24 April 2026

By email only: energyreform@esc.vic.gov.au

Essential Services Commission
Level 8, 570 Bourke Street
Melbourne, Victoria 3000

Dear Essential Services Commission,

Submission: Strengthening Protections for Energy Consumers in Victoria

We welcome the opportunity to provide our submission with support from Westjustice and Mob Strong Debt Help, to the Essential Services Commission (**ESC**) in response to their consultation on Stage 2 of the Energy Retail Code of Practice (**ERCoP**).

Consumer Action Law Centre (**Consumer Action**) strongly supports the proposed reforms outlined by the ESC in the consultation paper. We consider that these reforms will provide significant relief to Victorian consumers experiencing payment difficulty, vulnerability and/or barriers to engaging with the complex energy market, and will go a long way in providing assistance to those consumers who need it most.

Consumer Action particularly welcomes the ESC's objectives in strengthening supports for First Nations consumers, though we believe that before the ESC mandates that retailers ask self-identification questions, they should focus on ensuring that First Nations perspectives are sought and given the utmost credence to ensure that future reforms lead to positive outcomes for First Nations consumers.

We also support the ESC's proposed reforms that will bring additional supports to consumers affected by family violence. We consider that when managing the debt of a consumer affected by family violence, the ERCoP needs to be more prescriptive in outlining that retailers should be going above and beyond the basic tailored assistance available under the ERCoP.

Consumer Action also welcomes the ESC's proposals that the ERCoP be updated to ensure that protections available to consumers under the ERCoP are also extended to those on embedded networks.

We welcome the opportunity to discuss our submission further.

Please contact **Kane Johnson** at **Consumer Action Law Centre** on [redacted] or at [redacted] if you have any questions about this submission.

Yours sincerely

Stephanie Tonkin | Chief Executive Officer
Consumer Action Law Centre

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Recommendations

Strengthening family violence protections

1. The ERCoP be updated to prohibit retailers from requesting evidence of family violence from a customer who has disclosed that they are affected by family violence.
2. The ERCoP be updated to include changes proposed in the discussion paper related to family violence policies, appropriate family violence training for retailers and using preferred contact methods for consumers affected by family violence.
3. The ERCoP be updated to prohibit retailers from selling or referring debts to external debt collection agencies where the consumer has disclosed that they have been affected by family violence.
4. The ERCoP be updated to prohibit retailers from disconnecting consumers (or threatening disconnection), for a minimum of two years from being on notice that they have been affected by family violence.
5. The ERCoP be updated to explicitly state that all protections available to consumers affected by family violence are also available to consumers affected by family violence on embedded networks.

Supporting First Nations consumers

6. The ERCoP be updated to require retailers to take the following actions to improve cultural competency and safety:
    a. develop cultural safety training with the support of an Aboriginal Community Controlled Organisation (**ACCO**) and require staff to complete this training every two years
    b. develop a First Nations policy with the support of an ACCO and to comply with this policy
    c. include an Acknowledgement of Country on the home page of their website
    d. be working towards and maintaining a Reconciliation Action Plan
    e. ensure that all correspondence be written in plain English
    f. dispense with call handling time KPIs when speaking to customers who have self-identified as Aboriginal/Torres Strait Islander.
7. The ESC set out a specific timeframe of 18 months for retailers to establish the actions outlined above. Once they have been demonstrated, the ESC should then make a requirement that retailers ask self-identification questions to their customers.
8. The ERCoP be updated requiring retailers to develop guidelines ensuring that data obtained from First Nations customers is only used to provide positive outcomes to these customers.
9. The ERCoP be updated requiring retailers to give First Nations consumers the opportunity to opt-out at any time from having their cultural status visible on their account.
10. *If self-identification question is mandated:* Retailers be required to develop scripts on appropriate ways to ask self-identification questions and appropriate ways to respond to common responses to self-identification questions.

