

16 August 2013

Mr Warwick Anderson
General Manager – Network Regulation
Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

By email: consumerengagement@aer.gov.au

Dear Mr Anderson

Better Regulation Draft Consumer Engagement Guideline for Network Service Providers

The Consumer Utilities Advocacy Centre Ltd (CUAC) is a specialist consumer organisation established in 2002 to represent Victorian energy and water consumers in policy and regulatory processes. As Australia's only consumer organisation focused specifically on the energy and water sectors, CUAC has developed an in-depth knowledge of the interests, experiences and needs of energy and water consumers.

We welcome the opportunity to participate in the AER's Better Regulation Program consultations on the *Draft Consumer Engagement Guideline for Network Service Providers* (Draft Guideline). CUAC has been represented in the AER's meetings on the development of the Draft Guideline including the 6 August meeting. We are pleased to see that the AER has taken steps to engage extensively with consumer groups in the development of the Draft Guideline. We note that this is the first time that the AER is issuing a guideline to help network service providers better engage with their consumers. CUAC believes that this guideline will help network service providers better understand and incorporate the perspectives of their customers in their business decisions. We suggest that the AER review the Draft Guideline to ensure that it provides an ongoing relevant and robust framework for genuine and meaningful consumer engagement.

CUAC supports best practice consumer engagement. We believe that effective consumer engagement relies on a commitment to genuinely engage and communicate openly and honestly with representatives from consumer organisations as well as individual consumers, on an ongoing basis. CUAC is currently undertaking a research project on consumer engagement and capacity building based on international literature and qualitative interviews with consumer advocates to assist energy and water businesses, regulators and government. We hope that CUAC's research will serve as an additional resource to compliment the AER's Guideline and add to the body of information available on consumer engagement. CUAC will provide the AER with a copy of our research report when it is completed.

Direct Consumer Engagement

CUAC believes that the draft guideline should encourage greater consultation with consumer advocates and consumers themselves, particularly where they are directly impacted by decisions. Engaging with both consumer advocates and individual consumers is critical to effective policy-making, as it acknowledges that consumer perspectives have value and can shape and impact key policy development and business decisions. This dual approach results in both improved consumer outcomes and wider support for decisions and reform.

Internationally and within Australia, consumer engagement has been increasingly identified as key to business success both within private and government sectors. A number of international statements and declarations have recognised the importance of an inclusive and participatory approach to decision making. The *United Nations (UN) Guidelines for Consumer Protection* were developed to help countries to achieve adequate protection for citizens as consumers. The UN Guidelines, which have been translated into statements of consumer rights by Consumers International, include two articles of particular relevance to consumer engagement:

The right to be heard - To have consumer interests represented in the making and execution of government policy, and in the development of products and services.

The right to consumer education - To acquire knowledge and skills needed to make informed, confident choices about goods and services, while being aware of basic consumer rights and responsibilities and how to act on them.

Given that energy is an essential service, these rights are particularly important in the context of consumer engagement. Indeed, recent reviews by the Limited Merits Review Expert Panel, the Senate Select Committee and the Productivity Commission have highlighted the need for better and more effective consumer engagement in regulatory processes. The Organisation for Economic Cooperation and Development (OECD) has also acknowledged the importance and benefits of engaging citizens in policymaking and has developed a *Handbook on Information, Consultation and Public Participation in Policy-making*. Their Policy Brief states that:

Access to information, consultation and active participation in policymaking contributes to good governance by fostering greater transparency in policy-making, more accountability through direct public scrutiny and oversight; enhanced legitimacy of government decision-making processes; better quality policy decisions based on a wider range of information sources; and, finally, higher levels of implementation and compliance given greater public awareness of policies and participation in their design.¹

Although the OECD comments apply to government processes, we believe that effective consumer engagement by industry could lead to similar positive outcomes.

The AER has identified some of topics network service providers could consult consumers on in the Draft Guideline:

¹ OECD Public Management Policy Brief (July 2001), *Engaging Citizens in Policymaking: Information, Consultation and Public Participation*, at 6.

