

Submission to the Victorian Government Interim Response to Review of Electricity & Gas Retail Markets in Victoria

26th March 2018

By email: EnergyMarket.Review@delwp.vic.gov.au.

Department of Environment, Land, Water and Planning

Level 2, 8 Nicholson Street, Melbourne, Victoria 3000

Dear Secretariat,

The Consumer Policy Research Centre (CPRC) welcomes the invitation to comment on the Government's interim response to the Victorian Government Interim Response to Review of Electricity & Gas Retail Markets in Victoria.

CPRC is an independent research organisation which undertakes research to inform policy reform and business practice change. Our goal is to achieve a fair outcome for all consumers. We conduct research across range of consumer markets, with a focus in 2018 on consumer decision-making, housing, consumer data and the online marketplace. CPRC supports reforms to increase consumer comprehension, comparability and switching. As is the case with many reforms aimed at changing consumer experience and behaviour, monitoring of the information, tools and platforms consumers access to support informed decision-making and the outcomes of these changes should be ongoing. Developing a regulatory and policy environment which is iterative and informed by ongoing consumer research will ultimately assist in delivery of evidence-based interventions to improve outcomes from consumer engagement through time.

CPRC has undertaken a recent research project considering the demand-side settings necessary to facilitate effective product choice. Our report, *Five Preconditions of Effective Consumer Engagement – a conceptual framework*, outlines a range of interventions targeting each of the five preconditions of: removing barriers to access for vulnerable consumers; key information disclosed is clear and comprehensible; comparison is easy and accurate; switching costs are low; and consumers are aware of how to access, assess and act on information. We attach the report to this submission and consider the reforms proposed through this lens.

1. Recommendations 1 & 2 – Basic Service Offer and abolition of Standing Offers

Ensuring that consumers have access to adequate, fair products is central to the operation of essential service markets. Numerous reports have raised concerns in relation to the effectiveness of competition and ability of Victorian energy consumers to secure fair and affordable retail energy plans.¹

¹ John Thwaites, Terry Mulder, and Patricia Faulkner, 'Independent Review into the Electricity and Gas Retail Markets in Victoria' (Melbourne: Victorian Government, August 2017); Australian Competition and Consumer Commission, 'Retail Electricity Pricing Inquiry: Preliminary Report', 22 September 2017

The recommendations outlined in the Victorian Government's interim response include a mix of price and consumer engagement remedies. The most significant reforms in relation to price are the establishment of a Basic Service Offer and the abolition of Standing Offers.

In relation to price interventions, CPRC recommends that the Victorian Government closely consider what outcomes are intended to be achieved through a price intervention mechanism. The development of a Basic Service Offer could be defined in many different ways, some options are further explored in this section.

CPRC is also concerned about the lack of available information as to the current demographic distribution of retail products across the customer base. Without more accurate, detailed information as to which groups of customers are accessing discounted offers - or offers above the market average- it is very difficult to determine the potential redistributive impacts of any price intervention tool. CPRC recommends that the Victorian Government and the Essential Services Commission further develop the evidence-base in relation to these current and intended distributional impacts of reform either before or through the development of a Basic Service Offer.

1.1 Examples of price intervention, regulation and monitoring tools used internationally

Jurisdictions around the world have - once concerned that essential service markets are not operating effectively for consumers, particularly vulnerable consumers - responded in a variety of ways. A summary of such interventions and outcomes can be found below.

- **Limiting the number and type of energy offers**

A concern often raised in relation to the operation of retail energy markets is the number and complexity of different products available in the marketplace. Ofgem's 2012 Retail Market Review led to limitations on the number and type of tariffs offers retail energy providers could offer. The reforms included:²

- a maximum limit on the number of core tariffs (four) that could be offered by retailers at any point in time;
- simplifying tariff structures to ensure that all tariffs have a simple standing charge (which could be zero) and unit rate structure (no multi-tier tariffs);
- simplified how discounts were offered and presented;
- migrated consumers from closed offers to open offers where this provided a benefit; and,
- facilitating collective switching schemes.