Information for consumers on gas disconnection and abolishment

11. The ERCoP be updated to require retailers provide their customers with clear information on the difference between gas disconnection and abolishment, relevant costs and timeframes, and the rights of the consumer in seeking gas disconnection, abolishment or reconnection.

12. Retailers be required to develop factsheets on gas disconnection/abolishment in numerous commonly spoken languages.

Consumer contact information for power outages

13. That retailers be required to ask for and hold contact details of a secondary contact person, but there be no obligation on consumers to provide details. Consumers should be notified the provision of a secondary contact person is voluntary when asked and should have the option to opt-out when they have provided a secondary contact person in the past.
14. Retailers be required to review secondary contact information every time they speak to their customer, or every 12 months when the customer has not contacted their retailer.

Clarifying protections that apply to customers with closed accounts

15. The ERCoP be updated to explicitly state what tailored assistance is available to consumers with closed account debt.

Other changes

16. The ERCoP be updated to specifically outline when a retailer should consider discretionary supports such as debt waivers.
17. The ERCoP is updated to explicitly state that all sections of the ERCoP are relevant to those on embedded networks.

Supporting energy affordability and access

18. Utility Relief Grant Scheme be overhauled to ensure that it is fit-for-purpose.
19. A social tariff be adopted to support consumers in financial hardship.

Strengthening family violence protections

Background

We support the objective of the ESC's proposed reforms to ensure that consumers who are affected by family violence are provided adequate assistance from their energy providers.

We believe that the current ERCoP does not provide adequate assistance to consumers affected by family violence and that more can be done to protect these consumers in the future.

Our financial counsellors on the Victorian National Debt Helpline (**NDH**) observe that consumers affected by family violence are not provided adequate assistance when speaking to their energy providers, even when they disclose that their financial hardship is a direct result of their experience of family violence.

These consumers are often asked to provide evidence of the family violence that they are experiencing and are asked to undertake added tasks (such as engaging with a financial counsellor), before adequate hardship assistance will be entertained.

Q1. Should we make changes to the code of practice to strengthen family violence protections? If so, what should change?

Yes, we believe that specific changes should be made to the current ERCoP to strengthen family violence protections.

Improved tailored assistance for consumers affected by family violence

The sections in the current ERCoP that outline what additional tailored assistance is available to consumers affected by family violence is too vague and prescribes no specific scenarios where retailers should consider going above and beyond the basic tailored assistance provisions in the ERCoP. Our financial counsellors often observe that the tailored assistance outlined in the ERCoP is inadequate in supporting those affected by family violence. For example, there is nothing in the ERCoP that prescribes specific situations where full or partial debt waivers should be considered by a retailer. Therefore, we believe that it is important for the ERCoP to prescribe specific, additional supports for consumers affected by family violence.

Section 152 (2) of the ERCoP states that "Nothing in this Part prevents a *retailer* from waiving, suspending or repurchasing the debt of an *affected customer*."

Our financial counsellors observe that these options are rarely discussed with consumers experiencing family violence, and that if they are considered, energy providers often require some evidence of the consumer's experience of family violence or will require that the consumer has an advocate assist them with the application for added assistance.

We recommend that the ERCoP be updated to provide clearer guidance to retailers on when they should consider waiving debts for consumers affected by family violence.

Case study

Abbey* is a single parent in her 30s who contacted the NDH to get some advice on managing her overdue energy bills.

Abbey has been affected by family violence and at the time she contacted the NDH, she was living in secure, transitional housing. She was experiencing severe mental health issues for which she had been hospitalised and mentioned that her utility debt accrued during a period of time that she had "given up on life".

Abbey's sole income for her household was a Single Parenting Payment and Family Tax Benefit from Centrelink.

At the time Abbey contacted the NDH, she owed approximately $4000 to her energy provider. She had been in contact with her retailer to discuss how to manage this debt and was linked in with their hardship team.

The hardship team advised Abbey that the only thing they could do to assist her in getting her debt paid was to set her up on a payment plan of $200 per fortnight, but this was completely unaffordable.

