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By email: [AERInquiry@aer.gov.au](mailto:AERInquiry@aer.gov.au)

Australian Energy Regulator (AER)  
Retail Markets Branch  
Level 17, Casselden  
2 Lonsdale Street  
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Dear AER,

### **Customer Price Information – Issues Paper**

The Consumer Action Law Centre (**Consumer Action**) is happy to contribute to the development of materials to improve consumer engagement in the energy market—with the important caveat that we do not believe consumer engagement initiatives alone will solve the problems that plague retail energy in Australia.

Expecting, or requiring, high levels of consumer engagement in a market for a homogenous good with a long history of passive consumption, where consumers show little interest in the product and simply want a basic service at a fair price, is a fool's errand. We prefer policy solutions that are directed to where consumers *actually are* in their relationship to the market, rather than policy solutions which attempt to engineer engagement through wholesale behavioural change or culture shift—and generally attempt to do so with woefully inadequate resources.

That said, improving the information available to consumers so that those who can or will engage are able to do so more easily does have merit, particularly if accompanied by more fundamental reform which simplifies the market. On that basis, we have provided our input below in the hope that it may elucidate current market offerings for consumers, and enable them to make confident choices which suit their needs, and cost no more than necessary. We note at the outset that even if significantly improved, we do not expect this information to radically improve the market for all consumers. It will aid *some* consumers who are already pre-disposed to engagement, but it certainly won't benefit all—or even most.

Importantly, we have attempted to view the task from the perspective of a consumer, considering what information they may actually want or need, rather than what energy subject matter experts might regard as important or necessary for consumers to have. If we have learned nothing else about the energy market in Australia, it is that rationality is in short supply. In the face of widespread irrationality at all levels of the market, we do not see why consumers should be expected to be any more rational than any other operator. And we certainly see no reason why the onus should lie on consumers to “make competition work”. Being a consumer is not a job. Consumers

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owe no duty to fulfil the market theories of those who design the framework they are forced to navigate, in order to obtain an essential service. Ultimately the onus lies with government and regulators to ensure that essential services can be easily and fairly obtained—and not commodified for the purposes of unjustified profiteering, in an environment where “innovation” often amounts to little more than obfuscation.

Our comments are detailed more fully below.

## **About Consumer Action**

Consumer Action Law Centre is an independent, not-for-profit consumer organisation based in Melbourne. We work to advance fairness in consumer markets, particularly for disadvantaged and vulnerable consumers, through financial counselling, legal advice and representation, and policy work and campaigns. Delivering assistance services to Victorian consumers, we have a national reach through our deep expertise in consumer law and policy and direct knowledge of the consumer experience of modern markets.

## **Energy Price Fact Sheet (EPFS) content and format**

### **1. *What* information should be included on an EPFS? Is there some information currently included that could be omitted, or provided in another way?**

To the extent that consumers are likely to show any interest in an EPFS, the sole concern they have is the price they will be paying for their energy—and whether that price is a fair price in the broader context of the market. Accordingly, this should be the primary information provided—and it should be provided clearly, with little other clutter to distract or confuse the reader. The notion that consumers have any interest at all in any technical detail of their energy plan is illusory, and delusional. The vast majority of consumers simply do not care about anything on an EPFS beyond cost—and most importantly *relative* cost.<sup>1</sup> To provide any unnecessary detail beyond that only serves to turn consumers off, directly working against the whole purpose of the EPFS.

When designing the EPFS, the two key questions that consumers have should drive every design decision. The EPFS should provide information that speaks to those questions—and *only* those questions

Put simply, those two questions are:

1. What is this going to cost me?; and
2. Is that price fair—or *am I being ripped off?*

If the EPFS can't answer both of those questions, then it's not worth the paper it's printed on. It should *not* be assumed that consumers have *any* intuitive sense *at all* around what constitutes a fair price for energy, and consumers should *not* be required to undergo a separate piece of work to make a comparison of different EPFS' in order to assess whether the plan in question is fair.

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<sup>1</sup> Some consumers may be interested in certain attributes, e.g. green energy, however this is not the purpose of a EPFS and might be informed through other means i.e. marketing. Consumers will be interested in aspects of contractual terms that affect the price paid, i.e. conditional discounts.

It should *not* be assumed that consumers have *any interest at all* in the rate they'll be paying per kWh. The vast majority of consumers do not know what a kWh is, nor do they care—and nor should they have to. Consumers relate to energy in a very simple way—they use power, a bill arrives, they pay it (or not, depending on their circumstances) and they get on with their lives. Beyond that, they simply don't care.

