators.

The Victorian outcomes are imminent, and Origin is keen to see the ESC's views.

Prior to these views being published, we want to point out what we have learned to date from the Victorian experience – issues that the AER can also learn from in how it develops its own performance reporting framework.

Definitions have never been clear from a policy perspective

The ESC is still discovering what the various indicators might mean. As can be seen in the ESC's recent *Comparative Performance Report – Energy Retailers Survey of Financial Hardship Programs*, it is still not clear whether high or low figures in the various indicator categories signify a problem in a retailer's process or not. This should not be taken to be a failure of the ESC – the fact is that performance indicators of the type used to date in the rest of the industry do not lend themselves to this more complicated context.

The problem from Origin's perspective is that the thinking of the ESC to date, which has been more around information collection than performance reporting on hardship and compliance per se, appears to have formed the basis for the model for consultation around an arguably more robust set of criteria relating to public reporting and 'compliance' enforcement. The danger here is that the AER may be taking on assumptions that the ESC never made. Origin understands from its discussions with the ESC that the ESC never envisaged competition by comparison on hardship indicators, which is not consistent with the AER's stated intention.

Retailer understanding is not consistent

The Victorian data have not been reported in a consistent manner across different retailers. When looking at the last performance data reported by ESC (2008-09) it would seem that some of the data lack internal consistency, such as where retailers have disconnection statistics that are extremely low, and yet have significant numbers of people taken off their program, or where there are very few people on the program but greater numbers receiving audits. This would tend to show that the indicators themselves still lack clarity and are subject to different (perhaps equally valid) interpretations,, and also that more work is required at a regulatory level to identify what does and does not make sense.

Further, and on a related point, given that most of the hardship indicators are not actually indicative of defined performance outcomes, and given the natural ambiguity in their construction, there is no way of knowing whether retailers have actually *valued* indicators and reported on them in same way as perhaps intended by the ESC. For example, while disconnection of a customer who has been in the hardship program is not viewed favourably by regulators, there is no rule against disconnecting a customer who was previously in a hardship program, and one retailer might internally value and promote disconnection in a different way to another. There is, in fact, an argument that disconnecting someone who will not engage is actually better for the customer than allowing a debt to spiral out of control, which runs counter to the frequent policy assumption that all disconnection is avoidable and bad practice.

Until these different ways of dealing with customers are understood, there cannot be a presumption of 'one way' or one set of values in terms of how the high level objective might be achieved. Unless there is a specific demonstrated compliance issue, it is better to look at each retailer's program in its entirety and assess performance in a more natural setting which accounts for that retailer's perspective and does not reduce performance to a little understood 'one size fits all' approach.

There is a disconnect between flexible policy and 'one size fits all' comparative reporting

In general, the Victorian experience has shown a disconnect between the public reporting approach, which anticipates a market where retailers all do much the same thing, and the more specialised and varied reality that has come from different retailers meeting broad hardship policy and regulatory objectives in their own way. We would be concerned if this disconnect was to be extended to the national market, particularly as a reading of the AER's Issues Paper shows that it may even be reinforced.

To explain: in Victoria the legislative and regulation provisions relating to retailer programs and support to customers in financial hardship have been reasonably high-level. They have related to principles and have not specified forms of support in any detail. More importantly, they have not prescribed outcomes, which has come from the understanding that retailers can only provide assistance and support, not answers to the broader issue of the affordability of customers' bills and lifestyles.

The regulatory framework then has logically linked into hardship programs and the sorts of things they must address. This has also been articulated in a high level form through Guideline 21.

The problem is then that this provision for variety in meeting policy needs is reduced to a 'one-size-fits-all' approach when retailer program data (using the indicators also proposed by the AER) are then reported in one table in the comparative performance report. While the ESC has been clear in discussions with Origin that the intent was never to compare retailer performance, this is somewhat unavoidable given the format and location of the information.

In Victoria, the detail of the programs is not shown, and the qualitative analysis that should be provided to the various approaches is not present. Worse, this approach gives the appearance to stakeholders that retailers *can* be compared on their hardship programs. (This submission will show that none of the indicators or the data are known well enough to provide this outcome.)

Leading into the national framework, we note that the proposed Retail Law and Rules largely reflect the Victorian regulatory framework, and are certainly no more prescriptive. This then means that the differences continue to be provided for, as they should. But this should also flow into how performance data and reporting are understood. As noted above, while the ESC has advised that comparison between retailers on hardship data was never its intention, this is not the view of the AER which has specifically advised in its Issues Paper that these indicators will be used for 'comparative competition'.

Origin submits that energy retailers' hardship programs do not lend themselves to 'apples with apples' comparisons on data, and that perpetuating the view that they *can* be compared in such a way will only cause confusion and do disservice to the industry. Comparisons would only seem relevant within a retailer's own data sets, where trends over time might be observed.

While this argument might be taken to suggest that a meaningful reporting framework must then be preceded by prescription about outcomes, we suggest otherwise. There should be no doubt that retailers need the freedom to decide terms within the bounds of regulatory principles and to keep working with customers to see 'what works'. Origin has certainly been on this journey with our customers, and in the past few years we have continued to modify our program *Power On* to better balance social policy and commercial objectives. What this means for policy and regulatory decision-makers is that the performance reporting framework should provide flexibility, and not seek to prescribe additional outcomes either explicitly or implicitly without first genuinely understanding the context and the thinking that has already occurred.

This might mean that indicators as required by law are reduced to those assessing entry and exit, and provision of assistance such as payment plans (which should already be assessed in the broader reporting context), and everything else is termed 'data collection', which may or may not be publicly reported in the form of raw data. We discuss this further below, and also note that this will also meet the AER's regulatory requirements under section 306 of the proposed Retail Rules.

1.3 Clarifying the value of data collection to inform public policy versus retailer-specific performance reporting

We make the point a number of times in this submission that the proposed indicators do not link specifically to the policy objective and regulatory requirements of energy retailers, and instead are built on specific assumptions about what would be 'nice to have'. We believe that while there is no clarity about what an effective energy hardship program would look like in a practical sense, the proposed indicators may not prove effective in informing either the comparison of retailer programs or the further development of these programs to better serve the needs of hardship customers.

As discussed at length in the next section, Origin is also extremely concerned about the apparent view of the AER that the effectiveness or otherwise of a energy retailer's hardship program can be measured by looking at a customer's ongoing behaviour and debt profile, rather than measuring and assessing what retailers actually provide. This is because energy bills comprise a very small part of a household's expenditure, and because hardship situations bring stress and esteem issues for customers that retailers cannot control and often do not even have access to.

However, we also make the point that collecting the information outlined by the AER still has value as it will help inform public policy and stakeholder expectations of retailers. The fact that this information is collected at all can therefore be a positive step (depending on its use), as it brings us closer as an industry and community to having a more informed and practical discussion about what can be done to support citizens experiencing financial hardship generally, what 'works' and what does not, and the role that an energy retailer should (and can) play.

Importantly, the data will also provide some information about jurisdictional differences and the value in the range of other services provided, such as government concessions and rebates. For example, for a retailer like Origin which operates the same hardship program across different jurisdictions, different outcomes from different states will potentially inform us not so much about Origin's practices, but about the effectiveness of other targeted forms of support.

Given that an energy customer's experience of financial hardship will be driven by a great deal more than their energy bill, and that their income will vary by area to some degree (as determined by job opportunities, welfare payments and state rebates/taxes), this information could genuinely help inform public policy and concessions programs, as well as any other targeted forms of support.

The challenge for the AER is then to be clear in its public reporting where data is for information purposes only, versus where it is a specific performance indicator under the Retail Law. The risk to the industry is where this is not clear and the community and other stakeholders build a confused or unrealistic view of what retailers are responsible for.

2. Policy and regulatory objectives

We note that the AER is conscious that assessing the impact of retailers' hardship policies can be very complex and difficult, typically because so many other external factors can play a role in determining the extent and nature of a customer's hardship, in particular general economic and employment conditions as well as the personal circumstances of the customer.

However, we suggest that much of this assessment has not flowed through to the AER's performance indicator framework, where a range of assumptions have been made about hardship causes and effects, and about retailers' capacity to change the circumstances of their customers in a measureable and long term way. This is discussed further in our answers to the AER's consultation questions.

Q 1. What are stakeholders' views on the appropriateness of the purpose and aims of the National Hardship Indicators? What else, if anything, should the indicators seek to achieve?

Origin is concerned that the National Hardship Indicators are already seeking to achieve too much, and that they may well fail in achieving what is already expected of them. We have addressed each of the regulatory objectives as set out by the AER in (a) to (f) below.

(a) Monitor the performance of hardship policies, how they are being implemented by retailers and the effectiveness of the programs in achieving their purpose

As an overall statement, we believe that focusing on presumed outcomes instead of inputs is a risky approach. Outcomes such as what an effective program is (or does) have not been defined, ands the assumptions provided by the AER are unsubstantiated. As such, the indicators as they stand are far more the result of 'wish list' presumptions about outcomes for a hardship program (and the ability to isolate the impact of energy support programs from the general pressures on households to manage their expenditure) than of a robust measurement of program performance, or established model of best practice, or even a link to regulatory requirements.

There are unresolved policy questions wrapped up in this issue, such as establishing what are reasonable community expectations of energy retailers, and the sometimes necessary trade-offs between desired indicator outcomes. These issues are addressed in detail below.

<u>Defining an effective hardship program</u>

As AER notes, and as drafted in provision 232 (2) of the National Energy Retail Law, the purpose of a hardship policy is:

> *... to assist customers that are struggling to pay their energy bills due to financial distress or hardship (hardship customers) to better manage their energy bills on an ongoing basis.*

While we do not have a problem with the above, we are concerned that the discussion of the indicators as provided throughout the AER's paper is not consistent with a strict reading of the purpose. There is still a significant gap between the purpose and the indicators, and this gap is primarily in the lack of definition of an 'effective program' and how that meets the purpose.

To look at the purpose more precisely, we should break it up into its components and then assess what each means for a hardship program:

i. *to assist hardship customers*
ii. *to better manage their energy bills*
iii. *on an ongoing basis.*

Part (i) is about the obligation on retailers to assist customers who are struggling to pay, which is the basic principle of a hardship program.

Part (ii) then provides further information about the type of assistance – where 'to better manage their energy bills' could be seen as the range of payment plans that retailers are currently obliged to provide, as well as more discretionary forms of support such as debt waiver or time extensions.

Part (iii) then adds a time dimension to the assistance provided by retailers, where ‘on an ongoing basis’ implies that the assistance provided to hardship customers supports behaviour change. This could occur with the provision of energy efficiency advice and perhaps an in-home audit where this is appropriate. It might also imply that assistance should not be a once only effort if the customer requires further help.

Further, as noted by the AER, hardship policies should “assist those customers who have the intention but not the capacity to pay their energy bills to remain connected to their electricity and gas supply”. This has always been a key element, where disconnection for debt should not proceed while a customer is on the program. To be clear though, there is an explicit link to customers who *intend to pay*, which retailers tend to take to be those customers who respond in some way to overtures from the retailer.