However, evidence suggests that consumer engagement did not improve - consumer switching rates fell after the introduction of the reforms, and perceptions of

² Ofgem, *The Retail Market Review – Implementation of simpler tariff choices and clearer information*, 27 August 2013, 11-12.

complexity of the market did not change.³ The CMA also found that around 70 percent of the customers of the 6 largest energy firms remained on the more expensive 'default' standard variable tariff.⁴ The CMA analysis suggested that in a fully competitive market – in which all British consumers had switched to a market offer – would have saved British consumers £1.7 billion a year.⁵ The CMA ultimately recommended Ofgem remove the RMR measures, finding that these had the 'effect of dampening price competition between suppliers', by either:

- 'directly restricting their ability to compete to acquire or retain customers through the tariffs or discounts they offer'; or
- 'adversely affecting the incentives suppliers have to compete by making it more costly to offer customers cheaper prices or discounts (the effect of which is to reduce the competitive pressure suppliers exert on their rivals)'.⁶

CMA also found that limiting retail tariff offerings to four tariffs was particularly problematic because it restricted the ability of suppliers to offer tariffs designed for specific groups rather than mass market tariffs - e.g. 'tariffs aimed at low consumption users, tariffs aimed at certain social groups and tariffs with particular characteristics such as 'green tariffs' and tracker tariffs'.⁷

- **Price cap**

Though the CMA suggested a range of measures to replace the RMR measures, in late February 2018, the Domestic Gas and Electricity Bill was introduced to the British Parliament. If passed, the legislation would impose a price cap as determined by the regulator on a 6 monthly basis – which will notionally reduce the cost of a standard variable tariff (comparable to Victoria's standing offer) through this price ceiling. The cap would be in place until 2020, at which point the regulator will be able to determine whether to keep it in place until 2023 or remove it.⁸ The cap is intended to reduce the discrepancy between those consumers on a market offer and those on the standard variable tariff, who often have not switched in years.⁹ While this is estimated to reduce bills for disengaged consumers, active consumers will likely be able to find cheaper plans, though it is unclear what the effect of this is will be on the market.¹⁰ Consumer organisations, such as Citizens Advice have welcomed the cap, noting the bill 'will go some way to ending the unacceptable overcharging of loyal customers, and will cut prices for 12million households currently stuck on poor value default tariffs'.¹¹ Conversely, the Competition and Markets Authority had considered and expressly rejected the idea of a price cap, noting that a price cap potentially

³ KPMG, *Energy retail markets – An international review*, A report for the Victorian Department of Environment, Land, Water and Planning, April 2017.

⁴ Competition and Markets Authority (CMA), *Press release - CMA sets out energy market changes*, 10 March 2016 <https://www.gov.uk/government/news/cma-sets-out-energy-market-changes>

⁵ Ibid.

⁶ CMA, *Energy Market Investigation, Final Report*, 24 June 2016, 573-4.

⁷ Ibid.

⁸ Ben Chapman, 'Energy price cap triggers mixed reactions from consumer groups', *The Independent*, 26 February 2018. <https://www.independent.co.uk/news/business/news/energy-price-cap-triggers-mixed-reactions-consumer-groups-money-saving-expert-martin-lewis-a8229696.html>

⁹ James Plunkett, 'Capping energy bills won't kill competition', *We are Citizens Advice*, 24 April 2017. <https://wearecitizensadvice.org.uk/capping-energy-bills-wont-kill-competition-9b55dd8213d7>

¹⁰ Ibid.

¹¹ Adam Vaughan, 'Plans to cap domestic energy bills 'weak and confused', says watchdog', *The Guardian*, 27 February 2017. <https://www.theguardian.com/money/2018/feb/26/plans-to-cap-domestic-energy-bills-weak-and-confused-say-mps>

diminishes the incentive for consumers on higher priced offers to switch to lower priced offers, reducing competitive pressure on suppliers and 'likely resulting in worse outcomes for customers in the long run'.¹² Others note that that the cap may not address the underlying issues in the British energy market – namely pricing complexity and consumer loyalty leading to higher prices rather than lower prices.¹³

- **Price re-regulation**

In another example of price regulation, electricity prices were re-regulated after a relatively short period of deregulation (8 months), due primarily to volatility in the wholesale market in Ontario, Canada.¹⁴ Ontario retains a competitive market for consumers who prefer to choose a provider and non-regulated price. Regulated prices are provided as the default by the local utility – a vertically integrated distributor-retailer. The regulated prices are adjusted every 6 months by the regulator, taking into account considering the wholesale market forecasts, any accumulated differences between the amount paid to generators and the amount paid by consumers for electricity.¹⁵ KPMG note that the low regulated price along with strong consumer protections have limited the ability of competitive providers to acquire new customers. Before the price re-regulation, 25 percent of consumers switched to a competitive provider, however this has fallen to 6 percent.¹⁶ Consumer awareness of private providers is also low and competitive providers have limited incentives to offer new products and services - due to the downward pressure of regulated pricing on market prices – resulting in low market activity.

