

19 May 2015

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

Dear Ms Proudfoot

**Re: Notice of draft instrument: Amendments to AER Retail Pricing Information Guidelines**

The Victorian Council of Social Service (VCOSS)<sup>1</sup> welcomes the opportunity to participate in the consultation on proposed changes to the Retail Pricing Information Guidelines. Although the Victorian retail market does not fall under the jurisdiction of the AER, improvements to the national framework generally have a flow-on effect to Victorian consumers both through subsequent adjustments of the Victorian Energy Retail Code to harmonise with it, and by improving retailers' practices more generally.

Overall, VCOSS supports the proposed changes to the Pricing Information Guidelines. It has long been evident that unclear and misleading market information impedes many households' ability to make informed choices in the retail energy market – constraining their access to the full benefits of competition<sup>2</sup>. It can be argued that retailers have an interest in obfuscating prices and contract terms,<sup>3</sup> enabling simpler marketing and making price comparisons difficult without a degree of determination and access to sophisticated tools. Since market forces have not led to simpler and clearer communication and information, more prescriptive regulation is necessary if the market is to operate in the best interests of consumers.

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<sup>1</sup> The Victorian Council of Social Service (VCOSS) is the peak body of the social and community sector in Victoria. VCOSS members reflect the diversity of the sector and include large charities, peak organisations, small community services, advocacy groups, and individuals interested in social policy. In addition to supporting the sector, VCOSS represents the interests of vulnerable and disadvantaged Victorians in policy debates and advocates for the development of a sustainable, fair and equitable society.

<sup>2</sup> See, for example: A Sharam (2005) *Changing Energy Retailers – Project Report*, Swinburne Institute for Social Research, Melbourne; FDS International (2008) *Research On Non-Vulnerable Consumers' Engagement With The Energy Market*, Ofgem, London; L Schetzer (2011) *Choice? What Choice? A study of consumer awareness and market behaviour in five regions of New South Wales: Cooma, Lismore, Bourke, Wagga Wagga and Orange*, PIAC, Sydney; Consumer Utilities Advocacy Centre (2011) *Improving Energy Market Competition Through Consumer Participation: A CUAC research report*, CUAC, Melbourne.

<sup>3</sup> See, for example, C Wilson & C Waddams Price (2007) *Do Consumers Switch to the Best Supplier?* Centre for Competition Policy, Norfolk UK.

## **Representations of ‘unconditional’ discounts**

The common practice of advertising energy offers in terms of the size of the discount without clearly disclosing the base rate is misleading to customers. The industry defence of discounting cited in the consultation paper is that “unconditional discounting is used to indicate to customers that they are making a saving and consequently many sign up to the offer.” This actually demonstrates how discounting misleads customers, because without clear communication of the base rate it’s difficult for customers to determine whether or not they will actually be making a saving. Thus **VCOSS supports the proposal to require retailers to use the terminology ‘guaranteed discount’ and to also disclose the actual rates.**

VCOSS recognises that requiring retailers to disclose the actual rate is complex due to the locational variability in tariffs. Nevertheless, current practice does not serve customers well. Solving the problem of how to use actual prices in marketing may be difficult, but is an opportunity for retailers to innovate.<sup>4</sup>

One not-so-innovative response to this change may be an abandonment of the practice of using guaranteed discounts in marketing in favour of using conditional discounts. Thus **VCOSS also recommends that the base rate should be clearly disclosed wherever retailers make representations of conditional discounts.**

## **New requirements for Energy Price Fact Sheets**

The ability to easily compare energy offers from different retailers is vital if households are to properly exercise choice and receive the full benefit of competition. Thus **VCOSS generally supports the proposed changes to requirements for Energy Price Fact Sheets**; and has additional suggestions for further improving customer information.

### ***Standardising the layout and prioritising information***

Without clear information, it’s difficult for households to properly compare energy offers from different retailers. Thus **VCOSS supports the proposals to require a standard layout and information hierarchy for Energy Price Fact Sheets.** Standardisation of layout (along with standardisation of terminology) makes it easier for customers to make these comparisons because the same information will be in the same location on Fact Sheets from different retailers. Presenting offer information in a priority-based hierarchy helps ensure customers see the most critical information. The proposed hierarchy of primary pricing information first, fees and key contract terms second, and options and further information third is appropriate.

Even where tariff information is provided, it can be difficult for people to accurately compare total cost implications because of the impact of different fixed and variable rates on the same level of usage. In the UK, ‘Tariff Comparison Rates’ are used to express tariffs as a per-kWh rate on the total cost (including the fixed charge, any guaranteed discounts or unavoidable extra charges, and the Value Added Tax)<sup>5</sup> for a

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<sup>4</sup> This could address the concern of retailers, cited in the consultation paper, that regulatory constraints on the use of unconditional discounting in marketing may “limit innovation.”