- Making price and reliability trade-offs
- Setting and designing tariffs (including time-of-use and critical peak tariffs)
- Setting reliability targets and standards when appropriate
- Understanding demand hot spots and exploring associated impacts
- Exploring alternatives to capital investment

We note that these topics are not exclusively technical or economic but frequently involve values, objective-setting processes, and complex trade-offs. The impacts of decisions are varied, difficult to compare, and in many areas, unquantifiable. Because of this, decisions are not made solely on scientific, engineering or economic grounds. Instead, value judgements are required. CUAC sees these topics as areas in which consumer and community input can be particularly valuable. Engaging consumers and communities on these value questions can be expected to bring different perspectives and priorities into focus. In CUAC's discussions with consumers, community groups and community services workers, we find that concerns often centre on issues such as:

- Costs and benefits of initiatives, and how well these have been investigated prior to implementation;
- Differential impacts of policy for consumers of different types and in different areas, and the plans that are in place to deal with these impacts; and
- Process and transparency, and whether those consumer input reflects the range of circumstances of consumers.

Draft Guideline

Structure

We are of the view that the Draft Guideline captures many good points on consumer engagement. However, we find the current structure of the Draft Guideline confusing. It appears that the five best practice principles (accessible, transparent, communication, inclusive, measurable) apply to each of the four components (priorities, delivery, results, evaluation and review). Given the way it is structured, we find that much of the content somehow gets "lost;" there is also a lot of repetition in between sections. In contrast, we find the structure of the AER's Draft Stakeholder Engagement Framework much clearer and easier to follow. We understand that the Draft Guideline is not meant to be prescriptive. Nevertheless, we are concerned that given its structure, it does not provide network service providers with clear and concrete guidance on developing a consumer engagement strategy or framework. We suggest that as this is the first time network service providers are called to demonstrate that they have considered consumer feedback into their decisions, some additional guidance may be required.

Terminology

We find some of the terminology in the Draft Guideline rather vague, and we suggest further elaboration and clarification. As network issues are complex, we believe it would be useful to expand on what "proactively build consumers' capacity" means in the Draft Guideline. For instance, this could include deliberative processes, which have the potential to illuminate the preferences, values and choices of consumers and community members. As a complement to professional advocacy, CUAC believes that the

careful and appropriate use of deliberative processes may be an effective way of incorporating individual consumer views into network issues, in turn enhancing policy outcomes.

Forms of consumer engagement

We agree that it is important to acknowledge that “differing consumer groups” require different forms of engagement. Therefore, network service providers need to use a variety of consultation methods. Network service providers need to know their customer base; this is key for any business’ operations. CUAC’s research on consumer engagement found that some consumer groups have often been overlooked in various consultation processes. This includes, single parents, people with disabilities, Indigenous people, seniors and people from culturally and linguistically diverse communities (CALD is not a uniform group as within this group there are numerous subgroups). Network service providers also need to consider the extent to which a consumer organisation or a welfare agency is representative of the network service provider’s customer base. This is an important consideration when network service providers are thinking about the composition of a stakeholder group or a customer consultative committee.

In addition, what is considered to be an appropriate form of consultation is also dependent on the subject matter. For example, if there is a proposal to build a substation in a residential suburb, it would be appropriate for the network service provider to undertake face-to-face consultations with the local community directly impacted by the proposed location of the power station, though the cost would be spread across the entire customer base of the distribution area. However, the business will also need to consider the impact of those less directly impacted and the weight their views should play in the development of decision-making.

Resourcing

We note that resourcing is not identified as an issue for consideration in the Draft Guideline and suggest its inclusion. Businesses may have little knowledge of the resource constraints of consumer advocates or other groups with whom they wish to consult. Resourcing can mean a number of things including, reimbursing participants for their time and transport costs, and ensuring that information is presented in a way which enables consumers to understand the issues. It also includes flexibility in taking submissions, such as extending deadlines, allowing verbal submissions; to ensuring that meetings are held at convenient times and locations.

Review & evaluation

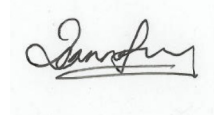
We agree that ongoing and periodic evaluation and review are important as it encourages businesses to improve their processes. This, however, needs to be an open and transparent process where the outcome of the evaluation and review are reported back to the consumers who provided feedback. Part of meaningful and genuine consultation includes reporting back to consumers what the result was and what measures the network service provider has taken to address the issues raised by consumers in the review and evaluation.

Thank you for the opportunity to participate in this consultation. If you have any queries, please do not hesitate to contact the undersigned at 03 9639 7600.

Yours sincerely,



Jo Benvenuti
Executive Officer



Deanna Foong
Research & Policy Advocate