Despite the regulated default price, around one third of customers with a competitive supply are not aware that they are on a competitive contract.¹⁷ These consumers are often lower income, are less likely to have a university degree and are less confident when it comes to entering into a contract.¹⁸

- **Price monitoring and safety net mechanisms**

The Netherlands has a relatively mature competitive retail energy market, with a relatively diverse range of offers – consistently ranked among the most competitive in Europe.¹⁹ Retailers are required to submit their tariffs to the regulator for small scale users, to assess the reasonableness of the offer - whether the contracting conditions and tariff price are fair, even taking account of a higher service quality when considering higher prices.²⁰ The regulator also maintains the power to set maximum prices for residential electricity and gas, however the regulator has not yet exercised this power. Where the retailer considers a retailer's tariff(s) to be unfair, they can set a maximum tariff for that retailer. The regulator requires several retailers to provide explanation about their tariffs on an annual basis, which can result in some retailers being required to readjust their tariffs.

¹² CMA, *Press release - CMA sets out energy market changes*.

¹³ Chapman, 'Energy price cap triggers mixed reactions from consumer groups', *The Independent*.

¹⁴ KPMG, *Energy retail markets*, 98.

¹⁵ *Ibid.*, 41

¹⁶ *Ibid.*

¹⁷ *Ibid.*, 101

¹⁸ *Ibid.*

¹⁹ *Ibid.*, 47.

²⁰ *Ibid.*, 81

Like Victoria, the Netherlands has rolled out smart meters, and this led to some novel price structures, including prices linked to wholesale market conditions - some of which drop with higher wind speeds, others are bundled with smart thermostats.²¹ Notably, the Dutch regulator provides a number of tools to enable consumers to compare offers, ensures transparency of information from retailers and conducts campaigns to remind consumers to regularly review their energy.

Belgium also operates a form of safety net regulation to address price volatility and pricing complexity methodologies employed by retailers. Market offers with a variable pricing structure are indexed, checked against a set of criteria developed by the regulator and subject to regulator supervision. The regulator also compares Belgian prices with neighbouring countries. KPMG note that since the introduction of the mechanism, market concentration has decreased while switching rates have increased.²²

- **Special tariffs for vulnerable consumers**

The French retail energy market is notably less competitive than others described here, with 99 percent of the market share captured by the three largest retailers, and 88 percent of customers still on a regulated tariff (at the end of 2015).²³ Moreover, though regulated prices are already relatively low, the French market also includes special tariffs provided for households with an income below or equal to the threshold of entitlement to supplementary health cover. It is estimated that 4.5 million households are on this social tariff.²⁴

1.2 Design considerations for a Basic Service Offer or alternate price intervention tool

In the development and design of any price intervention tool, it is critical that policymakers clearly articulate the intended outcome of any intervention from the outset. This includes consideration and definition of the group of consumers impacted by the intervention and the intended outcome or behaviour change as a result of the intervention.

For example, the intended outcome of the development of a Basic Service Offer could include:

- To develop regulated below marginal cost product *available* to all customers at all times, requiring active engagement by consumers to *procure* the product;
- To develop a reference price (for example, a signpost or reference point of the average rates available across the market) to signal to consumers if they are currently on a plan which is below or above the market average, thus ‘nudging’ consumers to secure a better plan;
- To develop a backstop product at a ‘fair’ or ‘market average’ price which consumers would have access to if they do not engage and make an active choice in the market within X number of years;
- To develop a low cost, ‘no frills’ automatic default product which requires no active engagement and which is made available to vulnerable consumers.

²¹ Ibid., 84

²² Ibid., 48.

²³ Ibid., 63

²⁴ Ibid., 64.

Intended groups of customers to be impacted by the reform should also be defined, such as:

- All consumers
- Disengaged consumers (potentially defined as not having made an active choice in the market over X number of years)
- Vulnerable consumers (potentially defined as customers participating on hardship programs, receiving an URG or a concession, or those with low household incomes)

The behavioural considerations of the intervention also include:

- Whether the reform requires consumers to make an active choice and take steps to secure a product;
- Whether the reform will deliver a default for consumers, thus not requiring an action to be taken.