If we look more closely at the proposed Retail Law, it sets out a number of minimum requirements that retailers’ customer hardship policies must contain. These include:

- Processes to identify customers experiencing payment difficulties due to hardship, including identification by the retailer and self-identification by the customer.
- Processes for early response by the retailer where customers are identified as experiencing payment difficulties due to hardship.
- Flexible payment options (including payment plans) for the payment of energy bills by hardship customers.
- Processes to identify appropriate government concession programs and appropriate financial counselling services and to notify hardship customers of those programs and services.
- An outline of a range of programs that the retailer may use to assist hardship customers.

Therefore, if a retailer provides information to a customer to help them identify as needing help, if the retailer provides ready and accessible assistance to a customer (as many times as needed), such as a payment plan and energy efficiency advice, if it links the customer to relevant government and financial counselling services and if it does not disconnect for debt owed during this time, it has provided the assistance as required by (and we argue, as *intended* by) the Retail Law. A hardship program that provides this assistance as required is thus ‘effective’.

This is also consistent with how hardship programs came into being in the first place. If we go back to the original concerns of policymakers and consumer advocates, an effective hardship approach should result in customers in financial hardship not being disconnected, where their capacity to pay is taken into account in the creation of payment plans, where there is access to other forms of support such as energy efficiency advice and government programs.

We suggest that these criteria are really all that retailers should be judged on, as well as any other regulatory compliance obligations. For some people all we can do is just not disconnect them while they are on the program, or give them more time to pay. Payment plans also allow a clearer means of budgeting. But very little we can do can directly affect the reasons why a customer might fall into hardship, or why their debt might increase (other than energy efficiency advice, which has limited application to many people).

Further, by refining the measures, regulatory attention can then be focussed on identifying where people experiencing financial hardship may not be receiving this support.

In the view of the Committee for Melbourne’s Debt Spiral Study, the elements of a best practice hardship response program are as below in Figure 1.

Figure 1: The elements of a best practice hardship response program

Transparency and accessibility – having a hardship policy, which is clearly communicated to customers, with copies available on request, on a website and in brochure format, distributed to community agencies and referenced in customer charters and on a brochure enclosed with key bills.

Extensive and ongoing staff training – to all parts of the business, on:

- the causes of financial hardship
- the identification of customers experiencing financial hardship
- how to talk with customers experiencing financial hardship
- when to refer customers to the 'hardship response program'
- literacy and access issues experienced by some customers.

Specialist Team – a well-resourced team that is especially skilled in responding to customers experiencing financial hardship. Ready referrals to the team from the Call Centre and other parts of the business. Customers able to directly contact the team, preferably via a freecall phone number but at least via a local call phone number. Home visits by a member of the specialist team where it has been difficult to contact a customer by phone or in writing.

Appropriate links to energy efficiency programs, financial counselling agencies, concessions, government assistance programs and non-government support services and dispute resolution services.

Affordability – the implementation of appropriate, affordable and agreed payment arrangements.

Flexibility in options including Centrepay, incentive plans, partial or complete waiver of debt and review of fees.

Suspension of disconnection, debt collection and legal action – whilst the customer is on the 'hardship response program'.

Customer focus groups – focus groups involving customers who have experienced financial hardship provide direct feedback on hardship program and identify areas of improvement.

Clarity – a clear and fair articulation of the circumstances in which the provider may move a customer off its 'hardship response program' and onto its normal collection procedures, with discretion for particular customer circumstances. This information must be provided to the customer

Continuous review – learning from others, comparing the 'hardship response program' against local, interstate and overseas developments and having regard to comparative performance reporting undertaken by regulatory authorities.

Source: Committee for Melbourne 2004, Utility Debt Prevention Project – Debt Spiral Study

We can see from this, and from policy statements made by government since then, that in a policy sense hardship programs were never supposed to specifically reduce the customer's debt and reduce their chance of falling into debt ever again. These are broader and more general aspirational outcomes for social programs across a range of household support services (of which an energy hardship program is but one element, as are one off payments from governments such as the Victorian URGS).

<u>The problem with focussing on customer debt outcomes and not retailer inputs</u>

Given the above, it strikes us as dangerous when assumptions about retailers' capacity to affect their customers' broader lifestyle, income and spending habits (in a highly dynamic environment and where we know that energy makes up perhaps 5 per cent of an average low income household's overall expenditure) are set into regulatory policy and comparative performance reporting while the complexity of these issues is not recognised or widely understood. In particular, the way that the AER has interpreted the requirement for retailers to assist customers to support 'ongoing' positive behaviour change - while perhaps desirable - is onerous and not supported by any evidence that a retailer can consistently achieve permanent outcomes when the fundamental causes are beyond retailers' control.

The reality is that energy bills are not quarantined from other sources of debt in a person's life, and that a person's attention to their energy bill will vary according to the other pressures they experience at the time (including from other creditors, who we note are not held to anything like the standards that energy retailers are), their emotional load, their beliefs about paying their bills, and the degree to which they accept that they need help. People will require support depending on changing circumstances, such as unexpected crises (such as unemployment, medical emergencies, bereavement or divorce), large but necessary expenditure (such as fixing the car or funeral costs) bills arriving at the same time, and changing income levels.

Therefore, measuring outcomes in the form suggested by the AER cannot be a pure means of measuring energy retailers' hardship program effectiveness – the debt experience of an energy retail customer will reflect the customer's own set of circumstances and priorities, and this means that 'outcomes' in the sense of the AER's indicators will always be contaminated by a wealth of factors external to the energy retailer. It should be recognised that this applies even where we have assisted a customer before; it is more likely than not that a person's income, expenditure, stress levels and attitudes will change over time.

We suggest that the 'ongoing' element of the proposed Retail Law was never to suggest that retailers' hardship programs have permanent effects on their customers that retailers should be accountable for. The most that retailers can, and should be accountable for is to provide (ongoing) assistance that provides tools for customers to address sustainable usage. As discussed, this would include assistance such as energy efficiency advice, possibly including a home audit. Other means of meeting this obligation include (obviously) payment plans and bill smoothing products.

It is worth noting that even a retailer's efforts to support energy efficiency education and practical assistance may not have measurable impacts on future bill affordability with so many exogenous variables at play. We also know from experience that around half of our customers in *Power On* use less than average consumption for the state (at least in Victoria), which means that opportunity to benefit from an energy audit is significantly reduced, as there is little 'unnecessary' usage that can be trimmed. Further, even where inefficient appliances are replaced with efficient ones, there is the well known effect where people who were rationing their energy previously actually start to use more because they perceive that it will cost the same anyway.

In our view, the only feasible approach for measuring retailer performance in any quantitative sense (at least at this stage) is to look at inputs. The policy objective is to *assist hardship customers to better manage their energy bills on an ongoing basis*. Therefore retailers should demonstrate that they provide this assistance, and that such assistance is fundamentally driven by principles and practices that promote a customer's ongoing 'better' management of their bills.

The customer's response (that is, that she/he 'better managed' their bills) will always be a struggle to prove as we will never have the counterfactual data available of how much worse a customer's situation would have been had we *not* provided assistance. (While customer surveys may shed light on this aspect – and we support such qualitative data collection – they will never provide the raw numerical data we believe is sought by the AER.) Therefore, the matter of what support customers require to 'better manage' will come down to retailers asking their customers and their representatives, and being aware of consumer research and reports in this area.

Overall, establishing *proof of (accessible) assistance*, and the key elements of the assistance implied by the proposed Retail Law, is quite different from establishing *proof of customer bill affordability outcomes* that the AER is seeking from its proposed hardship indicators. Proof of assistance is about showing what retailers have done, which is all that is within the retailers' control. Affordability, or to use the AER's term, bill manageability, is driven by the customer's circumstances and lifestyle first and foremost, and the degree to which they find an energy bill manageable more likely than not will be set by the *non-energy* components of household expenditure (based on ABS household expenditure data this is more than 95 per cent). Therefore the effect of an energy retailer's hardship program on debt patterns both now and later will be impossible to unpick.

This also needs to be remembered as we note that our customers' financial situations are becoming more challenging for reasons that have nothing to do with energy consumption. People may find affordability of a range of bills more and more of a challenge but this is neither the retailer's fault nor something that a retailer can 'fix', albeit a retailer's program might provide some interim relief from these more general financial pressures.

To conclude, if there has been a shift in community expectations such that energy retailers *are* to have hardship programs that specifically reduce debt – and the chances of falling into debt – permanently for their customers, then the policy on this needs to be explicit, the subject of public debate, and based on solid and comprehensive research into household expenditure and the role that energy bills play in this total picture and in the consumers' psychology. It needs to be demonstrated that the impact of a hardship program in terms of aggregate outcomes can be isolated from the effects of many other household variables. This has not occurred to our knowledge.

This point about community expectations is taken up again below in the discussion of debt upon entry and exit, and disconnection after being in the program.

Origin values going 'beyond compliance' in its hardship program, and has carefully developed *Power On* over several years, with input from consumer advocates and financial counsellors about how to better engage with consumers who require support. However, we seek to bring the debate about hardship policies back to articulated policy objectives, and to understand these clearly in the context of our significant experience with customers in hardship. Based on this experience, we consider that the starting point for this debate should be an explicit acknowledgment from the various interested parties that an energy retailer's hardship program cannot 'fix' a customer's general bill affordability problems, problems that may drive them into the same situation with their energy bills in the future.

<u>Bringing in customer advocate expertise to set practical goals</u>

Origin believes that the consumer sector has a responsibility to help articulate a vision of a 'successful' set of outcomes. Those people who assist and support consumers in financial hardship on a daily basis are those who can best articulate reasonable expectations of both customers and retailers. In particular, it would be useful to see a breakdown of the types of people who fall into hardship generally, and what types of customers (and their proportions) may have a higher propensity to have problems accessing hardship schemes. Many arguments made to date have been normative claims about what 'should happen', which, while having value, do not close the gap between principles and reality.

Origin has deep experience in this area, but this is after we have been in contact with the customer, and so had the opportunity to identify how we can assist. If there is a 'dark figure' of people in hardship who we are not helping, but could, it would be useful to try and map out the types of people and numbers we are talking about. Only those people who deal with the people who are in hardship and *do not* contact retailers can provide this information.

Of course, if this is not possible, it tells us something about the practicality of the AER's task and then also sheds light onto the reasonableness of what is being asked of retailers, including the claims made by some people that there is 'more' that we should do. It is also disappointing to Origin that despite ongoing efforts to engage with customers and their advocates, the public commentary to date has primarily focused on the limited negative outcomes and has lacked suggestions about practical improvements that retailers can realistically make.

We do not mean to make the AER's task more difficult, but the fact is that as energy retailers in a highly political environment we are regularly judged by our key stakeholders on how we meet customer needs – as we should be – and this includes how we meet the needs of our more vulnerable customers. Given this, Origin feels that it is only 'fair' if public reporting on our performance is clear in what it is trying to achieve, and clear in the messages being sent explicitly or implicitly to our stakeholders about what is expected of energy retailers in general, and of Origin in particular.

