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Executive Director, DMO and Consumers
Australian Energy Regulator
GPO Box 3131
CANBERRA ACT 2601

By email: consumers@aer.gov.au

Dear Executive Director, DMO and Consumers

Re: AER Retail Guidelines Review Consultation Paper

The Australian Competition and Consumer Commission (**ACCC**) welcomes the opportunity to make a submission to the Australian Energy Regulator (**AER**) in relation to its Retail Guidelines Review Consultation Paper (**Consultation Paper**).

The ACCC is an independent Commonwealth statutory agency that promotes competition, fair trading and product safety for the benefit of consumers, businesses and the Australian community. The primary responsibilities of the ACCC are to enforce compliance with the competition, consumer protection, fair trading and product safety provisions of the *Competition and Consumer Act 2010* (Cth) (**CCA**), regulate national infrastructure and undertake market studies. The CCA contains the Australian Consumer Law, which is a national law that deals with consumer protection and fair trading issues arising across the economy.

CHOICE's designated complaint

The ACCC's submission is provided in the context of its consideration of the issues raised by CHOICE in its [designated complaint](#) to the ACCC on 21 May 2025 (**CHOICE Complaint**) about confusing and potentially misleading practices of energy retailers in relation to certain energy plans.

The designated complaints framework enables consumer and small business groups designated by the relevant Minister to make designated complaints to the ACCC. Designated complaints should relate to:

- a significant or systemic market issue affecting Australian consumers or small businesses, and
- either a potential breach of the Competition and Consumer Act (including the Australian Consumer Law) or the ACCC's powers or functions under these laws.

The CHOICE Complaint largely related to 3 main issues, namely:

- identical plan names used for plans with different rates;

- Better Offer and Best Offer messages with plans not available to consumers; and
- the use of plan names that refer to ‘savings’ when the plans are more expensive than the standing offer.

On 19 August 2025, the ACCC published a [Further Action Notice](#) outlining the actions the ACCC proposed to take in relation to the issues raised in the CHOICE Complaint, including continued engagement with the AER on its upcoming review and law reform processes. The ACCC recognised that the issues raised by CHOICE are significant market issues which may cause consumer harm. They occur in the context of regulations that are specifically designed to provide consumers with information that assists them to identify cheaper accessible offers for an essential service.

The ACCC notes that the Consultation Paper acknowledges the CHOICE Complaint and considers some related issues, particularly at Questions 7 and 8, being:

- How could we improve transparency and reduce customer confusion in relation to energy plan names?
- How could we ensure better offer messages are clear, relevant and trusted?

The ACCC’s submissions are limited to these aspects of the Consultation Paper and are set out below.

Conduct by retailers that contributes to challenges consumers experience in navigating the energy market results in fewer consumers being able to access the best energy plan to suit their needs. It is important for retailers to provide clear and accurate information about energy plans so that consumers can make informed decisions when choosing an energy provider and plan. It is also important they do so in such a way that regulatory initiatives designed to assist consumers are not undermined or rendered less effective in practice.

The ACCC supports changes to improve retailer practices and clarity for consumers to reduce barriers to consumers actively engaging with and navigating the energy market.

Plans with the same name

The ACCC’s Inquiry into the National Electricity Market [Report](#) in December 2024 (**Report**)¹ identified that customers may find it difficult to differentiate between their current offer and the quoted better offer in a Better Offer message, if they have the same offer name. The re-use of plan names may cause confusion for customers and lead some not to act on the Better Offer or Best Offer message as they think they are already on their retailer’s best offer.² This is in circumstances where the Report found that 24% of customers receiving Better or Best Offer messages were quoted better offers with the same name as their current offer. The Report further recognised that the presence of offers with the same name but different prices adds complexity for customers aiming to switch offers, potentially frustrating the impact of the policy measures behind the Better and Best Offer messages.³ The ACCC encouraged regulators and industry to consider the potential for this confusion

¹ In 2018, the Australian Government directed the ACCC to conduct an inquiry into the prices, profits and margins in relation to the supply of electricity in the National Electricity Market (**Inquiry**), which has a current end date of August 2026. The ACCC has reported 13 times (including the Report) as part of its response to the Inquiry.