When consumers pay their bills, they pay in dollars and cents. Usually, in the case of electricity, that bill is paid quarterly. Sometimes, the bill is paid monthly. In the case of gas, most of the time the bill comes once every two months. Usually, over the course of a year, the cost of those bills varies due to seasonal factors, from bill to bill.

Most of the time, consumers have very little sense of whether the price they are paying is fair in the broader context of the market—and if it does seem excessive, they will usually put that down to their own use and (sometimes incorrectly) assume that they can reduce cost significantly by reducing their usage. Consumers are more likely to blame themselves than realise the plan they're on is over-priced. They're more likely to scramble their way through an expensive bill, (potentially making sacrifices in other areas of their lives), than take active steps to ensure the next bill is not so bad by comparing it with rival plans and switching to a cheaper option.

The challenge of engendering a wide-spread culture of switching amongst Australian energy consumers should not be under-estimated, and the wisdom of continuing to pursue that goal should be re-assessed. In their April 2017 paper, *Exploring the drivers and barriers of consumer engagement in the Victorian retail energy market* the CSIRO found that:

*Currently, there are more people not engaging in the market than there are those who are engaged. The reason for this can largely be attributed to the many barriers that exist to actively engage in the energy market. Most of these barriers are active for most consumers most (if not all) of the time. The end result is a context which is, to a large degree, antithetical to engagement.<sup>2</sup>*

Further,

*This is the most basic and least tractable barrier to energy engagement: people simply do not care about energy for the vast majority of the time. People treat energy like oxygen—for almost everyone, it doesn't matter at all as long as it's available; as soon as it's not available, and [sic] it's a vital concern.<sup>3</sup>*

It should also be noted that lack of consumer engagement in retail energy is not unique to Australia. A 2017 paper by the Centre for Competition Policy at the University of East Anglia, *Switching Energy Suppliers: It's Not All About the Money*, examined consumer behaviour in response to the The Big Switch (TBS)—the largest collective energy switching exercise ever conducted in the UK.

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<sup>2</sup> Gardiner, John and Nilsson, Danie, *Exploring the drivers and barriers of consumer engagement in the Victorian retail energy market*, CSIRO, April 2017, 3. Available at:

[https://engage.vic.gov.au/application/files/4415/0252/0825/CSIRO\\_Energy\\_Market\\_Engagement\\_Report.pdf](https://engage.vic.gov.au/application/files/4415/0252/0825/CSIRO_Energy_Market_Engagement_Report.pdf)

<sup>3</sup> Ibid p. 4.

Disappointingly, only just over a quarter of consumers took the small step necessary to accept a new offer, even when clearly presented with positive savings. The study found that:

*A range of non-price factors—various sources of uncertainty, the non-monetary characteristics of different offers, concerns about the switching process and time pressures when the TBS occurred—are all associated with the switching decision.<sup>4</sup>*

Ultimately, the paper concluded:

*...the proportion of TBS participants still not switching suggests that relying on consumers to drive margins down to competitive levels is likely to prove disappointing. If even the well-educated, highly-engaged, savings-seeking TBS participants did not behave like the model consumers envisaged in an idealised homogenous product market, policy makers should lower their expectations about the power of consumer engagement to promote competition.<sup>5</sup>*

Taking all of that into account, the EFPS needs to present the following information:

1. ***A reasonably accurate depiction of likely cost, expressed in dollar terms under the energy plan being offered.*** This cost should be provided in annual terms and also in terms of the estimated cost per quarter, with reference to likely seasonal variation. In the case of gas plan EFPS', the costs should be expressed as annual and bi-monthly costs. In both cases it is important to express the likely cost in terms which relate to how cost is actually experienced by the consumer. This will help make the EFPS practical and relatable. Further, this information will need to be provided in terms of heavy, medium and light energy users—with simple information to enable the consumer to assess which category they fall into.
2. ***If the plan has a “pay on time discount”, then the difference between paying on time versus not paying on time needs to be shown.*** Consumers generally know if they make their payments before that time or not (either because they don't have the money, or are simply not good with deadlines), so this is useful practical information.
3. ***The price a household of their type, in their area, typically pays***—expressed in annual terms. Unless this information is provided, providing the consumer with a 'ball-park' measure of where the plan in question sits (in cost terms) in relation to the broader market, then the EFPS will have very little effect. This information is absolutely essential for consumers to meaningfully assess the fairness of the plan in question. We note that this concept will require some workshopping. Another option may be to present a price range, rather than a definitive 'typical' price.
4. ***Where the plan is subject to a fixed benefit period, this needs to be very clearly stated***—and it needs to be made very clear to the consumer that once that period expires,

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<sup>4</sup> Deller, David et al. *Switching Energy Suppliers: It's Not All About The Money*, Centre for Competition Policy, University of East Anglia, 2017, p. 15. Available at: <http://competitionpolicy.ac.uk/documents/8158338/17199160/CCP+WP+17-5+complete.pdf/fdaaed88-56e5-44f9-98db-6cf161bfb0d4>

<sup>5</sup> Ibid.

their costs will rise significantly. Further, the consumer should be notified that they will be contacted before that period expires, and advised that it is coming to an end closer to the time.