Reducing 'debt spiral' versus keeping people on supply

The relationships between debt levels, disconnections and amounts paid under payment plans are complex, and it cannot always be the case that these amounts will be low across the board, even for the best hardship program. In general, very low repayments under a payment plan do not supporting reducing the debt as a whole – customers will continue to use energy while they are on the plan after all.

To explain in more detail, while in theory a 'good' hardship program might be one that has a combination of very low debt levels for customers upon exiting, low disconnection and low (enough) payments, these are rarely going to co-exist for an individual customer unless some external change allows for it, such as an unexpected change in financial circumstances of the customer. There is a continuum of capacity to pay where a point is reached whereby the customer's capacity just does not extend to what is required to even fund ongoing consumption, let alone debt. Where this occurs, the only way that the customer's overall debt will not rise is if the income of the customer changes, their spending patterns change, or if the energy retailer subsidises use to a significant degree.

In other cases, we find that a customer who may have agreed to make payments under our hardship scheme drops off the radar, and even with further contact from Origin, we cannot re-engage them. In these cases, disconnecting the customer premises is sometimes the only way to have the customer re-engage and re-enter the program. The fact that disconnection occasionally has this role should not count against a retailer, not when the retailer is compliant (and in Origin's case, goes beyond compliance) with regulations, and offers multiple chances to pay.

A further issue of concern to Origin is the matter of customers who do not engage with retailers, and how this is viewed by various external parties. At what point is it accepted that a retailer has 'done all it could'? Is this when we have tried to contact a customer twice, three times or six times? What kind of contact is 'enough' for retailers to have met regulatory and societal expectations? There have been some suggestions that - irrespective of the retailers' commitment to hardship support programs - more could be done and that disconnection should never occur because people experiencing financial hardship may not want to talk about their circumstances. But at what point do we acknowledge that the customer has some obligation to return a phone call or respond to a letter offering support, and that a retailer has a right to recover debt?

An effective process provides for multiple avenues for the customer to engage and/or readjust their program as circumstances require. We consider additional obligations that have the effect of allowing debt to accumulate out of control are not healthy for either the industry or consumers in general.

Further, we again note that as hardship policies should "assist those customers who have the intention but not the capacity to pay their energy bills" this explicit link to customers who *intend to pay* means that customers need to respond in some way to overtures from the retailer.

The search for objective indicators of retailers' hardship program effectiveness is similar to the search for objective algorithms for identifying customer hardship that was discussed as a community at length during the 2005 Victorian Inquiry into Financial Hardship of Energy Consumers. As with the conclusion arrived at then - that identifying hardship in the first instance is a matter for a customer to initiate with the retailer and that retailers cannot somehow intuit people's circumstances - we suggest that engagement is a two way process with the retailer responsible for information, sensitivity and keeping gateways open but it is also the responsibility for the customer to engage with a retailer at some point if they are to avoid disconnection.

(b) Focus on elements of retailers' hardship policies that can be evaluated through measurable performance indicators

Data collection, not indicators of performance in any usual sense

We strongly suggest that a core principle for any development of performance indicators (in the strict sense of the term) should be to have some understanding about what the results of any particular query are likely to tell us about how the policy objective is met.

In Origin's view, effort should focus on the following questions:

1. What we are trying to find out - that is, what are the expected (observable) characteristics of an effective hardship program?
2. How does the indicator in question demonstrate an effective hardship program, or a failure?
3. How does this indicator interact with other indicators? Is it a primary indicator or just one that is interesting when in combination with others?

We note that most of the proposed indicators are *not* indicators of the effectiveness of retailers' programs as such, as they do not satisfy questions 1 or 2 above (leaving question 3 unanswerable as well). This is a conclusion that cannot be denied given that neither the AER nor any other party seems to have any clear view of what an effective program would look like.

However, all of these data, when collected over a period of time, might help establish expectations about what is 'normal', and show trends in energy bill affordability. We do not doubt that there is value to this type of data collection, but we ask that the following is clear in the view of the AER, and also established clearly in any reporting: *at the moment this is about data collection and not an 'indicator' of any predetermined definition of program effectiveness (or otherwise)*.

In the absence of a benchmark for an effective program, another means of assessing the value of an indicator is to review its relevance to the purpose under the Retail Law, which is for a hardship program to *assist hardship customers to better manage their energy bills on an ongoing basis.* To be useful, an indicator should provide information on how this purpose is being met in practice.

The problem then, however, is forming conclusions about how words like 'assist' and 'better manage' can be operationalised in a way that does not draw erroneous conclusions about retailers' capacity to change their customers' lives in any real, lifestyle sense. As we note above and throughout this submission, without the counterfactual evidence of what would have happened *without* the retailer providing assistance, assessing the degree of assistance from the customer's perspective (and in a quantitative, objective sense, which is what the AER is trying to do by assessing aspects like debt upon entry/exit) is problematic.

Further, as discussed above, we argue that the AER's interpretation of 'ongoing' is entirely unfounded.

Forms of support and qualitative experience is all we have for now

Leading from the previous section, we are concerned that the AER is proceeding down its current path without defining in any operational or compliance sense what a hardship program is to achieve, or even what it can be expected to look like. The AER is also going to shut down its best way of finding out this information by not asking retailers to report on their forms of support. Origin is extremely concerned by this proposal.

We suggest that in the current environment that a hardship program can *only* be judged by what it does, not just on 'outcomes' that are not demonstrably (a) directly controlled or even influenced by retailers, and (b) particularly meaningful on their own as indicators of a program's benefits to its constituency.

Further, not asking about forms of support creates a further disconnect with the policy objective, which is all about retailers providing 'forms of assistance' to 'help customer better manage' in a general sense.

In fact, taking a strict reading of what has been asked of retailers, hardship programs in any policy or compliance sense should *only* ask:

- What forms of assistance were provided to customers who were struggling to pay their energy bills due to financial distress or hardship?
- What evidence is there that this helped customers better manage their energy bills on an ongoing basis? (And how much better?)

A further question might address how many people were protected from disconnection from being on the hardship program, although we suggest this is unlikely to be able to be answered clearly given there will not be a clear counterfactual case of people who definitely would have been disconnected had they not entered the hardship program. We raise this issue though to illustrate a logical path for performance indicators given the actual policy and regulatory requirements.

Asking these questions would provide a clearer means of collecting the necessary information about how programs actually work, and would also reduce the confusion in the industry and community about what is being expected of retailers. We believe it is particularly important for the AER to first understand what hardship programs actually do, and the natural progression of a customer through a program, before making judgements about this extremely complex environment.

For example, there is a question about how retailers themselves define their programs. What is a meaningful rule of thumb about what this means? Perhaps one retailer considers a customer 'in the program' if they undertake to pay through a payment plan, and thus if they cannot afford a plan then they are not 'eligible' to be in the program. In contrast, perhaps another retailer says that a customer is in the program when the retailer fills out concessions and grants information for them, and if even if a customer cannot afford a payment plan they stay on the program (but what does this mean?) and the debt is just 'parked' for a while (and continues to rise). Which retailer has done the 'right' thing, and, as discussed above, is there even a 'right' thing to do? Without some sense of how retailers themselves define their programs and eligibility, comparing retailers on these data does not seem particularly meaningful.

Origin strongly recommends that the AER re-instate the forms of support reported by to the ESC such as energy audits, and also consider additional indicators that capture the forms of support offered, such as:

- Subsidies/Incentives applied to customers' accounts
- Types of payment support afforded to customers and their success rate
  - standard payment plans
  - incentive payment plans
  - subsidised payment plans
- Energy field audits offered at no cost to customer during the reporting period
- Retrofits undertaken
  - average cost of retrofit
  - average rating of appliances
  - average cost of appliances

Even if these do not become part of public reporting (which we would understand given our previous discussion about indicators as forming a basis for community expectation and our recognition that the above go beyond compliance) these data could at least help inform the AER in telling the story of each retailer's program, as below.

(c) Inform interested stakeholders (including Government, regulators, industry participants, consumer groups and the wider community) about the performance and progress of retailers in this area

(d) Highlight areas and examples of good practice and enable these to be promoted and shared across industry to improve the service and response provided to customers experiencing financial hardship

(e) Signal to the AER potential areas of concern regarding retailers' performance in relation to their hardship policies and programs and highlight where further investigation, performance or compliance audits or potential enforcement action may be required.

These regulatory objectives bring out why we have the concerns articulated in the previous pages. While Origin does not disagree that these are important elements of a performance reporting framework, they highlight the real reputational and regulatory risk to industry of not getting the indicators 'right' or at least being realistic about what they are really indicating. If the industry is going to be subject to:

- public reporting about performance and progress that is aimed at governments, regulators, industry participants, consumer groups and the wider community (including our customers);
- promotion of certain views of good practice; and
- potential investigation, compliance audits or enforcement action

based on these indicators and the assumptions underpinning them, we again urge the AER to come back to first principles about what is actually being asked of retailers in a compliance sense, and what is being expected of retailers (implicitly as well as explicitly) in a 'performance' sense. As noted above, the policy objective is to *assist hardship customers to better manage their energy bills on an ongoing basis*. According to this, the focus on any regulatory reporting should be on identifying the forms of assistance and how they helped customers better manage their energy bills than they otherwise would have.

In contrast, the language used in the current process and the focus on long term customer behaviour as somehow being within retailers' control are concerning, as these assumptions will then form the base expectation of the industry. It could be that retailers are – however unintentionally - being set up to fail, and this is in a political environment where there already seems to be confusion about what retailers can actually achieve.

At the very least, Origin sees a real danger here of over-simplifying an extremely complex range of issues, which may have the effect of driving hardship programs to a lowest common denominator - towards what is measurable rather than what is relevant - in order to be able to report.

To be most effective in the reporting objective above, we believe that there is a need for the AER to look at the numbers for each retailer (including the forms of support) and weave these into a narrative about that retailer's overall hardship approach and its relative effectiveness in the AER's view. If the AER cannot come to a view about effectiveness because the indicators are unclear or ambiguous then this should be stated also, at least to offset other people coming conclusions that may well be incorrect.

We also recommend the AER spends some time on site with each retailer's hardship team to better assess their program 'on the ground'.

A further means of better understanding the complexity would be to provide case studies to explain how a customer might pass through a program, either successfully or unsuccessfully. We have included two of our own cases as an appendix to this submission, where a reading of these provides a much better sense of the sorts of forms of a support a retailer might offer, and also the reality of how customers choose to engage with us (or not). It is easy to forget that the cold numbers in a performance table are actual people with complicated needs, as the context is not provided and their experiences are aggregated to a point where it is difficult to learn anything much about either the customer's needs or how a retailer's program is tracking for the diverse range of customers. Case studies are always problematic and should never be relied upon exclusively, but they do provide some flesh for the bones of the cold data that no one at this stage would profess to completely understand.

In our case studies one can see that Origin provided significant support to each customer but each 'failed' our program. Each would have been represented multiple times in performance data over years. The gentleman in the first case (which has been unresolved since 2005) has received credit from Origin to the amount of $2352. While each of these customers ‘failed’ the program (or on the AER’s proposed indicators we would be seen as failing the customer) when assessed against simple measures, they demonstrate the complexity and intensity of the issues that must be addressed within a real world hardship program.