The financial counsellor advised Abbey of her rights to more suitable tailored assistance than what she had been offered and discussed the potential of a debt waiver given her extenuating circumstances.

As Abbey needed assistance in negotiating with her retailer, a referral was made to her local financial counselling agency for her to receive advocacy.

**Name changed*

Prevent requests for 'evidence' of family violence

We recommend that the ERCoP be updated to prohibit retailers from ever requesting evidence of family violence from a customer who has disclosed that they are experiencing, or previously experienced, family violence, including with respect to debt management and recovery or disconnections. We consider this would bring Victorian obligations in line with the National Energy Retail Rules.

This approach would also fall in line with other industry codes around Australia. For example, the *Guide to helping customers affected by family violence: To support the Insurance Council of Australia's General Insurance Code of Practice*[1] states that:

> *Employees must not require evidence of an intervention order to trigger the requirements of (their) family violence policy. Instead, an employee should treat a customer as the policy requires them to be treated if:*
>
> *a. the customer self-identifies to the employee as being affected by family violence; or*
>
> *b. the employee identifies... that the customer may be affected by family violence.*

Our financial counsellors often observe that when consumers are required to provide evidence that they have been affected by family violence they will often disengage from a retailer's hardship program as they do not want to retraumatise themselves by further engaging with their family violence experience.

It is also common for our financial counsellors to speak to consumers affected by family violence who do not have evidence of the abuse they have experienced - for some Victim Survivors, it is safer to avoid seeking an intervention order or specialist family violence support. A refusal to provide appropriate assistance to consumers who have been affected by family violence but have not, for example, chosen to take out an intervention order or seek support from a specialist family violence service does not meet the objectives of providing adequate protections to Victim Survivors of family violence.

Ensure policy compliance and appropriate contact

We support the ESC's proposed reforms related to family violence policies, appropriate family violence training for retailers and using preferred contact methods for consumers affected by family violence. We consider these reforms will go a long way to ensure retailers are providing adequate supports to affected consumers.

Prohibit sale of debts to third parties

Consumer Action also supports Financial Counselling Victoria's previous recommendation that the ERCoP include a section prohibiting retailers from selling debts to external debt collection agencies when they are on notice that the customer is affected by family violence. On our frontlines, we often speak to affected consumers who are fearful of what will happen if their debt is referred to an external debt collection agency, as they are concerned that this will result in legal action taken against them and negative listings being placed on their personal credit file.

Our financial counsellors also observe that appropriate information is not always relayed to external debt collectors when they are assigned debts from energy retailers. This leads to situations where affected consumers are forced to repeatedly disclose their experience of abuse, which can lead to retraumatisation.

However, our financial counsellors observe that consumers affected by family violence are sometimes able to obtain more suitable outcomes negotiating with external debt collection agencies. Our financial counsellors find that debt collectors are often more open to waiving debts when consumers disclose that they have experienced

[1] Guide to helping customers affected by family violence: To support the Insurance Council of Australia's General Insurance Code of Practice

family violence, or at least are willing to offer more suitable, longer-term payment plans than what is offered from energy retailers.

This speaks to a larger problem of the current inadequacies of the ERCoP in supporting consumers affected by family violence and also the lack of tailored assistance currently being provided to consumers with closed accounts. So, while we are supportive of a reform prohibiting retailers from selling debts to external debt collection agencies, this would have to be bought in alongside other reforms strengthening the tailored assistance available to consumers affected by family violence.

Prevent disconnections for two years

We support the ESC's proposal that the ERCoP include a section that would prevent retailers from disconnecting a customer that they are aware has been impacted by family violence. Careful consideration would need to be given as to how long this protection would hold once a retailer is on notice that the customer is affected by family violence.

Our financial counsellors regularly assist consumers who are dealing with the impacts of family violence long after their relationship with the perpetrator of family violence has ended. Therefore, Consumer Action would recommend that this protection hold for a minimum of two years.