To be very clear—the *absolute imperative* of the EPFS should be to provide a clear, accurate, easily understood estimate of what the consumer is likely to be paying under the plan—in terms that *they* understand—and to give a sense of whether that price is a reasonable price in the broader context of the market.

**2. How should the information on an EPFS be set out to most effectively highlight price and key contract details? How should information be prioritised?**

The most important information on the sheet is the cost of the plan for a high, medium or light energy user—and the average typical cost of energy for a high, medium or light energy user in that area. This information should be prioritised so the consumer gets a very quick, easy tool to assess where the plan sits in the market. Consumers want to know if the plan is ‘about right’ or a rip-off—and that information will allow them to make that assessment.

Beyond that, consumers need to be provided with very prominent, clear information regarding any fixed benefit period and the implications of the expiry of that period.

Finally, clear, simple information should be provided to enable consumers to assess whether they’re a heavy, medium or light energy user.

**3. Is the language currently used to describe offers easy to understand? If not, how could it be improved? Are there other ways (graphics, images) to present information that would be more effective?**

The current EPFS provides far too much detail to be accessible for average consumers, and therefore has limited utility. Very, very few consumers think of their energy costs in terms of cents per kWh, yet that is how price is represented. The text is dense, of a small font, and requires the consumer to have a far too detailed understanding of their own energy usage patterns.

To be effective, the EPFS should present its information in large, easy to read font with plenty of ‘white space’ on the page. Dot points should be favoured over full sentences where possible. Icons should be provided to indicate ‘heavy’, ‘medium’ or ‘light’ usage households. Finally, clear easy to read tables should be used to show costs under the plan—and the same table format should be used to represent typical costs in that area, so that a simple, easy comparison can be made.

**4. Would customers benefit from the inclusion of other information that does not currently appear on EPFS, such as information about available concessions, the expiry of benefit periods and/or impending price changes? How should this be presented.**

As discussed above, fixed benefit period information should be prominently provided on the EPFS. Some quick contact details for concession information should also be provided, and a link to Energy Made Easy should be prominent on the EPFS. There is a danger in providing too much

information—information overload will turn consumers off, so no attempt should be made to explain all contract terms—just the ones that have significant price implications, and can assist the consumer in making their decision on that basis.

Please see the attached mock-up of an EPFS, to show how an effective EPFS may look. While this would need to be finessed with effective graphic design, it does set out the essential information—and leads the reader through it step by step, in a way that speaks directly to their concerns. The mock-up is designed not to overwhelm with information.

### **Comparison rates and reference prices**

#### **5. Is a *comparison rate* or *reference price* an effective way to facilitate meaningful comparison of different energy offers?**

A reference price, which gives the consumer an approximation of what they should roughly expect to pay over the course of a year is an essential feature of an effective EPFS. While such a figure can never be totally accurate, it can be accurate enough to assist the consumer in making their choice of energy plan.

This should be accompanied by an alternative price outlining the typical cost of energy for consumers in their area—so they can make their own assessment of the reasonableness of the plan being presented. As discussed above, this could take the form of a ‘typical’ price, or at least a price range that gives the consumer a sense of what others in the market are paying.

#### **6. What are the potential *benefits* and *risks* of each?**

Comparison rates are not helpful in an energy context, because consumers do not think of energy in terms of units. They experience energy—and the cost of energy—in terms of bills. Bills, in turn, are expressed in dollar terms (or at least, the bit that consumers care about is), so the EPFS should provide information in a format that relates to that experience. For that reason, reference prices are preferable to comparison rates.

The experience of Ofgem, where it was found that consumers weren’t using the Tariff Comparison Rate (TCR) should inform thinking around this issue.

#### **7. *When* and *where* should a comparison rate/reference price be displayed? For example, on EPFS, retailer websites, media materials?**

Reference prices should be presented on EPFS’ in the format shown on the attached mock-up. Necessarily, different reference prices need to be provided for different levels of energy usage—and the impact of pay on time discounts should also be represented.

There is a danger in representing reference prices on websites and other media materials, because those platforms generally require information to be even further simplified—and retailers may be tempted to present the lowest reference price as an indicative cost, which would be misleading for medium level or heavy energy users. Reference prices should be provided as genuine information, tailored to accurately inform consumers and facilitate beneficial choices—not as misleading marketing material, designed as a hook—promising a price-point that many

consumers will not experience. If reference prices could be generated on a retailer web-site by consumers inputting various variables, accurately reflecting their energy use patterns, *then* there may be benefit in providing a reference price on those forums—but they are unlikely to be of use in other media materials, because they require inputs from the consumer to have any accuracy.