Where actions are to be taken to acquire a product, CPRC supports the Victorian Government making this process as simple and effective as possible as per the feedback provided in the next section.

The product features of what is considered 'basic' or 'no frills' should also be defined, examples include:

- A product with the greatest protections for consumers, available for consumers with outstanding debt or participating on retailer hardship programs;
- A product removing inappropriate features (such as pay on time discounts and other conditionality requirements);
- A product removing the cost of retail competition (such as marketing & acquisition costs, but may or may not include conditionality or added protections).

Each intervention outlined in Table A will likely have differing distributive impacts across the customer base, depending on the approach taken. CPRC supports the ESC and Victorian Government undertaking further modelling – specifically demographic analysis - to better understand the current demographic distribution of retail products across the customer base.

At a minimum, in line with CPRC's conceptual framework and the first precondition of removing barriers for vulnerable and disadvantaged consumers, CPRC fully supports the development of a basic, low cost offer for vulnerable consumers in Victoria.

Similarly, CPRC strongly supports the introduction of an obligation for all energy retailers to have an offer available in market at all times for all consumers. This obligation to offer would ensure that 'high risk' or vulnerable consumers are not refused access by a retailer to an energy product as a result of their financial or other position – a possible consequence of increasing data amalgamation and consumer profiling.²⁵ The obligation to offer plan could well be required through the existing standing offer as a backstop plan, or a Basic Service Offer, depending on how this is designed.

²⁵ Australian Competition and Consumer Commission, 'Retail Electricity Pricing Inquiry: Preliminary Report', 22 September 2017, 143.

Table A - Examples of design considerations for a Basic Service Offer or similar alternative

	Target customer group	Intended consumer behaviour change	Intended product outcome	Policy considerations
A Basic Service Offer below retail cost product (ex. marketing & acquisition costs)	All - engaged	Consumers engage to request Basic Service Offer from retailers.	All (or significant proportion?) of engaged consumers secure a Basic Service Offer product lower than retail cost of delivery.	<ul style="list-style-type: none"> • Still requires engagement to procure product. • Impact on solar, battery and new technologies if significant proportion of customer base acquires a flat product. • Impact on competition – no marketing/acquisition costs. • Distributional impacts across the customer base if this drives prices & products to converge around the BSO (e.g: impact on consumers who currently receive a heavy discount such as concession or customers on hardship programs)
Basic Service Offer reference price	All - engaged	'Signalling' and 'Nudging' consumers to engage and secure an offer better than the published Reference Price.	More consumers engage to secure a product that suits their needs.	<ul style="list-style-type: none"> • Would need to be based on evidence of consumer behaviour – where would the reference price need to be published? When are consumers most engaged (when they receive a bill)? What channel is most effective (sms, bill, letter, email)? • Simple, low time cost pathway developed for consumers to secure a better product (e.g: through VIC Energy Compare, or calling energy retailers). • How to manage different costs across distribution regions • Does this include ToU or demand pricing?
Fair automatic default Basic Service Offer for disengaged consumers	All - disengaged	None – consumers automatically placed on product.	For all consumers that have not engaged in the energy market to secure a fair plan in X years, they will be automatically rolled onto a backstop product.	<ul style="list-style-type: none"> • Does this encourage further disengagement from energy consumers? • Impact on competition? • Are customers being moved from a plan that suits their needs to a plan which does not? • Impact on innovation – solar, battery households etc?
Automatic low-cost default Basic Service Offer for vulnerable consumers	Vulnerable consumers (for example: customers participating on hardship programs, receiving an URG or concession).	None – consumers automatically placed on product.	Vulnerable consumers secure access to an affordable product at all times.	<ul style="list-style-type: none"> • How to define vulnerable consumers (hardship program participation, URGS, concessions, income bands) • Impact and benefit to concessions budget (if lower cost plans are offered, the DHHS saves on payments made at 17.5%) • Potential exclusions (e.g.: concession households with solar panels).

2. Recommendations 3 & 4 – Marketing information and contract periods, practices and variations

CPRC supports policy reforms which aim to improve the outcomes for consumers from demand-side engagement in markets. We support the assessment by the Review and the Victorian Government’s interim response that currently energy consumers face a lack of understandable and comparable information about energy offers. This lack of comprehensible information ultimately results in consumers ending up on products which often do not suit their preferences.

