

14 March 2018

AERInquiry@aer.gov.au

Ms Sarah Proudfoot
General Manager—Retail Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Dear Ms Proudfoot,

Draft AER Retail Pricing Information Guidelines

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to comment on the Draft AER Retail Pricing Information Guidelines (**Draft Guidelines**). Consumer Action has appreciated the opportunity to participate in the working group developing the Draft Guidelines. We are confident our views have been genuinely heard throughout that process.

We are also broadly satisfied with the Draft Guidelines as they currently stand. To the limited extent that consumer information can mitigate poor consumer outcomes, the Draft Guidelines should have some positive impact if implemented as proposed.

In particular, the draft Basic Plan Information Document (**BPID**) is a useful step forward from the current Energy Price Fact Sheet (**EPFS**), and we hope will be the first in a series of regulatory requirements that truly place consumers at the centre of the energy market. For too long, sweeping assumptions have been made about consumer engagement in energy - without sufficient thought being given to facilitating that engagement, or whether the assumptions being made align with true consumer behaviour. In that vein, Consumer Action particularly values the input made by the Behavioural Economics Team of the Australian Government (**BETA**) in developing the Draft Guidelines, and we urge the AER to continue to engage BETA and other behavioural economists in policy development.

Due to our extensive involvement in the process already, and our broad satisfaction with the document as proposed, our comments are brief and limited to a few key elements of the Draft Guidelines. If the AER have specific questions of us in relation to any area of the Draft Guidelines that we have not provided comment on, we are happy to respond to those either through correspondence, or in person.

Our comments are detailed more fully below.



About Consumer Action

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just market place for all Australians.

Restricted plans

For consumers to make a meaningful comparison of products it follows that all products available to them should be available for comparison! Consumer Action is pleased to see the AER tightening up on restricted plans, so that only genuinely restricted plans are unavailable for general comparison.

At the same time, we are mindful that more choice does not always lead to better consumer outcomes. The paradox of choice¹ theory postulates that too many options can overwhelm the consumer, leading to a kind of choice paralysis. While the theory is contentious, there is a danger that in a market for an essential good such as energy, the paradox of choice could contribute to consumer inertia – resulting in poor consumer outcomes. In short, consumers have to have energy - but a multiplicity of choices, once it reaches a certain point, may actually work against switching.

While we can't be sure that the paradox of choice is responsible, we can reasonably conclude that consumer inertia is endemic in the energy market. It is incumbent on policy makers to consider all potential causes, including that possibility that more options, more information and more encouragement to switch may actually lead to less action being taken by consumers.

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*, found that when examining consumer behaviour in the energy market:

*"...a number of non-monetary factors...seem influential and...help explain apparently weak consumer response to savings opportunities in this context, suggesting that price competition for this seemingly homogenous product may have less power than is often assumed."*²

The study found that:

"...broad factors which influence the switching decision include uncertainty about various aspects of the offer(s), preferences over non-price characteristics, concerns about the switching

¹ See: Schwartz, Barry. *The Paradox of Choice: Why More is Less*, Harper Perrenial, 2004.

² Deller, David et al. *Switching Energy Suppliers: It's Not All About The Money*, Centre for Competition Policy, University of East Anglia, 2017, p. 1. Available at: <http://competitionpolicy.ac.uk/documents/8158338/17199160/CCP+WP+17-5+complete.pdf/fdaaed88-56e5-44f9-98db-6cf161bfb0d4>



process itself and time pressures. Many of the factors identified can be located within a rational decision making framework, suggesting the perceived net benefit from switching may be much less than that suggested by looking solely at the magnitude of potential monetary savings. Consequently, switching rates are likely to be substantially lower than we might initially expect, even in favourable conditions.”³

Further, the study found that more options led to less decision making, and this could be shown even when the options were very limited (i.e. an ability to choose from two different offers, rather than just accepting the one presented):

“We have also included under uncertainty the negative effect of being shown two offers...rather than one. We interpret the result as a presentation of two offers introducing some uncertainty into the outcome for the recipient: for example, being shown two reasonably similar offers may have prompted some participants to wonder whether there might be other (possibly better) deals in the wider market, either now or in the near future, encouraging postponement of a decision.”⁴

We note all of this to say that while it is important and useful that there be clarity and transparency across the market, allowing consumers to meaningfully compare all of the offers available to them, we are wary of the behavioural effect that too much choice may have – and urge the AER to investigate this issue further, and consider how it may be managed.

Estimated bills

Consumer Action strongly supports the presentation of estimated bills on a quarterly basis for electricity plans, and a bimonthly basis for gas plans- as Draft Guidelines propose. Our rationale for this position is very simple, namely that consumers receive their bills for those services in those time-frames and therefore presenting BPID’s with that information in that form will provide the most utility for consumers attempting to choose an energy product.

Presenting bill amounts on an annual basis, (as some in the working group have suggested), creates an extra step, unnecessary for the consumer. In order to decide whether to switch or not, they would have to calculate what they currently spend on an annual basis – rather than simply assess whether the quarterly or bimonthly projected bill seems “a bit more, or a bit less” than what they currently pay when a utility bill arrives. While this does not seem like a difficult step to take, in a market where consumer inertia is already deeply entrenched, requiring such a step only serves to establish yet another barrier to active engagement.

The reality of consumer decision making in the energy market is that it is likely to be inexact, made on a gut feel for what sounds like it’s “about right” or “a good deal”. In that context, quarterly or bimonthly billing comparisons will be of far more use to consumers than a presentation of annual costs would be.

³ Ibid, p 2.

⁴ Ibid, p 12.



Language requirements

Consumer Action is strongly supportive of the proposed required terms as a necessary step in simplifying the language – or jargon – commonly used in relation to energy products. Breaking down a culture of exclusive language is necessary to encourage wider engagement with energy – industry specific jargon is intimidating for consumers who are already grappling with an over-complicated product, in an over-complicated market.

Consumer Action strongly supports splitting the information previously presented in the EFPS across two documents – the BPID and the Contract Summary (**CS**). In our view the BPID will be of far more use to consumers than the CS will be, but we agree that the CS should be made available for the benefit of those highly educated, highly engaged consumers who may actually use it. Most importantly, the BPID makes available information that may potentially be of use to the vast majority of consumers who really aren't that interested in energy, and just want to pay less. On that basis, we strongly support the change.

Please contact Zac Gillam on 03 9670 5088 or at zac@consumeraction.org.au if you have any questions about this submission.

Yours Sincerely,

CONSUMER ACTION LAW CENTRE



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Director of Policy and Campaigns



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