

The Energy Retailers Association of Australia welcomes the opportunity to participate in the Commissions hearing on the Review of Australia's Consumer Policy Framework

The ERAA is an independent association representing thirteen retailers of electricity and gas throughout the National Electricity Market (NEM) and other jurisdictional gas markets. ERAA members collectively provide electricity and gas to over 12 million customers.

### Energy Specific Regulation

As a starting principle the ERAA believes that competition represents the best form of consumer protection in the energy market. This is based on the belief that the entry or threat of entry of new retailers will force incumbent retailers to operate efficiently and to provide competitive energy offers in order to win customers. Retailers who cannot do this will lose customer share and suffer financially.

In order for a truly effective energy market to develop the barriers to new retailers entering such markets must be kept as low as possible and regulation should only be used when there is demonstrated market failure. The ERAA thus supports a streamlined, efficient and low cost regulatory framework.

The ERAA and its members have long been concerned about the practices of jurisdictions introducing supplementary regulation that duplicates existing measures found in the Trade Practices Act, the Privacy Act and the Fair Trading Acts of the States and Territories. In its draft report the Commission has referred to these as “Energy Specific Regulations”. The most recent example of this occurred in Victoria where the Essential Services Commission tightened regulation around early termination fees to the point of effectively not allowing them. This despite there being no demonstrated ‘market failure’. As another example, in NSW retailers are required to individually, and in writing, notify their customers on market (or negotiated) contracts of any changes in their tariff in advance of those changes coming into effect. NSW is the only state in which this occurs, with all other States simply requiring retailers to notify customers via newspaper advertisements. The cost of individually writing to customers far exceeds the cost of newspaper ads – meaning that retailers have even less to pass onto customers in the way of attractive market offers.

The ERAA is an active participant in the Ministerial Council on Energy's Retail Policy Working Group or RPWG. The RPWG is currently working on the transition of the regulation governing retail energy markets to the national level. While this process involves the harmonisation of the existing regulatory frameworks in the various jurisdictions, it is also working to streamline these regulations to make the operation of the markets more efficient and less costly.

The ERAA recognises the importance of addressing climate change through encouraging energy efficiency, the development of renewable energy and the introduction of a national emissions trading scheme. The ERAA is conscious of the additional costs the introduction of such government policies have had on energy customers. In Australia today we have over a dozen different schemes currently operating or planned which are aimed at either increasing the uptake of renewable energy and less carbon intensive technologies or increasing energy efficiency. The ERAA recognises that both these types of strategies play an important part in addressing the issue of climate change but the myriad of schemes are uncoordinated, costly and do not fully recognise the costs associated with climate change in a proportional manner. Despite the work which is being done to establish a national emissions trading scheme, this has not prevented the introduction of further new schemes. The ERAA believes that COAG must assume responsibility for the oversight of renewable energy

regulation with the aim of ensuring that such schemes are either transitioned into the national emissions trading scheme or phased out completely. Ultimately the ERAA remains concerned that the ongoing operation of these schemes will unnecessarily impose additional cost on consumers and undermine the efficient operation of a national emissions trading scheme.

### Price Regulation

Moving now to the issue of price regulation, the ERAA makes the following comments. The regulation of energy prices represents the single biggest barrier to the entry of new retailers into existing markets. Price regulation is inefficient, stifles price and service competition, hinders product innovation and prevents the full benefits of competition from being realised.

At the time full retail contestability was introduced, governments and regulators expressed a desire to retain price regulation as a safety net for those customers who were not able to, or chose not to, participate in the competitive market. The price controls were introduced as a transitional measure and were intended to prevent the abuse of monopoly power by gas and electricity suppliers, by imposing a regulatory discipline as a proxy for market discipline. Accordingly, it

was expected that retail price controls would be removed once competition was established.

Since the introduction of full retail contestability, competition has developed significantly. As demonstrated in the most recent VaasaETT World Energy Market Rankings, Australia was shown to have some of the most active markets in the world, with the Victorian market rated number one worldwide.

The ERAA therefore supports the commitment from the MCE for the Australian Energy Market Commission to review the effectiveness of competition in Victoria, South Australia, New South Wales and the Australian Capital Territory. These reviews are aimed at making an assessment as to whether the level of competition is sufficient to enable the removal of retail price regulation.

The first of these assessments was undertaken in Victoria in 2007. In that review, the AEMC found the level of retail competition in that market to be highly effective and that it was leading to beneficial outcomes for both households and businesses within the state.

The ERAA therefore supports the Productivity Commission's Draft recommendation 5.4 relating to the removal of retail price regulation.

## Energy Hardship

One of the main arguments put forward by policy makers for maintaining regulated pricing of energy is to protect those customers in genuine hardship. The ERAA considers there is no justifiable link between price regulation and consumer protection, and sees that more targeted arrangements are required to assist customers in genuine financial hardship.

The ERAA strongly supports arrangements to protect customers in genuine financial hardship, however more effective policies are needed to address customers in hardship as continued price regulation is not part of the solution.

Customers with insufficient income need to be adequately supported with direct and transparent government subsidies through government welfare programs that are simple to administer and which do not interfere with the operation of the retail market. While energy retailers and community groups can assist governments in implementing such programs, they should not be required to fund them.

The ERAA maintains that the combination of Government support, and the presence of effective customer hardship programs on the part of retailers will

support competition within vulnerable customer segments and ensure that these customers do not miss out on the benefits of competition.

### Energy Ombudsman Scheme

Our final comments relate to the Commission's recommendation for the establishment of a national energy and water ombudsman.

The ERAA recognises that from time to time disputes will arise between customers and energy companies. The establishment of the energy ombudsman schemes in the state and territories have been designed to assist with those disputes where customers feel that their issue has not been adequately dealt with by their retailer.

The ERAA supports the establishment and operation of such schemes and the assistance they provide customers in resolving disputes. However, ERAA member experiences with these schemes and developments taking place in schemes operating within other industries, both nationally and internationally have identified that there are opportunities for such schemes to operate more efficiently in order to better serve the needs of customers, retailers and Governments alike.

The ERAA believes the Commission's approach of harmonising the operation of the current ombudsman schemes is consistent with the move towards national retail energy regulation. The establishment of a national scheme would also assist in achieving greater consistency in the resolution of disputes. The ERAA believes that consistency in the resolution of disputes is a critical issue in terms of having an effective dispute resolution facility at the national level. In moving towards a national scheme the ERAA would urge the drafting of a clear and strict charter in consultation with all stakeholders. This would be in order to prevent the body becoming overly bureaucratic and detached from the jurisdictions in which the disputes arise.

This concludes the ERAA's comments on the Commissions Draft Report.