Throughout this two year period, retailers should also be prohibited from making any threats of disconnection as it would not be a genuine consequence of non-payment and would only serve to increase the stress during an already traumatic period in the customer's life.

Ensure safety and wellbeing are paramount

We also recommend that the ESC add a section to the ERCoP explicitly stating that under no circumstances should a retailer require, or even suggest, that a consumer affected by family violence contact the perpetrator of the abuse in order to obtain tailored assistance.

This would bring the ERCoP into line with the current guidelines for other industries. For example, The Australian Communications and Media Authority's (ACMA) Domestic and Family Violence Standard[3] states that *all telcos must not require an affected person to contact or engage with an alleged perpetrator, or with their representative. This protects individuals from further trauma, intimidation or safety risks that could arise from such interactions.*

Q2. What family violence obligations should apply to exempt persons operating embedded networks? Are there particular complexities we should take into account when considering new obligations in this context?

We recommend that a section be added to the ERCoP making it explicit that all protections provided to consumers affected by family violence are available to consumers who are on embedded networks.

The discussion paper released by the ESC on the Stage 2 ERCoP reforms states:

We consider that, where practicable, all customers should be entitled to safe, supportive and flexible assistance from their energy provider to help manage their personal and financial safety. Therefore, we are considering introducing family violence obligations for exempt sellers.

We fail to see any reasonable argument that an energy provider could make, regardless of whether they are exempt sellers, that would suggest that it isn't practicable to provide safe, supportive and flexible assistance to a customer affected by family violence.

[3] Australian Communications and Media Authority: Domestic, Family and Sexual Violence Standard

Our financial counsellors often observe that embedded network costs far exceed the price of energy for standard retail customers who are able to switch retailers and find the best offers for them. This lack of competition and embedded networks persisting in caravan parks and apartment buildings, means it is common for consumers on embedded networks to experience financial difficulty. It is imperative that the ERCoP provides these consumers with the same protections as those who have accounts with regular energy providers.

We also urge the ESC to take a consumer-centred approach when considering reforms that will benefit the safety and wellbeing of consumers impacted by family violence. While we appreciate that the cost and capacity needed to implement these reforms may be challenging to some exempt sellers, under no circumstances should these challenges be given more credence than the safety and wellbeing of these consumers.

Recommendations

1. The ERCoP be updated to prohibit retailers from requesting evidence of family violence from a customer who has disclosed that they are affected by family violence.
2. The ERCoP be updated to include changes proposed in the discussion paper related to family violence policies, appropriate family violence training for retailers and using preferred contact methods for consumers affected by family violence.
3. The ERCoP be updated to prohibit retailers from selling or referring debts to external debt collection agencies where the consumer has disclosed that they have been affected by family violence.
4. The ERCoP be updated to prohibit retailers from disconnecting consumers (or threatening disconnection), for a minimum of two years from being on notice that they have been affected by family violence.
5. The ERCoP be updated to explicitly state that all protections available to consumers affected by family violence are also available to those on embedded networks.

Supporting future First Nations customer reforms

Background

Consumer Action strongly supports ESC's objective of supporting future First Nations reforms in the energy retail market. As outlined in the ESC's discussion paper, First Nations consumers are disproportionately represented in measures relating to energy stress, energy inequality and energy inefficiency. We see this through the frontline services we offer. In 2025, electricity debt was the most common issue that First Nations consumers presented with to the Victorian National Debt Helpline, while it was only the fifth most common issue for non-First Nations consumers. It is imperative that more is done to ensure First Nations people have access to reliable and affordable energy.

However, Consumer Action is reluctant to support a reform that would result in a requirement on retailers to ask their customers if they self-identify as Aboriginal and/or Torres Strait Islander when the purpose of gathering this data remains unclear. We believe that the more urgent reform priority is ensuring that all retailers are providing a culturally safe service to their First Nations customers. We consider this should be advanced before there is an expectation on retailers to ask self-identification questions to their customers.