A final but important point on this matter is how analysis within one retailer might identify data anomalies. For example, when looking at the last performance data reported by ESC (2008-09) it would seem that some of the data lack internal consistency, such as where retailers have disconnection statistics that are extremely low, and yet have significant numbers of people taken off their program, or where there are very few people on the program but greater numbers receiving audits. Some of the apparent inconsistencies would seem to indicate one or more of the following:

- retailers’ interpretation of hardship policy and/or indicators are not the same as the ESC’s;
- exceptional circumstances affected the reporting cycle; or
- retailers have not advised the correct numbers.

With no analysis by the ESC, and no ‘story’ attached to the data reported, this left interpretation to the reader, which we believe is inadequate. We strongly suggest that AER instead focuses on a more qualitative and nuanced approach – at least until data trends and public policy expectations of energy retailers are clearer.

(f) Provide sufficient and appropriate incentives on retailers, through comparative competition, to maintain and improve performance in this area over time

Once again, Origin recognises the value of this kind of regulatory objective, but we see a problem with assuming that comparison is possible before understanding what retailers’ hardship programs actually do, what they do and do not have in common, and whether performance can, in fact, be ‘maintained’ or ‘improved’ in any objective sense. Obviously external factors are what drive customers’ abilities to pay their energy bills, and hardship data will reflect these external factors at least as much as anything retailers can do to assist.

For example, if a retailer’s numbers move in an unsatisfactory direction (in the AER’s view), is this a reflection of the retailer’s process becoming worse, the retailer ‘maintaining’ its process but the external conditions demanding more, or both? Could it mean something else entirely? How will the AER know, and, once again, will there need to be a point where it is accepted that all the retailer assistance in the world will still not ‘fix’ a welfare crisis’? How will we know when that point is reached?

Comparison on unambiguous data, such as disconnections, or call handling time, is reasonable and to be expected. Comparison on the financial hardship indicators discussed to date is far less informative. As discussed, these are extremely ambiguous data that are not:

- linked to a direct policy and regulatory objective in an operational sense;
- based on research or a genuine understanding of the drivers for data; or
- consistent across retailers in any definitional or operational sense, at least not to anyone’s knowledge.

Unless and until these problems have been addressed, we do not support comparative competition across retailers on hardship indicators. Data are only useful at this stage to establish a starting point against which to examine trends over time *per* retailer, and even then, the data will need to be read carefully to identify where they are driven by external economic or social circumstance versus by retailers’ own processes.

3. Entry into hardship programs

As we have noted above, it is difficult to establish the value of an indicator while we do not have a benchmark of an effective program against which an indicator can 'indicate' good performance (or otherwise).

Therefore, in this and the following sections, we have sought to answer the AER's questions using the following questions of our own as a guide:

- *How does the indicator in question demonstrate an effective hardship program, or a failure? In the absence of a definition, how does it demonstrate the purpose "to assist hardship customers to better manage their energy bills on an ongoing basis"?*
- *How does this indicator interact with other indicators? Is it a primary indicator or just one that is interesting when in combination with others?*

Note that we use the term 'indicator' as per the AER's paper. However, we want to again point out that this term also requires clarification, as per our discussion in the previous section. Any reporting should be clear that the indicators do not as such indicate performance in any objective sense, or according to any predetermined definition of program effectiveness (or otherwise).

3.1 Total number of customers currently on the hardship program

The AER's preliminary view is that *the number of customers on a hardship program* is a key measure for monitoring entry into hardship programs.

Q 2. Do stakeholders support the inclusion of this indicator? Please set out your reasons why/why not.

Origin supports this indicator being included. However, inclusion of this indicator requires some assessment of the other differences between retailers, and we suggest that the AER needs to address retailer size and its customer base. Retailers of a similar size and with a similar domestic customer base should probably have similar numbers of customers in their hardship program. However, even this is problematic as it is completely feasible that different retailers may have different and equally valid means of targeting and assisting those in need.

How does the indicator in question demonstrate an effective hardship program, or a failure? In the absence of a definition, how does it demonstrate the purpose "to assist hardship customers to better manage their energy bills on an ongoing basis"?

This indicator may be more useful than others in isolation, but it still cannot demonstrate an effective hardship program in any objective sense, as:

1. There is no benchmark, no number for 'best practice' against which retailers can be compared.
2. While this figure might be developed over time as data are collected and analysed, this will still be problematic as there are differences between retailers that create additional complexity.
3. This indicator does not capture actual support provided. What happens when we provide six different forms of assistance to one customer and another retailer provides two? If the AER is interested in what retailers do in this arena, which is provide support, then the AER should collect data about these forms of support, as we discuss above.

However, while there is no sense of a 'good' or 'right' number, or one that shows an effective hardship program, obviously trends in both directions and relative differences between retailers will be informative, and demonstrate a dimension of how retailers assist customers in financial hardship (as per the purpose).

Origin agrees with the AER that higher numbers might mean retailers are particularly proactive in identifying and promoting their hardship policies to customers, and will also show more challenging circumstances which area affecting customers' abilities to manage their energy bills. We also agree that lower figures might mean that retailers are not informing customers of their hardship policies or adequately identifying customers in financial hardship. It may also indicate that the eligibility criteria for their hardship programs are too stringent.

However, this last point brings complexity and the moral and compliance aspects of retailers' behaviour become ambiguous - what is 'too' stringent? How do we account for when customers' abilities to manage their energy bills means that they can afford less on a payment plan, potentially to the point of not being eligible for a payment plan?

This then links to the need for a meaningful definition of a hardship program in the first place, as addressed below. What is a working definition of what being 'in a program' as a minimum – is it a payment plan? If a retailer does not find someone to be eligible for a payment plan (they cannot afford even a very small amount) but puts them in the hardship program, what is the customer being offered, and is this within the spirit of what was intended in a policy sense?

Further to the issue of the 'right' number for customers in hardship programs, the ESC's recent consultation on financial hardship indicators drew out the issue that the customer numbers going into Victorian energy hardship programs might be 'too low' and that there is potentially some number of people who should be in programs but who retailers are not reaching. As we responded to that consultation, we suggest that those who regularly deal with people in financial hardship – including the people who do not identify themselves to retailers as needing support – could usefully provide some breakdown of the people they deal with to help us understand what the 'dark figure' of people who *could* be reached (but are not) might be. Ideally this could be a research piece that could be developed by a working group of interested parties, including industry. Carrying out this type of work could be a very good idea to help us all manage the coming price rises across energy and other costs of living, to better reach out to and support any rising numbers of people in hardship.

We also suggest that having people be confident to call retailers involves more than just retailers providing information – consumer groups that deal with those experiencing difficulty also have a role in encouraging people to contact us. While we are not asking consumer advocates or others to ignore or gloss over retailer problems or compliance issues, we do believe that some people can provide more positive support to the process of improving these programs. A co-operative approach that shares experience and knowledge will better serve to assist customers experiencing difficulty, and most particularly, will better provide the confidence to people who need to contact their retailer to ask for help.

How does this indicator interact with other indicators? Is it a primary indicator or just one that is interesting when in combination with others?

We would argue that is this is a primary indicator, but that without some benchmark of what is a 'good' number for a retailer of a particular size and customer population (which we argue is not feasible), it will still be a matter of assessing relative numbers across retailers.

Q 3. What are stakeholders' views on the definition and timing issues raised in relation to this indicator?

We note that the AER has stated that the further decisions will need to be made in relation to this potential hardship indicator, and we provide comment below.

<u>Defining what being on the program means</u>

As we note above, this is a real issue, and a lack of any generally understood definition of what 'being on the program' means makes interpretation of the proposed indicators highly problematic.

We suggest that while being on the program might not always mean the customer is on a payment plan (for example, Origin may accept a customer in *Power On* and just park the debt and any discussion about payment plans until the customer is able to meet with a financial counsellor) , this could be a useful starting point. If this is not agreed (and we support retailers' capacity for flexibility here) we would at least suggest that retailers are asked to fill out what this means for them when they submit their data, and that if entry numbers are seen as 'too low', that further information could be sought from the industry to see if the problem is more related to payment plan levels not being affordable *at all* than it is about retailers being able to do better with assessing capacity to pay. This will then help policymakers better understand the environment and what other measures may be required to supplement welfare incomes or otherwise support people in dire financial hardship.

<u>Gas and electricity</u>

Origin supports gas and electricity hardship customers being recorded individually for both products, so that a consistent approach to volume recording is required across the industry. For example, if Origin provides electricity to a customer and AGL is this customer's gas supplier, each retailer would record this activity as supporting one customer. If one retailer provides both products and counts the support provided as one activity there will be in an inaccurate representation of volumes across the industry.

<u>When and over what period</u>

Origin supports the AER's suggestion for a specific monthly date for retailers to collect and record this information (for example, retailers report on the number of customers on their hardship programs as at the last day of each month), and for retailers report these data to the AER on a quarterly basis.

<u>State-by-state or national</u>

Origin supports data being collected on a state-by-state basis. This will then provide for any further investigation into state differences, as well as providing relevant information to state governments and state-based agencies and consumer representatives.

<u>Timing</u>

Our preference is to measure each month from start to finish.

3.2 Number of hardship program participants who receive any appropriate government energy concessions

The AER wants to include *the number of hardship program participants who receive any appropriate government energy concessions*.

Q 4. Do stakeholders support the inclusion of this indicator? Please set out your reasons why/why not.

Overall we do not find this indicator to be particularly meaningful: it is more about the AER collecting interesting information than about retailer performance.

How does the indicator in question demonstrate an effective hardship program, or a failure? In the absence of a definition, how does it demonstrate the purpose "to assist hardship customers to better manage their energy bills on an ongoing basis"?

Given that there is no evidence to support a view about concessions status as linked to financial hardship, or what an 'effective' hardship program might show, this is not an indicator of program effectiveness or one that can be shown to be related to the purpose under the Law.

Perhaps we might expect that at the least the percentage of participants who are concession cardholders would equal the cardholder percentage in the general population, as stated by the AER.

However, this is not necessarily true and depends on the type of concession cardholder. For example, it has been found that some cardholders are *more* likely to pay on time and manage their bills than the mainstream population, such as old age pensioners (see the Victorian DHS Household Expenditure Survey).

For cards provided to people with low incomes it might be expected that these people are also more likely to experience problems with bill affordability. However, this does not mean that these customers cannot manage their bills, or just maintain payment plans with retailers that do not require entering the hardship program. There is a complex array of psychological and socio-economic factors at play and further in-depth research should occur, perhaps as part of the joint project discussed above, before any assumptions can be made.

Further, there is a large number of ‘working poor’ these days that come to hardship programs, and these people would not generally hold concession cards. In 2004, 29% of employees were identified as earning less than $500/week by the ABS. ‘Underemployment’ is a problem, where in late 2009 ABS figures showed that 13.4 per cent of Australians were working fewer hours than they would have liked to, whether through unemployment or being asked to take part-time hours against their preference. Underemployment, like unemployment, will necessarily add pressure to household finances, which will also affect capacity to pay energy bills.