² Report, page 55.

³ Report, page 58.

and improve the effectiveness of these messages as they are reviewed through regulatory amendments, noting it would benefit from consumer testing and behavioural insights.⁴

The CHOICE Complaint highlighted that as a result of the use of identical plan names, some customers may have remained on their current offer rather than switching to another offer from their retailer with prices that may ultimately have been lower for them. CHOICE's analysis of 382 energy bills submitted by CHOICE supporters found 64 examples of Better or Best Offer messages containing plans with the same name across 9 different retailers and 20 plan names.

The ACCC supports the consideration of changes by the AER to address these issues. We suggest options include reducing the incidence of plans with the same name, consideration of support for the adoption of similar reforms to those in Victoria or adoption of measures to enable consumers to clearly distinguish between plans which currently have the same name and identify where a cheaper plan is available. Which of these options is preferable should be guided by consideration of costs of implementation and efficacy. For example, while the ACCC considers the inclusion of a unique identifier could be helpful, to be effective any identifier must be clear and simple and clearly draw to a consumers attention the existence of different versions of a plan. For example, a plan type with the year and month (e.g. Plan A Month - 2024) could be an option that is considered.

The ACCC would also support any proposed solution being considered by the Behavioural Economics Team of the Australian Government to ensure any further regulatory reform supports customer comprehension rather than adding complexity.

The ACCC understands that there is an existing requirement for retailers who re-use plan names in negative Better Offer messages to include additional clarifying information. In the event the AER updates its Retail Guidelines to require plan names to include some form of unique identifier, the AER should also consider whether any corresponding changes are required to the additional clarifying information.

Offer eligibility

The ACCC supports the AER's proposal to update the Better Offer message requirements to require retailers to only include plans for which the consumer is eligible. Consumer confusion can arise when Better or Best Offer messages refer to a plan for which the consumer is not in fact eligible. The CHOICE Complaint identified examples of consumers who had received a Better or Best Offer message referring to a plan that was listed on the retailer's site as only available to new and moving customers, or not listed on a retailer's website or Energy Made Easy at all.

Consumers may also become frustrated in circumstances where they attempt to switch in response to a Better Offer message only to find they are not in fact eligible for the better offer. This frustration could result in increased consumer disengagement from the energy market and discourage consumers from attempting to switch to a better offer in the future. Only including plans that a consumer is eligible for may improve consumer trust and confidence in the Better Offer message and result in more consumers switching to a better offer.

⁴ Report, page 58.

'Savings' plan names

Finally, in relation to the use of terms like 'savings' in plan names, the ACCC noted in its Further Action Notice that this is a potent descriptor and would be an enticement to many customers. As outlined in the Consultation Paper, plan names that include terms such as 'savings' may be misleading in certain circumstances, for example when the plan prices are higher than others available.

Retailers' use of terms such as 'savings' in plan names, without adequate explanation of what the savings refer to, cause consumer confusion and can create an inaccurate overall impression regarding the value of the plan or purported savings.

The consumer examples outlined in the CHOICE Complaint indicated that some consumers found it challenging to understand representations about value from retailers in order to determine if there were better plans for their circumstances, or what purported discounts applied to.

The ACCC supports consideration of changes by the AER to reduce this consumer confusion and improve transparency. The ACCC considers that where retailers use terms in their plan names which claim a saving or value, the guidelines should require that these claims are adequately explained, including clear and prominent information to explain what any referenced 'saving' or 'value' relates to, how it is calculated and how long it lasts.

We hope this information is of assistance and thank you again for the opportunity to make this submission. If you have any queries, please contact Lauren White, A/g Executive General Manager, Consumer Fair Trading Division on [REDACTED] by email at [REDACTED]

Yours sincerely

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Anna Brakey
Commissioner