So, we propose that the ESC make a requirement on all retailers to add specific measures, which we will outline in greater detail throughout this submission, to improve cultural safety practices. Only once these measures have been demonstrated by the retailers, should the ESC mandate that self-identification questions be asked to

customers. To ensure that retailers prioritise these measures, we recommend that the ESC provide a specific timeframe of 18 months for retailers to demonstrate that they have been established within their organisation.

Consumer Action strongly supports the objectives set out in ESC's Getting to Fair Strategy[3] which acknowledges that self-determination is a necessary guiding principle when developing reforms to ensure adequate supports are available for First Nations consumers. It is imperative that First Nations perspectives are embedded in the reforms that stand to impact First Nations people. With this in mind, we believe that bringing in a requirement for retailers to ask self-identification questions would be premature when there has been inadequate consultation with First Nations communities on what retailers should be required to do to support their First Nations customers if they do identify.

If the ESC were to focus on reforms that aim to improve cultural safety practices within retailers and obtaining positive outcomes for First Nations consumers, this would ultimately lead to retailers being able to ask self-identification questions in a safe way and in a manner that clearly sets out the additional supports that can be provided to First Nations consumers who choose to self-identify. If self-identification questions were mandated prematurely, it could ultimately lead to more harmful outcomes for First Nations consumers.

While we appreciate the ESC's stance that obtaining evidence on the experiences of First Nations consumers could ultimately lead to positive reforms in the future, we believe that until adequate time and resourcing is put into ensuring First Nations consumers feel safe to disclose this information to their retailers, the potential harms for First Nations communities outweigh the feasible long term benefits.

Q3. Are changes required to support cultural safety for First Nations customers? If so, what are these changes?

Yes, changes are required to support cultural safety for First Nations consumers. We support the First Nations Clean Energy Network statement that reform "needs to be implemented through targeted engagement, equity at the core and cultural safety to significantly benefit First Nations consumers across Victoria"[4].

Careful consideration needs to be given to ensure that any reforms centred on improving First Nations consumers' experience navigating the energy market do not unintentionally cause additional and avoidable harm. There has understandably been a reluctance from many First Nations people to disclose their cultural status to industry given the long history of racist policies and outcomes for First Nations people in Australia. A lot more work needs to be done by retailers in gaining the trust of First Nations communities. This should be the priority, ahead of data collection.

It would be a failure of the ERCoP and would very likely do more harm than good for First Nations communities, if a requirement to ask self-identification questions was put in place before retailers are able to demonstrate that asking this question will lead to positive outcomes for First Nations communities. Furthermore, we consider a request for self-identification should only be made where there is a benefit for the First Nations consumer (for example, better or additional support). It is not clear what benefit would be provided under the ESC's current proposal.

While we don't disagree with ASIC's view referenced by the ESC that asking self-identification questions can lead to positive outcomes for First Nations consumers in financial services, we believe that the financial services industry has been able to develop appropriate, specific and tailored supports for First Nations consumers that

[3] ESC, Getting to Fair
[4] ESC Consultation Paper: Strengthening Protections for Energy Consumers in Victoria

make it worthwhile for them to self-identify[5], whereas these supports are currently lacking for First Nations consumers navigating the energy retail market.

Ensure a culturally safe service and policy compliance

We recommend that prior to requiring retailers to ask self-identification questions, there should be a requirement that all customer-facing staff undertake cultural safety training, which is designed and delivered by an Aboriginal Community Controlled Organisation (**ACCO**), and that this training be required for staff to complete every two years.

We would also recommend that the ERCoP includes a section requiring that all retailers have a customer facing First Nations policy that is written with the support of an ACCO, and that there be a requirement that retailers comply with this policy.

To ensure that retailers are committed to working towards providing a culturally safe service, we recommend that retailers be required to include an Acknowledgement of Country on the home pages of their websites, and that they are working towards and maintaining a Reconciliation Action Plan. These are important steps for organisations to make to ensure that First Nations consumers feel respected by their retailer.