The AER raises the possibility that the Retail Law requirement to identify customers and to have processes in place for the early response to customers in hardship could mean that we use concession status to trigger an offer to join the hardship program. However, we ask the AER considers current concessions numbers – in some cases up to 40 per cent of customers can be on concessions. Concessions status significantly over-captures the customers in hardship in this sense, and under-captures in that it does not recognise customers who may be part of the ‘working poor’.

Overall, this indicator does not really add any value to an assessment of whether a retailer’s hardship program is effective, at least not while there is no evidence that we should expect higher numbers of concessions cardholders in financial hardship.

How does this indicator interact with other indicators? Is it a primary indicator or just one that is interesting when in combination with others?

If this is to be included as an indicator we suggest that it is very much secondary to others, and would only demonstrate a problem if a retailer’s numbers were significantly out of step with what would be expected *in conjunction* with other problems.

Q 5. What are the views of stakeholders on any definition and timing issues raised in relation to this indicator?

3.3 Number of customers entering the hardship program

The AER seeks to collect data on the *number of customers entering the hardship program* each month.

Q 6. Do stakeholders support the inclusion of this indicator? Please set out your reasons why / why not. Q 7. What are stakeholders’ views on any definition and timing issues raised in relation to this indicator?

Origin supports this indicator, consistent with our comments on 3.1 (Total number of customers currently on the hardship program).

Q 8. What are stakeholder views on the advantages and disadvantages of monitoring third party referrals to retailers’ hardship programs under our compliance regime rather than as part of the national hardship indicators?

We note that the AER is currently not proposing to include any further indicators which would provide a breakdown on *how* people entered the hardship program, for example through self identification, identification by the retailer or referral from a third party such as a financial counsellor or welfare agency etc. Origin agrees with this perspective, and with the view that data collected under this indicator may be particularly difficult to interpret and that the underlying trends would already be captured by other indicators.

However, we have some concern with the AER's view that third party referrals to retailers' hardship programs could instead be monitored as part of the compliance regime. While the proposed Retail Law does require retailers to have adequate processes in place to identify customers experiencing financial hardship, this is not specifically about third parties and we wonder how the AER can determine a retailer to be 'non-compliant', as suggested, or what the 'appropriate measures' to rectify this might be. It would seem risky, in our view, to consider these matters as compliance/non-compliance issues without a better understanding of the matters we have raised earlier, such as community expectation and actual regulatory obligations.

If the choice is to see this as data that is to be collected 'just in case' it tells us something, then we would supported it being collected under these terms. However, calling this either a performance indicator or a compliance matter would not seem to reflect reality.

3.4 Number of customers denied access to the hardship program

The AER has said that it may be appropriate to monitor the *number of customers denied access to the hardship program*. It is anticipated that customers would only be denied access to a retailer's hardship program in instances where they did not meet the specified eligibility criteria as set out in their approved hardship policy.

Q 9. Do stakeholders support the inclusion of this indicator? Please set out your reasons why/why not.

Origin supports the inclusion of this indicator, and supports the same frequency of reporting being applied to enable comparison with the other indicators in this area. We agree that the definition of 'denied access' requires close scrutiny, and also suggest that this definition draws attention to the way each retailer also defines their hardship program.

How does the indicator in question demonstrate an effective hardship program, or a failure? In the absence of a definition, how does it demonstrate the purpose "to assist hardship customers to better manage their energy bills on an ongoing basis"?

As with the other indicators, a problem with any data collected against this indicator is that there is no model of an effective program against which data can be compared. However, there is still value in that it links to the purpose under the Retail Law, which we suspect presumes that to provide assistance to customers means retailers should not be denying access to their programs.

The problem with this indicator then becomes that the difference between what might be seen as reasonable and unreasonable denial of entry is not clear in a policy or regulatory sense. While this is the case, this indicator is of limited value other than for information purposes. This indicator illustrates the tension described above in section 2, where a principled and open approach to policy and regulatory settings is then paired with a detailed 'one size fits all' perspective on performance reporting. While there is no clear and universally understood definition of what it means to 'be in a retailer's hardship program' and while there are a range of reasons why a customer may thus be eligible or not, reporting these data without context becomes pointless.

Most importantly, this indicator again raises the issue of what are fair and reasonable entry criteria, and what are criteria that are 'too stringent'. As we asked in sections 2 and 3.1, are retailers expected to accept any payment amount, even if it is very low? If so, then how can we be simultaneously be judged poorly if debt accumulates over time (as it will inevitably do), or if people get disconnected when they leave the program? What does accepting debt at any level (and no repayment) mean to the success of a retailer's hardship program commercially, and thus for all the other customers who might require support?

Denying access and Origin's approach

In our own case, Origin does not deny access to any person who says they require assistance. Therefore we have no entry criteria, in the sense of having to pass income tests or be 'genuinely' in need. We take a customer's word in good faith and thus do not expect customers to substantiate their current financial circumstances to gain entry to *Power On*.

However, once a customer is in the program they need to maintain certain payments and remain engaged. Origin has guidelines around the actual level of support that can be afforded to each customer, where these guidelines have been established in line with broad community consultation and look to provide an appropriate, affordable and sustainable solution for each customer.

A key point to note is that if an agreement cannot be reached with a customer regarding appropriate, affordable and sustainable payments, the customer will be denied entry to the *Power On* program. Despite these certain limitations *Power On* continues to provide a considerable level of financial and personal support to customers through the program's holistic approach.

In fact, we are regarded as such an approachable and supportive organisation by the community support sector that we now find ourselves being challenged. Recent experience suggests that due to our socially responsible approach, community/industry organisations are pressing us to do more as a direct result of other debtors doing less. We are expected to do this because our reputation is to 'do more'.

For example, an assessment of a customer's circumstance may have been undertaken by a financial counsellor and the outcome presented is that a customer can only afford a $10 a fortnight payment toward their electricity bill, despite their ongoing usage being $100 per fortnight and an additional outstanding debt of $1500. Discussions with various financial counselling organisations tells us that other debtors are applying significantly more pressure on customers in order to collect debt and Origin is then left to fill this social responsibility gap. Consequently, we are no longer subsidising the customer's energy usage but the bills of the other debtors.

The concerning issue for Origin – and we suggest, for everyone in this space – is that we have found more and more people in recent months who cannot maintain even a small amount on a payment plan. In the past this rarely happened, but the possible future numbers of customers in this situation make this an unsuitable and unsustainable position for both our customers and our shareholders. To the extent that this new phenomenon is a reflection of a more general problem of affordability, the answer lies not with even lower energy plans (with associated greater accumulation of debt) but a wider social support net that addresses the broader issues.

Only more qualitative research will provide the answers to this problem.

How does this indicator interact with other indicators? Is it a primary indicator or just one that is interesting when in combination with others?

We would argue that is this is a secondary indicator, and more about collecting basic information than anything else. It may provide supplementary information if entry to programs is seen as too low, therefore we would seek that retailers are asked to provide a narrative around this to supplement raw data.

Further, without some benchmark of what is a 'good' number for a retailer of a particular size and customer population (which we argue is not feasible), it will still be a matter of assessing relative numbers across retailers.

Q 10. How should "denied access" be defined if this indicator is adopted?

While this is an important question, we suggest that it cannot be answered meaningfully until there is clarity about how retailers themselves define their programs and the key characteristics of these programs. Until this is clear we will not know whether a comparison on denial of entry across retailers is comparing 'apples with apples'.

Even with a clear set of definitions, it is not apparent whether this is meaningful as an indicator. By its nature some denials – or behaviours experienced by the customer as denial – will never be captured through reporting processes, particularly the most problematic forms of denial. For example, how would a retailer collect data about the numbers of people in their call centre who may not have been trained properly, or who did not absorb their training, and who did not listen to a customer when they say they needed help? Who may have not asked the 'right' questions that in another set of circumstances would have seen a customer be put through to the hardship team? This is 'denying access' but will never be captured through statistics due to the very fact that the people involved probably were not aware that there was an issue.

3.5 Summary of proposed "Entry into hardship program" indicators

Overall, the AER has proposed the following indicators:

- total number of customers currently on the hardship program;
- number of hardship program participants who receive any appropriate government energy concessions;
- number of customers entering the hardship program; and
- number of customers denied access to the hardship program.

Q 11. What are stakeholders' views on the overall effectiveness of the above four indicators in measuring the entry into hardship programs?

In our view, the overall effectiveness of the above four indicators as a measure of the retailer's performance of their hardship obligations will be limited. The indicator which tells us the most relates to customers in the hardship program, supplemented by those currently entering the program. Energy concession status means nothing at this stage regarding the performance of the regulatory obligations, so this is more usefully defined as part of the information collection process and used to understand the totality of support provided to relevant customers. Customers denied access remains problematic until some policy objectives and definitions are clarified.

Q 12. What other indicators, if any, should the AER consider adopting that would also be effective at assessing entry into hardship programs and why?

We do not believe that there are any other indicators that would add to this process other than forms of support provided, which have discussed already, and raise again in the next section.

4. Hardship program participation and assistance

As with the previous section, we have sought to answer the questions using the following questions as a guide:

- *How does the indicator in question demonstrate an effective hardship program, or a failure? In the absence of a definition, how does it demonstrate the purpose "to assist hardship customers to better manage their energy bills on an ongoing basis"?*
- *How does this indicator interact with other indicators? Is it a primary indicator or just one that is interesting when in combination with others?*

Once again, while we use the term 'indicator' as per the AER's paper, this term requires clarification. Any reporting should be clear that the indicators do not as such indicate performance in any objective sense, or according to any predetermined definition of program effectiveness (or otherwise).

4.1 Average debt upon entry into the hardship program

Origin notes the AER's preliminary view that collecting data on the av*erage amount of debt upon entry into a hardship program* will identify whether retailers are fulfilling their obligation to employ effective processes that identify customers who are experiencing payment difficulties and to provide an early response.

Q 13. Do stakeholders support the inclusion of this indicator? Please set out your reasons why / why not.

How does the indicator in question demonstrate an effective hardship program, or a failure? In the absence of a definition, how does it demonstrate the purpose "to assist hardship customers to better manage their energy bills on an ongoing basis"?

We suggest that this indicator cannot demonstrate if a hardship program is effective (except perhaps by exception, as noted below), and the assumptions discussed go well beyond any reasonable reading of the purpose, as well as of the aspects of a hardship program under provision 233 of the proposed National Energy Retail Law.

In its Issues Paper, the AER has said:

> *…we would expect retailers to have suitable systems and processes in place to monitor customers' accounts to prevent unmanageable levels of debt from accruing before assistance is offered…As retailers become more efficient at identifying and targeting eligible customers, earlier participation in programs should result in a lowering of average debt levels on entry. We would therefore expect to see the average debt owed to retailers upon entry gradually reducing over time as retailers' hardship programs develop.*

While this may seem logical in principle, this perspective ignores some key realities underpinning hardship program outcomes, and appears to demonstrate beliefs about retailer process and capacities that we believe are inappropriate.