CPRC has developed a conceptual framework which outlines five core preconditions of effective consumer engagement across all competitive markets as this relates to product choice (Figure A). We attach the report to this submission and make reference throughout. CPRC’s conceptual framework takes an end-to-end approach to analysing the consumer engagement process when procuring a product or service. In turn, an integrated approach to policy and regulatory intervention reflective of each of these phases we believe, will ultimately deliver better outcomes for consumers.

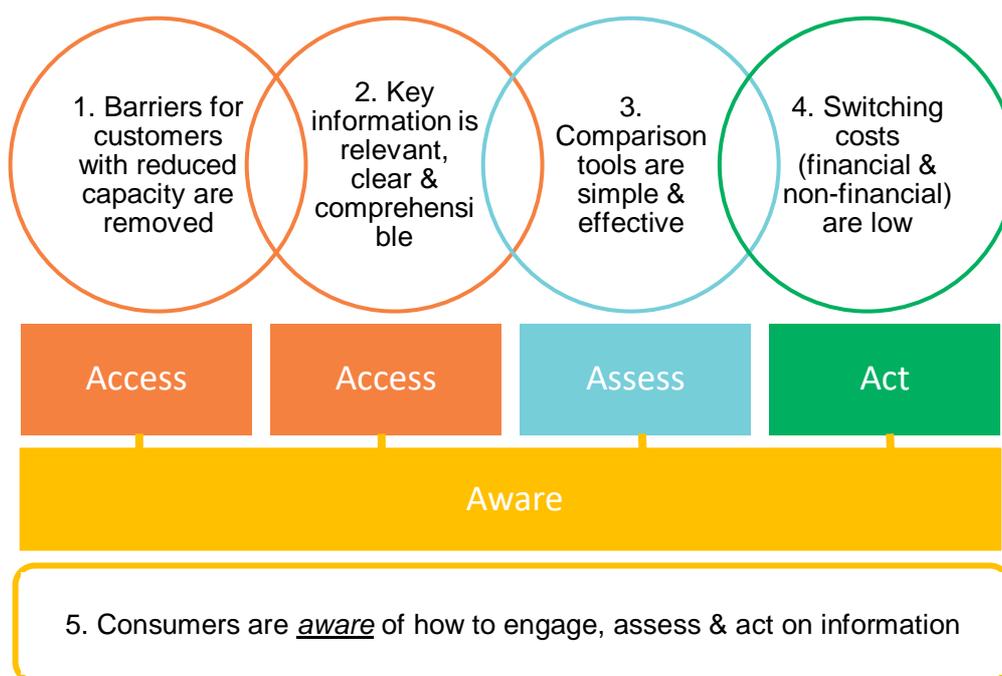


Figure A: Five preconditions to improving consumer engagement

In any market where consumers are required to make a choice between two or more products, ensuring that consumers can engage with accurate, simple product information is fundamental to enabling effective choice.

In developing the government's response to recommendations 3 & 4, CPRC supports consideration of the following elements:

2.1 Information disclosure requirements

CPRC strongly supports the directive in the Independent Review to provide clear and comprehensible product information to consumer to enable accurate and easier comparison. Ensuring consumers have easy access to comprehensible information around price, service quality and terms of sale is clear, accurate and comprehensible is CPRC's second precondition of effective consumer engagement.²⁶

• **Price Information**

CPRC considers the range of recommendations in 3 & 4 around pricing reforms are likely to improve consumer comprehension. However, we strongly suggest DELWP give consideration to the objective of these tools before their development and implementation. For example, the development of any comparator rate should have consideration of:

- the accuracy of the rate across various consumption profiles of consumers;
- the extent to which consumers can comprehend which consumption level they should be referring to for their household;
- the consistency of defined consumption levels across bill benchmarking, VIC Energy Compare or other places where consumers might see the comparator rate;
- comprehension and consumer testing to adequately consider the outcomes from using the comparator rate – i.e.: did consumers actually end up locating and choosing a product that made them better off?
- the objective of the comparator rate – is this designed to nudge consumers to *engage* with a particular tool or platform and secure a better offer? Or is it the best offer for them?
- how the comparator rate is linked to other tools and platforms to minimise the time and search costs to secure a better offer;
- the extent to which the comparator rate may be confused with the Basic Service Offer, or the best available offer communicated to the consumer by the retailer as required by recommendation 3F & 3G.