Tailored contact for First Nations consumers

We also think that more work needs to be done to ensure that all publicly available information that is provided by retailers needs to be written in plain English. This requirement would benefit all consumers but is particularly important when engaging with First Nations people. Further to this, First Nations people should feel invited to speak to a staff member to clarify any information on their website or to query any correspondence that has been sent to them.

Retailers need to ensure that in these conversations interpreters are offered to First Nations individuals who prefer to speak their native language. First Nations Community Engagement Officers should also be available to any First Nations individual who would benefit from their support when contacting their retailer.

We would also recommend that the ERCoP include a section requiring that retailers not impose call handling times when their customer has disclosed that they identify as Aboriginal and/or Torres Strait Islander. Building rapport and trust with First Nations clients is not something that happens quickly. It takes time and care that short call handling KPIs simply don't allow for.

Q4. What measures could retailers take to support self identification in a culturally safe way?

Before mandating that retailers ask customers if they identify as Aboriginal and/or Torres Strait Islander, the ESC would need to consider the harm that can be done if staff members don't ask the question appropriately, or if staff members respond poorly when a customer gives a racist answer to their self-identification question.

Consumer Action's frontline staff, who ask all of their clients if they identify as Aboriginal and/or Torres Strait Islander, often report that this question can lead to clients querying why the question is being asked, or in some cases clients responding with racist comments.

Careful consideration would need to be taken on how staff members reply to these customers, as staff members responding inappropriately or choosing to ignore these customers' responses could be seen as colluding with this rhetoric and perpetuating systemic racism.

[5] Australian Banking Association: Banking Code of Practice

Develop scripts for self-identification questions

In the event that the ESC decides to mandate that retailers ask self-identification questions, we recommend that retailers develop scripts for their customer-facing staff that dictates how these questions are asked to customers, and how to respond appropriately when a customer provides a racist answer to self-identification questions. These scripts should be developed with support from an ACCO.

Retailers should also develop a script for customer-facing staff on how to respond to clients who query why this question is being asked. Again, this script should be developed with support from an ACCO.

In the event that a requirement is put on retailers to ask self-identification questions to their customers, we recommend that this be a one-off question to customers and not asked every time a consumer contacts their retailer.

Q5. What should we consider in relation to the handling of data and information about First Nations customers?

Appropriate use of data

The ESC should consider what benefit there would be for First Nations consumers to disclose to their energy providers that they identify as Aboriginal and/or Torres Strait Islander. Self-identification questions should be asked as an invitation to provide added support to First Nations consumers, rather than solely as a data gathering activity.

Similarly, it is important to have strict guidelines on what retailers are using this data for. Any purpose that is not in aid of providing positive outcomes to First Nations consumers, such as using the data for promotional purposes, should be strictly forbidden under the ERCoP.

Developing and designing protocols for data collection, handling, storage and use should be done in partnership with First Nations people and align with principles of Indigenous Data Sovereignty[6].

Opt-out

We recommend that First Nations consumers be able to opt-out of their status as an Aboriginal and/or Torres Strait Islander showing on their account with their retailer, regardless of if they have self-identified in the past. First Nations consumers should be advised from their retailer that this option is open to them at any stage.

Recommendations

6. The ERCoP be updated to require retailers to take the following actions to improve cultural competency and safety:
    a. develop cultural safety training with the support of an ACCO and require staff to complete this training every two years
    b. develop a First Nations policy with the support of an ACCO and to comply with this policy
    c. include an Acknowledgement of Country on the home page of their website
    d. be working towards and maintaining a Reconciliation Action Plan
    e. ensure that all correspondence be written in plain English
    f. dispense with call handling time KPIs when speaking to customers who have self-identified as Aboriginal/Torres Strait Islander.