The first concern we have relates to the apparent belief that retailers can "monitor customers' accounts to prevent unmanageable levels of debt from accruing before assistance is offered", and that we can do this through "identifying and targeting eligible customers". This is a misinterpretation of the words in the National Retail Law around identification and early response; these words were never to imply that retailers would monitor customers' accounts in general in order to target customers in hardship. In fact, the early response aspect in 226 (b) of the proposed Retail Law is explicitly linked to customers who have already been identified as requiring support.

The second, and related, concern is that the AER believes that having targeted customers in hardship ahead of time, that there should be a 'lowering of average debt levels on entry'.

These are both unrealistic expectations, and are addressed below.

Understanding retailers' (in) capacity to prevent unmanageable debt

First, we need to address the topic of how retailers become aware of customers' debt, and how retailers then approach customers to discuss whether support through a hardship program is required. Origin wrote extensively on this in our submission to the 2005 Victorian Inquiry into Financial Hardship of Energy Consumers (which we can provide in full to the AER on request) and have reinforced the messages multiple times in policy and regulatory fora in subsequent years. Our arguments about the possibility of objectively identifying customers in financial hardship have been accepted by most people who are involved in this issue, and legal drafting in rules has always been carefully crafted to reflect that the 'processes to identify customers' include the processes retailers have in place to support customers' self-identifying.

Overall, unless and until a customer tells their retailer that they are experiencing hardship (or find their debt unmanageable), this will not be known by the retailer, nor indeed has the retailer the right to 'pursue' such private information if it is not offered. *There are no objective indicators of hardship*. Targeting approaches or locating indicators of hardship involves unpicking a range of complicated issues that affect people's lives, such as:

- differentiating long-term problems with bill affordability (e.g. high medical appliance bills and sole reliance on a disability pension for income) from short- to medium-term hardship (e.g. sudden loss of unemployment when there are multiple bills due); and
- differentiating those who are having difficulty paying for preventable reasons (e.g. poor prioritising in budgeting, or use of energy inefficient appliances) and assisting them through financial counselling or energy efficiency advice, from customers whose difficulty paying is more chronic and pervasive, and whose issues are less able to be resolved.

These combined issues mean that the only reliable method of detecting and assisting customers who are having difficulty paying their energy bills is to provide the environment where customers feel confident and comfortable enough to *self-identify* through communicating their current inability to pay. This environment must ensure each customer maintains self-respect, and as such, it should be empathetic and sensitive to customer issues.

To be completely clear, what this means is that systems cannot be configured to somehow flag customers who *might be* in hardship or *may be in danger of falling into hardship*. While we would be keen to develop such an approach to be more responsive to customer needs, automation in this area is not possible as it would be meaningless in the face of likely major over or under-inclusion which would result.

For example, of the information retailers collect about customers, information regarding delays in bill payment, significant increases in consumption, or the basic concessions status would be the obvious leads for energy companies in this area. However, for the reasons below, even this information would not assist in objectively identifying customers who might be in hardship:

- **Where payment has been delayed**: Given that up to half of all customers require a reminder notice to pay their bill, and that many customers pay on the disconnection notice, this would not act as a meaningful indicator of hardship or potential hardship. We can assume that a significant number of these people will have had reasons other than financial hardship for not paying their bill sooner. – Moreover, many customers who sit on the verge of hardship (e.g. on pensions) are in fact customers who would in normal circumstances be committed to paying on time as a way to manage their budget.
- **Where there has been a major change (increase) in consumption**: Major bill changes can occur for a variety of reasons, such as: purchase of new appliances; additional people in the house; and seasonal differences in consumption patterns. Thus it would not be reasonable or practicable to have systems set to detect major changes in consumption and presume hardship will result.

- **Where the customer is on a concession**: As noted earlier, perhaps as many as 40 per cent of customers in some areas are on concessions, which would indicate that concessions status would not be a useful proxy for customers who may fall into hardship.

  Even if only Health Care cardholders (half of all concession holders) were considered to be in danger of hardship, as Health Care cards are managed by the federal Government and can change on a 3 monthly basis (1 electricity billing cycle and 1.5 gas billing cycles) this still would mean (a) significant over-coverage of customer contact and (b) administrative difficulty in keeping meaningful records on this issue and staying in contact with customers as required.

If there is anything we have learned in the seven years we have run *Power On*, it is that people will tell you that they need help only when they are ready to, and self-esteem plays an enormous part in determining when they are ready. All retailers can do is provide an environment where customers feel ready and able to identify themselves as requiring support before their debts get too high. We can guarantee that if we contacted all the people whose bills grew large or who paid late to ask if they are in hardship, we would swiftly alienate many of our customers.

In short, there is no way that a retailer can know ahead of being told whether a bill is going to be unmanageable for a customer. In any event (and as we know) it is not just bills that change, but *life changes* that are often the issue. This means that a bill that was manageable before may not be manageable the next time if other lifestyle or employment issues arise. Retailers cannot know this about customers without the customers offering the information.

In fact, a major problem for retailers is having customers engage with us about their true circumstances, and we have found that having such engagement is a problem even once they are on the program. It is false to assume that customers are waiting to talk to energy retailers about their financial hardship, and that all retailers need to do is offer more support to uncover some population of people who have not been reached to date (the 'dark figure' of hardship). The reality is far more complex, where customers may see their energy bills as a very small part of overall problems in life; they may not want to talk to us, they may not be able to be honest with us for a range of personal reasons that we have nothing to do with. We are rarely granted insight into people's psychology, and we are generally not welcome unless invited. All retailers can do is offer a supportive environment and hope our customers in need contact us.

Origin has included two case studies in the appendix that outline where engagement has been a significant issue, and we hope this sheds some light on to the complexity of this issue.

As a final point, we note that the only real opportunity for the situation as discussed to improve to any degree is with the advent of smart meters, and potentially shorter billing and collection cycles (it is widely recognised that a move to monthly billing in the longer term will better support customer benefit). Smart meters promote the support provided to customers who are in hardship programs, as with the increased information available about customer usage we have a far better means of objectively understanding how we can help customers with their energy consumption to reduce bills. A more frequent billing cycle will also prevent customers from building up unmanageable bills. The technology will provide for new means of helping customers budget and understand usage, but at this stage we do not know what might look like.

<u>The belief that an effective program should be able to lower the debt upon entry</u>

The conclusion that retailers can identify customers earlier and earlier, and therefore see debt levels reduce upon entry, seems to flow naturally from the previous conclusion, that is, that retailers can do more to identify customers in hardship before they experience serious problems. As noted above, this is incorrect in any general sense, except for the possibilities for better consumption monitoring and smaller (more frequent) bills that smart meters might deliver in the longer term for those jurisdictions that provide for them.

Even if retailers could identify customers in hardship in any general sense (without first being told), the issue remains that what is unmanageable debt is subjective and that this will vary not only from customer to customer, but within the one customer's lifetime. This means that customers might enter retailers' hardship programs with different levels of debts and what is 'low' or 'high' for a customer is entirely subjective and time-specific. It is also driven by factors external to a retailer.

How does this indicator interact with other indicators? Is it a primary indicator or just one that is interesting when in combination with others?

Origin suggests that if this indicator is retained, that it is very much a secondary source of information. Further, any assumptions about its use must be revisited and supported by evidence before they are accepted into the AER's or community's expectations. If this evidence is not forthcoming, we suggest that the value from this indicator is for information purposes only at this stage, and that the value from the indicator is more as means of reporting by exception than of forming views about entry numbers reducing over time. This means that if a retailer stands out compared to others, with entry debts that are seen to be very high, this should then direct the AER's attention to further discussions with the retailer involved about their processes.

Q 14. What are stakeholders' views on how 'debt' should be defined and on the timing issues raised in relation to this indicator?

We support the AER's preliminary view that 'debt' should be defined as the dollar amount which has been outstanding to the retailer for a period of 90 days or more.

We suggest that reporting against this indicator on a monthly basis would not provide any additional benefits over reporting on a quarterly basis, unless billing and collection cycles go to a monthly basis (which may happen in the longer term, at least in Victoria).

4.2 Average debt upon exit from a hardship program

The AER states that its preliminary view is that the *average level of debt upon exit from a hardship program* should provide a good indication of the effectiveness of the assistance that retailers are providing to their hardship customers.

The AER goes on to say: "We would expect that for effective hardship programs, the average amount of debt upon exit would be lower than the average debt upon entry".

Notwithstanding the reasons noted by the AER about why this may not always be straightforward, we again have concerns about the assumptions underpinning this statement, as addressed below. We also draw the AER's attention to the arguments outlined in section 2 above.

Q 15. Do stakeholders support the inclusion of this indicator? Please set out your reasons why/why not.

How does the indicator in question demonstrate an effective hardship program, or a failure? In the absence of a definition, how does it demonstrate the purpose "to assist hardship customers to better manage their energy bills on an ongoing basis"?

Once again, while the principle of a reduction of debt may seem to make sense on first blush, the practical realities say something different. The assumptions underpinning this belief are also problematic, as they reflect an apparent belief that customers do not build debt as they stay in a program, and also that somehow our programs have payment plans that are both affordable/accessible *and* reduce debt. This is just not true in many cases.

First, people continue to use energy as they stay on the program, and if they cannot afford payment instalments that manage ongoing consumption then the debt will rise. What the AER does not know is how great the debt would have been if there was no support, or if/how this customer might have been disconnected.

Some examples of when a customer might leave with more debt than they came with (taking away the numbers removed from the program for non-participation) include where a customer is tempted by an offer from another retailer and they switch, or where their income changes and they feel able to leave the retailer's hardship program even though they have high debt.

Expecting a reduction of debt would seem to indicate that the AER and others believe consumers' lives are static, that their levels of income and their costs of living do not change. It also assumes a level of control over our customers' lives that retailers just do not have.

As noted above, the policy objective is *to assist hardship customers to better manage their energy bills on an ongoing basis*. A retailer who is fully effective in fulfilling this objective will not necessarily be a retailer who has all people completing its hardship program with less debt than they entered with.

In fact, it is not unreasonable to expect that debt levels of consumers could shift in any direction regardless of the best efforts of energy retailers – energy costs are just one component (and a relatively small one) of a household's total financial position, and any worsening in their energy bill debt is most likely to be a reflection of a much wider problem.

More specifically, just as one customer's debt could reduce because their retailer helps them with energy efficiency advice and payment plans, another customer's debt could rise as their personal circumstances change. As noted above, someone could choose to leave the hardship program if they get employment with a higher income that means they can pay their debt off more quickly than before. All retailers' hardship programs can be *expected* to do is to maintain a period of no disconnection for the time the customer is on the program and to provide for reasonable payments on a payment plan (and energy advice if this is required). Sometimes this is going to mean that a customer leaves the program with more debt than they started with.

We would like to see a clear analysis of these issues within performance reports. For example, where debts rise because people cannot pay their bills at all, we might actually say that the fact that the person stayed on supply and was immune from collection activity is still a good outcome.

If the view is taken that the debt *must* be reduced, then we cannot avoid the fact that sometimes other tools to manage debt need to be used by the retailer, such as disconnection (which sometimes is the only way to have a customer engage or re-engage with their retailer) or higher payment plans than might be ideal.