While developing a range of different consumer profiles is difficult given the variation of household energy use and makeup, the proposed consumer profiles may provide a useful reference point for consumers on flat tariffs and may be useful as a heuristic to identify the profile most like a consumers' own profile. CPRC considers the inclusion of an annual, quarterly or monthly estimated cost for customers on flat tariffs may also help consumers to make decisions.²⁷

• **Service quality**

²⁶ Consumer Policy Research Centre, *Five preconditions of effective consumer engagement – a conceptual framework*, March 2018, 28-34.

²⁷ See Pete Lunn and Marek Bohacek, 'Price Transparency in Residential Electricity: Experiments for Regulatory Policy' (The Economic and Social Research Institute, October 2016). <https://www.esri.ie/publications/price-transparency-in-residential-electricity-experiments-for-regulatory-policy/>

While the focus of the review has largely been on price and contract terms, CPRC strongly encourages DEWLP to consider how providing service and quality information in assisting consumers compare product and service offerings. Moreover, research indicates consumers do value information about service delivery and quality (such as call to answer speeds, complaint resolution outcomes and the experience of customer service once signed up with a retailer) and indeed lack of access to this information may further drive inertia.²⁸

CPRC is currently undertaking a research project exploring the potential to use existing regulatory and reporting data, along with other service quality information to better support consumer choice and decision-making. We would welcome further discussions with policymakers and regulators on options to develop a meaningful and relatable consumer service and quality metric for consumers choosing between service providers.

- **Removal of jargon**

Directly related to the precondition of access to comprehensible product and service information, CPRC strongly endorses the government's proposal to simplify the language presented to consumers. As outlined in our conceptual framework, where product or service information is complex or entails lots of jargon, consumers may not understand and simply disengage from the process.²⁹ We note the AER's proposal in their Draft Retail Price Information Guideline to ensure retailers use consistent language on plans, and would strongly encourage DELWP to align language requirements wherever possible to improve consistency and reduce potential confusion.

We strongly suggest that retailers maintain this consistency across other messaging wherever possible - as part of their billing and contracts for example. We recommend the ESC undertake future consumer testing to ensure the replacement language is comprehensible and to ensure these terms do not result in customer confusion. Where language remains complex due to the nature of the product, the ESC might produce explainer materials including short and simple videos, or pop out description boxes to help consumers understand the terminology. Again, there seems an obvious benefit to aligning this work with the AER to ensure that Victoria and the NERL jurisdictions do not end up with different "standardised language".

2.2 Comparisons are simple and accurate, taking a platform neutral approach

The third precondition of effective consumer engagement is that consumers can quickly and easily compare different market offers is essential for consumer participation in markets.³⁰ We support the consideration of how changes to critical information disclosure flows across all platforms and tools which consumers may access to enable comparisons of products, such as:

- Victorian Energy Compare;
- Commercial comparator websites;

²⁸ John Lee West, 'A Mixed Method Analysis of the Better Business Bureau's Third-Party Seal and the Extent to Which It Inculcates Trust among Consumers', *Journal of Research in Interactive Marketing* 9, no. 3 (29 July 2015): 214–38.

²⁹ CPRC, *Five preconditions of effective consumer engagement*, 37.

³⁰ *Ibid.*, 34-40.

- Marketing requirements – e.g. on retailer websites and price fact sheets;
- Door-to-door marketing.

Greater consistency in approach will ultimately deliver a better consumer experience and is likely to increase comprehension of information about available products.

2.3 Switching costs are low

Potential enhancement of *Victorian Energy Compare* (VEC)– research from UK Competition & Markets Authority Digital Comparator Tools suggest minimising ‘leakage’ is critical to maximising switching rates.³¹ At present, VEC does not enable the switch to be completed, instead referring consumers to retailer websites. It is unclear how many consumers drop out of the process as a result of this lack of functionality. Further research exploring the benefits of expanding this VEC website to enable this switching process should be completed and carefully considered. However, if VEC delivers end-to-end switching without earning a commission, retailers might see an opportunity to avail themselves of marketing costs through commercial comparators. This could have a significant impact on competition amongst commercial sites – the outcomes for consumers in terms of cost and reduced pathways to switching would need to be carefully considered before any further action is taken.