[6] Communique-Indigenous-Data-Sovereignty-Summit.pdf

7. The ESC set out a specific timeframe of 18 months for retailers to establish the actions outlined above. Once they have been demonstrated, the ESC should then make a requirement that retailers ask self-identification questions to their customers.
8. The ERCoP be updated requiring retailers to develop guidelines ensuring that data obtained from First Nations customers is only used to provide positive outcomes to these customers.
9. The ERCoP be updated requiring retailers to give First Nations consumers the opportunity to opt-out at any time from having their cultural status visible on their account.
10. *If self-identification question is mandated:* Retailers be required to develop scripts on appropriate ways to ask self-identification questions and appropriate ways to respond to common responses to self-identification questions.

Supporting consumers in the energy transition

Q6. What should we take into account when considering extending the protections of the code of practice to secondary meters?

Consumer Action does not have specific comments on this issue

Information for consumers on gas disconnection and abolishment

Background

Consumer Action supports the ESC's proposal that retailers provide information on gas disconnection/abolishment to their customers. While consumers navigating this situation is not currently an issue that we see regularly on our frontlines, we do envision that it will become more common in the coming years, and we support reforms that make this process easier for consumers.

Q7. Should retailers be required to give customers information about gas disconnection or abolishment? If so, what information should they need to provide?

As the more customer-facing organisation, we believe that it is more appropriate for retailers to be required to give information on gas disconnection/abolishment, as opposed to gas distributors. The reality for most consumers is that they don't know who their gas distributor is, but will likely know their gas retailer, so the information will be far more accessible if held by the retailer.

We do not believe it would be sufficient for retailers to simply refer their customer to the gas distributor in order to obtain relevant information on gas disconnection/abolishment. Given the intention of the reform is consumer communication, a consumer-centred approach is required and adding unnecessary steps for a consumer to gather relevant information is not efficient. As the customer-facing entity in this process, there needs to be clear obligations on retailers to provide clear and relevant information to their customers.

We recommend that gas retailers be required to provide their customers with clear information on the difference between gas disconnection and abolishment, relevant costs and timeframes, and the rights of the consumer in seeking gas disconnection, abolishment or reconnection. This information should be provided in plain English to ensure it is accessible for those with varying levels of English comprehension and/or cognitive ability.

Q8. Are there other changes we should consider to support customers who have disconnected from gas or closed their gas accounts?

Consideration also needs to be given on how this information will be shared with consumers who are culturally and linguistically diverse. We recommend that retailers be obliged to develop factsheets in numerous different, commonly spoken languages, and that these factsheets be publicly available on their websites. For those who speak other languages, retailers should be required to provide this information with the help of an interpreter.

Recommendations

11. The ERCoP be updated to require retailers provide their customers with clear information on the difference between gas disconnection and abolishment, relevant costs and timeframes, and the rights of the consumer in seeking gas disconnection, abolishment or reconnection.
12. Retailers be required to develop factsheets on gas disconnection/abolishment in numerous commonly spoken languages.

Improving consumer contact information for power outages

Consumer Action is generally supportive of the ESC's proposed reforms that would require a retailer to ask customers for the contact information of a secondary contact person to ensure that those impacted by power outages are getting the required information as efficiently as possible. That said, we do have some concerns with how these proposed reforms could impact on the safety of consumers affected by family violence. Therefore, we do not support any reform that would *require* a consumer to provide details for a secondary contact person.

Q9. Should retailers be required to collect information from a secondary contact person (and potentially additional members of a household)?

If these reforms were to be introduced, there would be quite a number of consumers who would choose to include their partner, or other family member, as their secondary contact person. In a situation where the secondary contact person began perpetrating family violence against the customer, notifying them that the customer's residence is not receiving power could result in major safety concerns.

While we appreciate that the ESC is attempting to mitigate such risks by requiring retailers to consistently check in with their customers regarding the secondary contact person, we don't believe this goes far enough to protect the safety of those affected by family violence. We recommend that consumers be given the choice to not have a secondary contact person if they deem this to be suitable for them. As part of this recommendation, retailers would be required to clearly explain to consumers why they are asking for a secondary contact person and to explain to them when the secondary contact person could be contacted and what information will be shared with them.