How does this indicator interact with other indicators? Is it a primary indicator or just one that is interesting when in combination with others?

We suggest that this indicator is secondary, and for information purposes only.

Q 16. What are stakeholders' views on the alternative approach considered, i.e. where retailers would report, for those customers exiting the hardship program, both the average level of debt when they entered the hardship program and what it was upon exiting the program? Please set out any reasons why you would or would not support the inclusion of this indicator and any practical issues that may arise in collecting and reporting this data.

If the principle of this indicator was to be retained, we support the AER's alternative approach for retailers to report, for those customers exiting the hardship program, both the average level of debt for these customers when they entered the hardship program and what it was upon exiting the program. As noted by the AER, this would allow a direct comparison of debt levels for the same group of hardship customers both before and after their participation in the hardship program.

4.3 Average length of participation in hardship programs

We note the AER's position that it is not proposing to include an indicator measuring the average length of time participants stay on a retailer's hardship program.

Q 17. What are stakeholder views on whether this indicator should be included as part of the National Hardship Indicators? Please set out any additional benefits that would arise from collecting this data, in particular what this indicator would tell us and why it is an important measure to collect.

We support the AER's perspective on this issue, noting that data collected under this indicator may be particularly difficult to interpret and that the underlying trends would already be captured by other indicators. The customer's reasons for their debt will change and the retailer cannot be held responsible.

However, we are not sure why the ambiguity about data has been accounted for here but not for the other indicators. We would rather see this indicator reinstated and categorised with most of the others as 'data collection only' than support an apparent belief that this indicator is ambiguous and the others are not.

4.4 Total number of customers exiting the hardship program and the number of customers excluded from the hardship program for noncompliance with program requirements

The AER has stated that the *total number of customers exiting the hardship program* minus the *number excluded for non-compliance* will give an indication of the proportion of hardship program participants who are successfully leaving the retailer's hardship program. Further, the AER says it would expect customers to be excluded for non-compliance only in exceptional circumstances, and in accordance with the criteria specified in the retailer's approved hardship policy.

Q 18. Do stakeholders support the inclusion of this indicator? Please set out your reasons why / why not.

How does the indicator in question demonstrate an effective hardship program, or a failure? In the absence of a definition, how does it demonstrate the purpose "to assist hardship customers to better manage their energy bills on an ongoing basis"?

We note the AER's preliminary view that this indicator will provide an assessment of how effective the retailer has been in engaging and enabling the customer to participate in the program, and also that an example of an ineffective program might be retailers "establishing payment plans that do not adequately take into consideration a customer's circumstances and ability to pay".

We agree that this data will provide useful information, and hardship program participants exiting (by agreement), as a percentage of participants and adjusted for over time, shows the notional 'success' of a hardship program. If, over time, no one exited by agreement it might show that a retailer's program was less than effective, but only if this occurred in conjunction with other indicators raising concern.

However, we caution the AER in assuming that this information will necessarily say very much about retailers' program effectiveness, or rather, ineffectiveness at taking people's payment circumstances into consideration. Once again, a customer's circumstances in general (and we mean across all their debtors, possible marriage or employment problems, and possible health crises) will outweigh their views about their energy bills, or may at least mean that their relationship with their retailer is inconsistent. This is not the retailer's fault and it not generally within the retailer's control.

There are certainly circumstances under which is appropriate to exclude a customer, and these include where they did not maintain any agreement with their retailer, where they could not be contacted after multiple attempts, or where they could not pay even a small amount toward their bill (in which case we would expect government and social welfare services to play a greater role). It is not reasonable to assume that customers excluded from the program reflect a failure of the retailer to engage (or at least a failure that we could somehow rectify) or a failure to be 'flexible enough' in payment terms.

As we discuss above in section 2, at what point do we recognise that a customer has a responsibility to engage with a retailer? Certainly, the suggestion that a customer in hardship has 'the intention to pay' as noted by the AER should have some weight. We suggest that this customer intention can only be judged by observing the customer's behaviour (given we cannot access their thoughts), and it is not too harsh to expect that this behaviour will be to at least respond to the retailer's calls or letters when payment is not possible.

Further, and also as noted above, are retailers expected to accept any payment amount, even if it is very low? If so, then how can we be simultaneously be judged poorly if debt accumulates over time (as it will inevitably do), or if people get disconnected when they leave the program? What does accepting debt at any level (and no repayment) mean to the success of a retailer's hardship program commercially, and thus for all the other customers who might require support?

The use of this indicator needs to be clarified based on a reasonable expectation of retailers and of customers. We suggest that it does not lend itself to any statements about the effectiveness or otherwise of a retailer's program; this information is 'nice to know' as data over time might shed some light on customer circumstances and will help inform the debate about retailer obligations.

How does this indicator interact with other indicators? Is it a primary indicator or just one that is interesting when in combination with others?

If the issues above are addressed, this would be a primary indicator (at least a primary source of data to observe over time).

4.5 Number of customers who were disconnected during the reporting period and who have been on a hardship program in the previous 24 months AND

4.6 Number of customers who, during the reporting period, were reconnected within seven days of being disconnected and who have been on the hardship program in the previous 24 months

We have merged the discussion of the indicators regarding disconnection and reconnection, as they cover the same ground, and essentially the value of disconnection indicator is that it provides the data set against which reconnection is judged.

The AER states that the *number of customers disconnected and reconnected within seven days who have been on the hardship program during the previous 24 months* provides an indication of the effectiveness of the assistance provided to hardship customers.

Q 19. Do stakeholders support the inclusion of this indicator? Please set out your reasons why / why not.

Q 20. What are stakeholders' views on the potential limitations of this indicator and the timing issues raised?

Q 21. Do stakeholders support the inclusion of this indicator? Please set out your reasons why / why not. The AER is particularly interested in stakeholders' views on the benefits of collecting this data and what the trends in this indicator would tell us about retailer performance.

How does the indicator in question demonstrate an effective hardship program, or a failure? In the absence of a definition, how does it demonstrate the purpose "to assist hardship customers to better manage their energy bills on an ongoing basis"?

As noted earlier in this submission, we are extremely concerned about the AER's apparent belief that energy retailers' hardship programs can and should have a permanent effect on our customers' behaviour, and specifically their capacity to fall into debt in the future. This appears to be the AER's interpretation of how to measure retailers' assistance providing a means of ongoing 'better' customer bill management under the legal purpose, but we see no evidence that this is any reasonable expectation of an energy retailer's hardship program.

The AER states that most customers who have participated in and exited a retailer's hardship program should be able to manage their ongoing energy bills and not be at risk of disconnection. Further, AER also says that if high numbers of customers who have previously been on a retailer's hardship program are being disconnected and reconnected within seven days, this is likely to signal that the retailer's hardship policy and program are ineffective.

There are problems with this logic.

First, but related to the last point, it is not clear how there is any evidence that a hardship program is ineffective if:

a) there has never been a clear case made for what an effective or ineffective program would look like in the first place; and

b) if there has never been a policy directive for retailers to be able to guarantee that their customers' energy debts will go down and stay low.

As a corollary to the above, the AER says that if the assistance provided under hardship programs is effective and hardship policies are achieving their stated purpose, it would expect that the number of customers previously on a hardship program who are disconnected to be low.

We suggest that this is not a correct interpretation of the purpose, and in fact holds retailers to be far more responsible for their customers' lives than either we as retailers, or our customers, would like.

The purpose says a hardship program is to *assist hardship customers to better manage their energy bills on an ongoing basis.* As with our argument earlier in this submission, this purpose is met if we provide reasonable payment plans and other forms of support that value sustainable consumption, such as energy efficiency advice. Offering (ongoing) assistance targeted to better management of bills is one thing, and is not the same as ensuring a customer does not fall into debt again, or ensuring that a customer will engage multiple times with a retailer. Retailers can provide tools to our customers but we cannot ensure that they will engage in the way we seek, or that they will sustain behaviour change.

Second, there is a presumption here that customers' lifestyles and debts are static, and that what works once must necessarily work again. This ignores the complexity of consumers' real-life hardship situations, and makes connections that are not supported by fact in any way that we can apply in a general sense to a regulatory and compliance regime. In reality, all we can say *for sure* is that anyone can fall into hardship for any reason, or an unfortunate constellation of reasons, and so their propensity to travel through a cycle of disconnections and reconnections for non-payment is not clear.

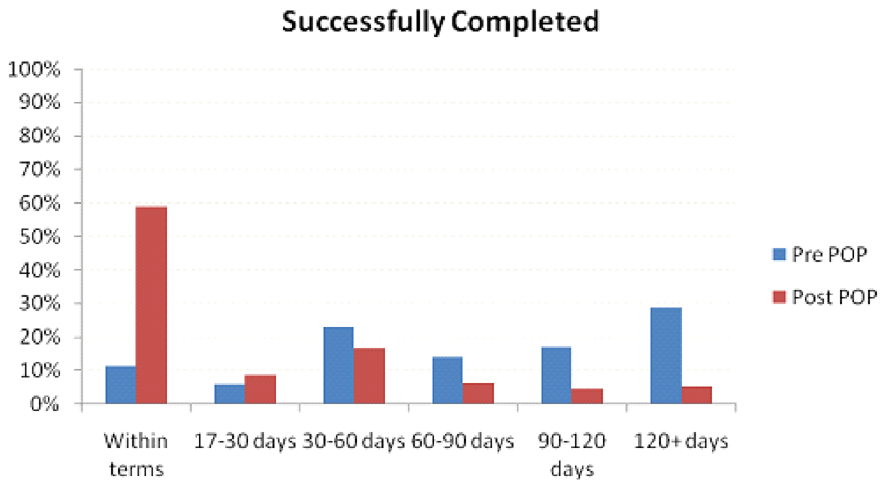
This indicator is also confused because the numbers could go in opposite directions depending on whether the person was removed from the hardship program by the retailer for non-compliance or if they exited by agreement. If the customer was removed, then we would expect disconnection figures to be higher, as they would enter the collection mainstream and not be protected from disconnection. If the customer exited by agreement in the previous 24 months perhaps they might feel confident to enter the program again when the need arises and we should expect disconnection statistics to be low, but we could equally argue that some people's pride might make them even less likely to enter a hardship program if they have already been in one once.

This is an indicator that is useful for research purposes but is dangerous as an indicator of retailer performance without a sense of the customer's experience with the hardship program in the first place, and a much deeper analysis of people's psychology and changing circumstances.

Having said this, Origin has carried out its own analysis of customer behaviour before and after completing our *Power On* program (and exiting by agreement). The results are shown in Figure 2 below, where the blue columns show the per cent of customers who pay before being in *Power On*, and the red columns show payment after being on the program. According to these data there is obviously a clear benefit to the customer (and Origin) of

Power On, as customer payment within terms increases significantly after participating in the program. We can also confirm that our *Power On* payment plans – incentivised and subsidised – have a payment success rate of 96 per cent.