Furthermore, the CPRC working collaboratively with commercial comparator sites, retailers, policymakers and the community sector to update the Energy Comparator Code of Conduct - developed through the former organisation CUAC. The voluntary industry Code aims to improve accuracy of offers presented to consumers through accountability and transparency requirements.

3. Unlocking the benefits of smart meter data

Consumer energy data can play an integral role in enabling accurate and relevant comparisons of energy offers. Victoria is in a unique position having introduced a mandatory rollout of smart meters, with granular consumption data available for a significant proportion of consumers.

The Productivity Commission Data Availability & Use Inquiry highlighted the importance of greater sharing of consumer data to enable innovation, comparison and competition for new product offerings. A Consumer Data Right is currently being established by the Federal Government, with consultation underway for the establishment of this right through the Open Banking Review. The Consumer Data Right is to apply across banking first, then the energy and telecommunications process.

Ensuring that there is a streamlined approach to the definition of consumer data (beyond energy consumption data) is a critical part of this process. Consistency across jurisdictions is also central for the consumer data right to take full effect. While CPRC supports the Victorian Government exploring enhancements to existing platforms with smart meter data – for example VEC, along with increased disclosure requirements such as retail tariff codes being developed for each retail offer and

³¹ Competition and Markets Authority, *Digital Comparison Tools Market Study*, 26 September 2017.

required on bills – CPRC does not support a duplicative process for the definition, transfer and sharing provisions of consumer energy data.

Key consumer energy data require to enable comparison with other products and services include: current retail tariff, consumption data and NMI. Any reforms attempting to enable more accurate comparisons and switching through portability of energy data should consider how it will capture these core pieces of information. Furthermore, as outlined in both the Productivity Commission Data Availability & Use Inquiry, complementary processes to enable consumers to request the transfer of their data to accredited third parties to assess suitability for other products or services will need to be developed. CPRC strongly supports a consistent, national approach to the definition of consumer data, standards and governing rules currently slated to be developed by the Data Standards Body and ACCC correspondingly.

While the Interim Report has not provided extensive detail on the process for using smart meter data to enable energy efficiency and fairer comparison. CPRC raises early caution with a process which focusses heavily only on consumption data - such an approach will not adequately address the components of policy required for consideration in the establishment of a Consumer Data Right in Australia intended to apply across the banking, energy and telecommunications sectors.

4. Improving consumer awareness

CPRC's final precondition of effective consumer engagement is *awareness*.³² Consumers must be *aware* of the proposed tools developed by DELWP and the ESC if they are to be effective in assisting consumers to switch.

Where consumers are unaware of retail energy price fact sheets or cannot find these on a retailer or third-party comparison website, they are unlikely to be useful in improving comprehension or enabling comparison. To this end we strongly encourage DELWP and the ESC to consider testing both consumer *awareness* of the current and engage in or support a comprehensive awareness campaign to ensure consumers are *aware* of price fact sheets, especially with the introduction of a reference price or other comparison heuristics, but also how to use these new measures, and any limitations of these tools. As discussed previously in the submission, significant benefits can be obtained through effective communication and outreach strategies being implemented alongside information disclosure change reforms.

- **Disengaged consumer database**

One concern repeatedly raised in relation to retail energy markets is the high numbers of disengaged customers and the extent to which these customers are essentially being charged a 'loyalty premium' as a result of not searching for an alternative product and switching on a regular basis. This concern has been raised in the Australian context by both the *Independent Review into the Electricity and Gas Retail Markets in Victoria* and the ACCC's *Retail Electricity Pricing Inquiry: Preliminary Report*.³³ To address longer term disengagement, the CMA proposed a

³² CPRC, *Five preconditions of effective consumer engagement*, 46-50.

³³ Thwaites et al, 'Independent Review into the Electricity and Gas Retail Markets in Victoria', 26; ACCC, 'Retail Electricity Pricing Inquiry: Preliminary Report', 126.

range of ‘database remedies’ drawing from a database of disengaged consumers. Ofgem has been trialling different communications strategies with long term disengaged consumers, allowing retailers participating in the trial to contact these consumers from a database. In its ‘small-scale database trial’, Ofgem trialled two different mailout prompts in a randomised controlled trial, drawing directly on the Competition and Markets Authority ‘database remedy’.³⁴ A sample of 2,400 eligible customers – drawn evenly from two major retailers and who had not switched energy supplier for more than three years – were selected from the trial. In advance of the trial, participants were sent a letter from their supplier advising they could opt-out of being sent communications on energy deals.