**8. Is there utility in enabling ‘*customisation*’ of such a tool (ie allowing for customers to identify additional factors such as appliances or pools and have these reflected in the figure)?**

Yes, this is discussed in our response to the question above.

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

As discussed above, reference prices have great utility if they represent a consumer’s likely costs with reasonable accuracy. They become counter-productive, (and potentially very misleading), if they’re wrongly used as a marketing tool to induce consumers with promises of price-points that they’re unlikely to experience.

**Technological options to facilitate offer comparison**

**10. Which customers might *benefit most* from these options? Is there *evidence* or *experiences* from other sectors or jurisdictions about the likely success of the options we should consider?**

We suspect that customers who are likely to engage with technological options to facilitate offer comparison are the same customers that are unlikely to need them, i.e. they are probably already engaged, and already actively comparing offers. Therefore, technological aides will not broaden consumer engagement—but simply facilitate engagement in the customer segment where it is already occurring.

Technological aides will appeal to tech-savvy consumers, those who have an interest in learning more, and who tend towards early adoption. These are all characteristics of consumers who are likely to already be engaging with the market—but are not characteristics shared by a majority of consumers. The experience of the UK market—which has used QR codes and found only 7% of consumers used them—should inform this discussion.

**11. Are there *options other* than QR codes and OCR technology that may achieve the same objective?**

We understand that app based account management tools are being developed by energy retailers—these are likely to have more reach with general energy users, than QR codes on bills or fact sheets will. This is particularly so if clever ways can be found to utilize smart meter data through an app.

**12. What are the *risks* and *benefits* of pursuing a QR code or OCR technology? What are current levels of customer engagement with QR codes in other sectors?**

We have discussed this in our response to the questions above. The risk is that such tools will only appeal to the customers who don't actually need them (i.e. those who are already highly engaged). The UK experience of QR codes does not instill confidence that they are likely to get much take-up across the broader consumer base.

**13. What other *emerging technologies or issues*—such as customer access to smart meter data—might impact the effectiveness of these tools?**

As discussed, app based account management tools which utilize smart meter data may play a useful role in engaging consumers, and engendering a cultural understanding of agency—emphasising that consumers do not have to stick with a bad deal but can in fact opt for a better energy plan.

**Customers who are not digitally engaged**

**14. How can customers who *can't, or don't engage online* best be provided with information about their options?**

Information in hard copy, through either bills or fact sheets, is likely to be the most effective way to reach these consumers. Our financial counsellors report that information by text message (reminders, and other notices like that) are also very effective.

**15. What *information or messaging* might be included on bills or fact sheets to increase the likelihood of switching? We would welcome examples that have been effective in other sectors or jurisdictions.**

Please see above for our views on fact sheets, and how they should be presented.

**16. How important is it that government energy comparator websites have a *phone service* to assist customers?**

Very. Many consumers do not feel equipped or capable to properly use a comparator web-site, and could benefit from phone assistance to either talk them through using the tool—or have someone use the tool for them, after having been provided with the right information.

**17. How might *family members/other trusted sources* be engaged?**

For this to work, it would require a mechanism whereby customers clearly nominate the family member or representative they wish to receive energy information—and then rely on that person to filter the information for them. While the idea holds some superficial appeal, there is also the risk that it may result in unwanted responsibility being foisted on unwilling parties. This is obviously not a good recipe for engagement, and raises the risk of recrimination and dispute between family members and other nominated parties.

In reality, if customers feel that they need assistance from family members or others then there is nothing to stop them from asking now. It is probably not necessary to develop additional administrative processes to enable this engagement. It may be more useful to simply recommend that if the customer is unsure or confused about their energy options, then they should consider talking it through with a family member, or other trusted adviser. Further, this advice should also



be followed with telephone interactions. Call centre staff should be trained to identify when a consumer may be struggling to comprehend the information being presented to them, and suggest and/or recommend that they seek the advice of a family member or trusted adviser before making a decision.

**18. Are there specific or *additional strategies* required for *specific customer groups*, for example those from CALD communities?**

Obviously, translated material needs to be provided in the appropriate language for CALD communities, and translation services should be available for telephone interactions. Filtering information through appropriate channels, where providers can be reasonably sure that information will reach its intended audience is also important.

Please contact Zac Gillam, Senior Policy Officer on (03) 8554 6907 or at [zac@consumeraction.org.au](mailto:zac@consumeraction.org.au) if you have any questions about this submission.

Yours sincerely



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