Figure 2: Bill payment for Origin customers after being in *Power On*



An interesting thing to note from this data (besides the good story told about our program) is that this is far clearer about how our hardship program provides for behaviour change than the hardship indicators of debt upon entry/exit and disconnection after being on the program. It also provides the necessary comparison with customer behaviour *before* they are in our hardship program.

While we are happy to provide this kind of information to the AER in the future, we do not want this to undermine our primary argument that this is for information purposes only and that energy retailers should not be held responsible as a matter of course for their customers' behavioural outcomes.

How does this indicator interact with other indicators? Is it a primary indicator or just one that is interesting when in combination with others?

We suggest that this indicator is secondary, and for information purposes only.

4.7 Summary of proposed "Hardship program participation and assistance" indicators

The AER's preliminary view is that five possible indicators focussing on hardship program participation and assistance could be:

- average debt upon entry into the hardship program;
- average debt upon exiting the hardship program;
- number of customers exiting the hardship program and those excluded for noncompliance with program requirements;
- number of customers who were disconnected and who had been on the hardship program in the previous 24 months; and
- number of customers who were reconnected within seven days of being disconnected and who had been on the hardship program in the previous 24 months.

Q 22. What are stakeholders' views on the effectiveness of the above five indicators in measuring hardship program participation and assistance?

As stated above Origin believes that the assumptions underpinning most of these indicators reflect assumptions about retailers' programs and consumers' behaviour that are not supported by evidence. We support this information being collected, but it should be with the strong caveat that it is about information collection to inform public policy, not as a tool to manage retailers or set community expectations about compliance obligations.

The most useful indicator relates to customers exiting the program and exclusions for non-compliance, but as we note above, this also requires stronger analysis of available data and a clearer set of expectations.

Q 23. What other indicators, if any, should the AER consider adopting that would be more effective at assessing hardship program participation and assistance?

Q 24. What are stakeholders' views on the overall scope of the proposed set of National Hardship Indicators as a whole and whether they will, as far as possible, assess the impact of retailers' hardship policies?

Q 25. What other information or indicators from other jurisdictions or industries could the AER draw on or consider when developing the National Hardship Indicators?

The AER has advised that is has sought not to focus on specific hardship indicators regarding the types of assistance provided under hardship policies, which "ensures that retailers have some flexibility in developing their hardship programs to ensure the assistance they offer to customers will best meet their individual needs".

Origin believes that performance indicators are either linked to regulatory compliance obligations or they are not. So far, the indicators addressed have not demonstrated links to compliance obligations (where, as we said, our reading of the proposed Retail Law is that it requires no disconnection while in the program and provision of payment plans and links to other agencies etc). The indicators discussed have been more about information collection.

As such, we are not sure why having 'indicators' about forms of support necessarily means that flexibility is impeded. Rather, we believe that asking about the forms of assistance is the *only* way to develop a sense of what hardship programs do and not do, and whether programs can be compared on any reasonable basis.

Further, and as argued above, the provision of assistance is all the retailer has in its control, and is the fundamental aspect of the purpose under the proposed Retail Law. Not collecting information about forms of support seems short-sighted and will only help perpetuate the confusion around the various issues.

5. Reporting requirements

The AER has stated its initial view is that:

- All data would be submitted to the AER on a quarterly basis, and over time it might be appropriate to consider reporting some of this data less frequently, for example on a biannual or annual basis.
- Data should be reported data separately for each state.

The AER also seeks views on how gas and electricity data should be reported.

Q 26. What are stakeholders' views on the proposed reporting requirements?

We support the AER's suggestions and again suggest that data should be collected not only by state, but also per fuel. See section 3.1 for further detail.

Q 27. What concerns, if any, do stakeholders have regarding the ability to report data against the proposed indicators, and any costs associated with the reporting requirements?

Origin does not have any concerns about our ability to report data.

Q 28. What are stakeholders' views on the benefits and usefulness (or otherwise) of seeking case studies or examples of good practice from retailers which highlight the consumer experience of participating in retailers' hardship programs?

Origin absolutely supports the use of case studies in this context. As noted above, case studies are always problematic and should never be relied upon exclusively, but they do provide some flesh for the bones of the cold data that no one at this stage would profess to completely understand.

We have included two of our own cases as an appendix to this submission, where a reading of these provides a sense of the sorts of forms of a support a retailer might offer, and also the reality of how customers choose to engage with us (or not).

Appendix: Origin case studies of failed customer engagement

Case study 1: Mr R

Mr R presented to Origin's Community Liaison Team (CLT) on 21/9/04 regarding payment difficulties for the $549.99 arrears on his electricity account.

After completing a Capacity to Pay assessment it was determined Mr R was not in a financial position to maintain a system generated payment plan of $111.00 per fortnight (f/n). The CLT established a subsidised payment plan of $20.00 per f/n and raised an application for the Utility Relief Grant Scheme (URGS) via The Department of Human Services (DHS). A subsidised payment is offered to customer who cannot meet usage payments. The subsidy is gradually reduced with a view to each customer achieving usage payments over a period not greater than 12 months.

Origin received notification from DHS on 26/11/04 that Mr R's URGS application had been declined, Origin subsequently attempted to contact Mr R via both telephone and mail to discuss a future payment plan. However, we were unable to establish contact with Mr R until 7/3/05, at which time the arrears on the account had increased to $1142.45. Mr R advised he was not in a position to increase payments, however, he hoped employment prospects would assist with future payment plans.

During May 2005 Origin allocated a $20.00 goodwill credit to Mr R's account in recognition of payments received and continued to encourage Mr R to decrease consumption. Mr R engaged with Origin on 26/4/07 to advise payments would be maintained. However, he was still not yet in a position to cover ongoing consumption, to assist in the reduction of arrears Origin allocated a further $100.00 credit to the account.

Origin contacted Mr R on numerous occasions to discuss an increase of payments. However, Mr R was unwilling to engage in such conversations. Subsequently, a letter was issued to Mr R on 22/1/08 requesting that payments be increased in line with his usage or support under the *Power On* program (POP) would be withdrawn. Origin also allocated a further $136.10 in credit towards the arrears on Mr R's account.

As Mr R failed to contact Origin, support under POP was withdrawn on 28/3/08 and the arrears of $4165.10 were returned to our collection department.

Mr R contacted Origin on 2/4/08 and advised he was now in a position to fund ongoing consumption of $52.00 per f/n, and the CLT established an incentive payment plan to cover consumption under POP. Under this payment plan Origin looked to incentivise Mr R to make regular and consistent payments by matching every $52.00 he made (1:1 incentive). During this conversation Mr R agreed to undertake a free energy audit with the view of receiving energy efficiency advice and assistance to complete an URGS application.

On 16/6/08 Origin allocated $800.00 towards Mr R's arrears and on 23/6/08 Origin received notification from our auditor that the request for an Energy Audit had been cancelled as Mr R failed to engage with them.

This audit request was reopened on 1/7/08 and a subsequent audit conducted on 10/7/08. During the audit assistance was provided to complete both the URGS and Capital Grant application forms. Mr R was provided with water saving disks, light globes, door draught stoppers and window seals at no cost to assist in the reduction of energy consumption.

Origin received notification from DHS that Mr R had been successful with his application for URGS and a subsequent $305.02 was allocated to his account.

On 8/8/08 an independent financial assessment identified he was not in the financial position to cover ongoing consumption and the plan was again amended to a subsidised plan of $30.00 per f/n for a period of 3 months. As Mr R did not make the agreed payments support was again withdrawn on 12/12/08 with an outstanding arrears of $3972.00.

Mr R presented to the CLT on 17/6/09 via a third party who negotiated assistance under POP for the third time. Origin accepted an offer of $73.00 per f/n for a period of three months at which time Mr R would be required to increase payments to covering ongoing consumption of $84.00. On 29/9/09 it was noted that Mr R had increased payments and the plan was subsequently amended to a 1:1 incentive.

Origin allocated $500.00 goodwill credit to the account on 29/6/09 and a further $850.00 goodwill on the 24/8/09 helping to reduce the arrears to $2674.11. On 5/12/09 Mr R's payment plan was amended to a 1:1 incentive as payments had increase to $84.00 per f/n. Origin allocated a further $1002 in recognition of Mr R's payment being maintained.

However, as Mr R failed to maintain his agreed payment through Feb 2010 and support was again withdrawn on 26/02/10 with the outstanding arrears being $1970.57.

From the first time that Mr R presented to the CLT in 2004, his supply has not been disconnected.

Case study 2: Mr C

Mr C presented to the Community Liaison Team (CLT) on 13 September 2007 regarding payment support for the $666.03 arrears on his electricity account.

After completing a Capacity to Pay assessment it was determined Mr C was not in a position to maintain a system generated payment plan of $54.00 per f/n, extended plan of $45.00 per f/n nor a payment plan to cover ongoing consumption of $28.00 per f/n. As such the CLT established a subsidised payment plan of $20.00 per f/n whereby Origin would subsidise Mr C's consumption for a period of three months at which time it would be expected fortnightly payments were in line with ongoing consumption.

Mr C contacted Origin in November 2007 to advise he required the payment plan of $20.00 per f/n be extended for another three months due to recent drop in income. The CLT extended the payment plan until March 2008.

As Mr C failed to contact Origin by 15/3/08 a letter was issued requesting Mr C contact Origin to discuss continued support under the Power On Program (POP). Origin attempted to engage with Mr C a further three times via telephone prior to the account being withdrawn from the Program on 5/6/08 with an outstanding arrears of $1103.30.

On 22/8/08 Mr C notified Origin's credit department that he was now in a financial position to cover ongoing usage which had increased to $50.00 per f/n, however he was not in a position to pay for the $1658.85 arrears on the account. The CLT established a 2:1 incentive payment plan of $50.00 per f/n whereby Origin looked to incentives Mr C to make regular and consistent payments by matching every second payment he made. Consequently, his outstanding arrears would be retired over an eighteen month period.

As Mr C failed to increase payments in line with this agreement the account was withdrawn from the Program on 3/12/08 with outstanding arrears of $1549.20.

Mr C was disconnected on the 13/01/09 and reconnected on 14/01/09 via the Ombudsman. A Utility Relief Grant Scheme (URGS) application was also commenced, but the application was not returned to DHS.

Through the resolution of the Ombudsman case Mr C established a payment plan to cover ongoing consumption of $52.00 per f/n whereby Origin would look to once again incentivise the account. Origin allocated $104.00 goodwill credits for payments received under this agreement between 3/2/09 and 16/6/09.

Regular monitoring of the account on 16/6/09 identified Mr C had reduced his payments to $20.00 per f/n and usage had increased to $56.00 per f/n. Origin contacted Mr C who advised he was in a position to increase payments and would arrange an increase with his current Centrepay. At this time Origin offered an Energy Audit with a view of Mr C receiving information that could reduce his usage and subsequent ongoing expenditure. Mr C declined this offer.

Mr C failed to increase payments or to respond to subsequent correspondence, and again he was removed from the program on 17/9/09 with outstanding arrears of $1974.88.

Collection activity commenced and Mr C again approached the Ombudsman 07/10/09. The case is still pending and Mr C's balance is now $1484 due to a recent successful URGS application. Mr C continues to make sporadic insufficient payments that do not cover usage.