After the 28 day opt-out period, the remaining participants received either:

- No letter (the control group)
- Best Offer Letter from Ofgem or;
- Up to six marketing letters in total from other suppliers – based on the CMA recommendation (CMA group).

The trial found the underlying switching rate for the control group was 6.8 percent while the Best Offer Letter – a single letter that presented several cheaper options tailored to the consumer based on their consumption profile – led to switching rates of 12.1 percent.³⁵ The third group – where three different providers could send the consumer up to two letters each with tailored offers – led to switching rates of 13.3 percent among providers.³⁶

During the switching period, Ofgem observed the switching rate in the control group was far higher than expected, noting a sector-wide price rise along with media coverage around switching from an influential journalist during the trial may have had an effect on all three groups. The increased switching resulting from Ofgem’s Best Offer Letter is notable given this was a single prompt compared with multiple letters sent to the third group. Moreover, qualitative evidence indicates some participants found the CMA recommended approach intrusive.³⁷ In all three groups, Ofgem observed more participants switched to an internal offer – a cheaper offer provided by the same retailer – compared with switching to cheaper offer provided by another.

Between June and August 2017, Ofgem repeated this intervention with a sample of 137,876 consumers in the first of a series of trials using new licensing powers.³⁸ Against the control group’s baseline switching of 1 percent, the Ofgem branded letter led to 2.4 percent of participants switching, while 3.4 percent of participants who received a supplier branded letter switched tariff within 30 days after letters were sent.³⁹ While this study was conducted over a different time period to the small-scale study, switching rates for both intervention groups and the control group were lower. It is also notable that participants of both intervention groups and the control were

³⁴ Francisco Moraiz and Roger Tyers, ‘Small Scale Database Trial’ (Ofgem, 2017).

https://www.ofgem.gov.uk/system/files/docs/2017/11/small_scale_database_trial_paper_pdf.pdf

³⁵ Ibid., 4

³⁶ Ibid.

³⁷ Ibid., 6.

³⁸ Ofgem now have the power to direct suppliers to test consumer engagement measures. See:

https://www.ofgem.gov.uk/system/files/docs/2017/01/slc_32a_decision_final_website.pdf

³⁹ Roger Tyers, ‘Cheaper Market Offers Letter Trial - Research Results’, Ofgem, 24 November 2017, 3.

more likely to switch to an external provider rather than switch tariff with their current provider. Further, Ofgem also found consumers in either intervention group saved on average £50 more than consumers in the control group.⁴⁰ Perhaps most importantly, both these Ofgem trials demonstrate how low-cost interventions can nudge long-term disengaged consumers to switch providers. Further trials may identify how prompts can be better refined to reduce the effort required by consumers to increase the response rate.

5. Consistency with other reforms – ACCC & AER processes

We note both the concurrent AER reforms which are intended to deliver many of the same outcomes. We would strongly encourage DELWP and the ESC to consider these reforms and work closely with the AER and ACCC to ensure consistency to align information disclosure, comparison and switching mechanisms wherever possible to minimise consumer confusion and improve overall market transparency.

6. Ongoing monitoring

Lastly, CPRC supports more effective monitoring of consumer outcomes across the retail energy market. We strongly support greater inclusion of a range of outcomes measures to ensure all stakeholders have a greater level of knowledge about the outcomes for consumers – both qualitative and quantitative. This includes greater price monitoring powers and CPRC strongly supports this having greater consideration of particular groups of customers who may be receiving inappropriate products such as disengaged or vulnerable consumers.

CPRC has flagged the development of an Annual Consumer Index across a range of markets, with the objective of enabling greater transparency for policymakers as to the consumer experience, perception of value, cost and level of protections. CPRC is currently undertaking research to develop the matrix of measures and will begin consultation with target sectors towards the middle of this year. We would welcome further discussion with DEWLP and the ESC on the development of the Index and how this may be able to assist with outcomes measurement flowing from these reforms.

For further information on this submission or CPRC's *Preconditions of Effective Consumer Engagement* report please contact myself or Research & Policy Officer, Ben Martin-Hobbs on ben.martinhobbs@cprc.org.au or 03 9639 7600.

Kind regards,



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⁴⁰ Ibid., 4