<sup>5</sup> [http://www.ukpower.co.uk/home\\_energy/tariff-comparison-rate](http://www.ukpower.co.uk/home_energy/tariff-comparison-rate)

household with average consumption. A similar approach – improved by giving three different comparison rates, for low, medium, and high usage – would be of great value to Australian consumers.<sup>6</sup> Thus **VCOSS also recommends that Energy Price Fact Sheets and other representations of energy prices include a Tariff Comparison Rate** expressing an indicative total per-kWh or per-MJ rate for low, medium, and high consumption households. Further development may need to be done to determine the appropriate approach for time-variant tariffs.

### ***Improving accessibility***

Standardised Fact Sheets are of limited value if people can't find them in the first place. Thus **VCOSS supports the proposals to improve access to Energy Price Fact Sheets on retailers' websites**, especially the requirements that they be prominently positioned, accessible without requiring an online sign-up process or personal information, and downloadable.

### ***Offer variations***

While options, add-ons, and certain contract terms are of significant interest to some households choosing an energy offer, pricing is of fundamental importance to most. This is reflected in the AER's decision to prioritise basic price information on Energy Price Fact Sheets. Accordingly, any offer variation that changes the basic price is effectively a different product. Thus **VCOSS supports the proposal to require a separate Energy Price Fact Sheet if an add-on option changes the base price.**

### ***Promoting clear and simple language***

One aspect of the difficulty households have in understanding and comparing energy products is the lack of consistency in language, as well as terms that are misleading (such as 'fixed' in relation to contracts where the term is fixed but the price can be varied) or literally incorrect (such as 'no contract' to describe a contract with no fixed term). Thus **VCOSS fully supports the proposal to specify language requirements for key terms.** In particular, we welcome the prohibition on using the terms 'fixed' or 'fixed term' where the price is not also fixed; 'exit fee' instead of 'termination fee'; and 'usage' instead of 'consumption'.

With regard to 'green' terms: while we agree that retailers should be able to creatively name renewable options, it is imperative that customers can clearly discern whether a renewable energy product reduces greenhouse emissions (thus warranting a price premium) or does not. Thus **VCOSS also recommends regardless of how they are named, green energy products have a prominent explanatory note** either that it is or is not accredited renewable energy, or that it does or does not reduce the emissions of the Australian energy generation sector.

### ***Displaying unit prices with respect to GST***

VCOSS agrees with the AER that presenting tariff rates as both or either GST-inclusive and GST-exclusive prices is unnecessarily complex. Almost every other product or service purchased by consumers is priced GST-inclusive – with the GST

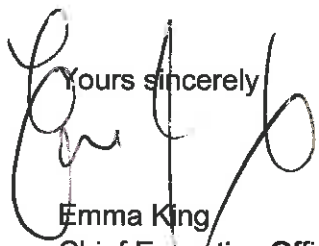
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<sup>6</sup> This approach was also found to be of most value for UK consumers (Ipsos MORI Social Research Institute (2012) *Consumer views on Tariff Comparison Rates*, Ofgem, London).

component noted separately only on receipts or invoices. **VCOSS recommends that all prices on bills, Energy Price Fact Sheets, and other marketing be shown as GST-inclusive** – and clearly labelled as such. GST-exclusive rates should be shown less prominently on bills and Energy Price Fact Sheets, at least for a transitional period, for comparative purposes.

VCOSS has had a long history of advocacy to reduce fuel poverty and increase the standard of living in low-income households. Our response to the amendments to AER Retail Pricing Information Guidelines can be considered in light of other measures we have advocated for in the Victorian context including:

- Improving the availability and structure of energy concessions to better assist households with high energy use, including removing the energy concession cap<sup>7</sup>
- Introducing minimum standards for rental properties<sup>8</sup>
- Improving the financial hardship programs of energy retailers to prevent energy disconnections.<sup>9</sup>

Yours sincerely  
  
Emma King  
Chief Executive Officer

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<sup>7</sup> VCOSS, *Building a Victoria without poverty: VCOSS State Budget Submission 2015-16*, 2015, p.50  
<http://vcoss.org.au/documents/2015/03/VCOSS%20State%20Budget%20Submission%202015-16.pdf>

<sup>8</sup> VCOSS, *A Future Focused Housing Standard*, 2009.  
<http://vcoss.org.au/documents/VCOSS%20docs/Housing/VCOSS%20minimum%20housing%20standards%20Oct%2009.pdf>

<sup>9</sup> VCOSS, *Inquiry into the Financial Hardship Programs of Energy Retailers: Submission to Approach Paper*, 2015