Customers should also be advised that they are not obligated to provide the details of a secondary contact person if they do not wish to.

Q10. Should retailers be required to improve the quality of the customer contact data they hold? If so, how?

We consider that retailers should be required to review secondary contact information as often as possible to ensure that the contact information is as current as possible and that consumers affected by family violence are given as many opportunities as possible to remove their perpetrator as their secondary contact person.

So, the option outlined in the discussion paper that we deem to be most appropriate is for retailers to be required to review secondary contact information every time a consumer is contacted, and to contact customers on a yearly basis if they have not been in contact with their retailers during this period. This contact should be undertaken using the customer's preferred contact method and should allow the customer to opt-out of having a secondary contact person if they choose.

Recommendations

13. That retailers be required to ask for and hold contact details of a secondary contact person, but there be no obligation on consumers to provide details. Consumers should be notified the provision of a secondary contact person is voluntary when asked and should have the option to opt-out when they have provided a secondary contact person in the past.
14. Retailers be required to review secondary contact information every time they speak to their customer, or every 12 months when the customer has not contacted their retailer.

Clarifying protections that apply to customers with closed accounts

Background

Inappropriate conduct from retailers collecting on closed account debt is a growing issue that our financial counsellors observe on the National Debt Helpline, as was outlined in Consumer Action's latest Energy Assistance Report[7]. For this reason, we are supportive of the ERCoP being updated to provide clarity to consumers and retailers on consumer protections for managing debts stemming from closed accounts.

Our financial counsellors often see energy retailers fail to extend appropriate tailored assistance to consumers for debts stemming from closed accounts and commonly see consumers pressured into committing to unaffordable payment plans and lump sum payments.

In these instances, consumers are not made aware of their rights under the Payment Difficulty Framework and feel obligated to agree to payment plans that have been offered to them. There is often fear that failing to agree to these payment plans will result in enforcement action, adverse impacts to their credit report and the debt being referred to an external debt collection agency.

In these instances, despite having the best intentions to pay back these debts, consumers will ultimately disengage from the retailer after their attempts to negotiate affordable payment terms are declined. In fact, our financial counsellors often find consumers will receive more suitable outcomes negotiating suitable payment terms with external debt collection agencies after retailers decide to sell the debts. This speaks to the lack of tailored assistance provided by retailers in these situations.

It's important to note that the payment plans that retailers will often pressure these consumers into paying do not meet the requirements of the Payment Difficulty Framework under the ERCoP. For instance, we often see consumers pressured into committing to payment plans that will have their debt paid off within as little as 3

[7] Consumer Action Law Centre Energy Assistance Report (4th Edition): Keeping the Lights On

months, when an affordable payment plan would fall within the 24-month period allowed under the Payment Difficulty Framework.

Regularly, these payment plans are clearly unaffordable from the outset, which would have been obvious to the retailer assuming they obtained even the most basic of financial information on their customer. For example, our financial counsellors will often speak to consumers receiving a Centrelink allowance as their sole source of income who are being set up on plans to repay hundreds of dollars per fortnight.

This is leading to unnecessary stress being placed on consumers who are oftentimes already managing vulnerabilities. This is causing consumers to go without essential items such as food and medication, or taking out different forms of debt (payday loans, BNPL, wage advance) in order to pay their utility debts, which leads to greater financial difficulty in the future.

Case study

Sanjaya* contacted the NDH just after their child was born as he was feeling under significant stress. He and his partner were dealing with a large amount of debt which they were struggling to pay on his income alone.

Sanjaya was also coping with some physical and mental health issues that had led to him reducing his hours at work, which was further exacerbating their financial hardship.

At the time Sanjaya called the NDH, he was using his Credit Card to assist with paying household bills and had already contacted his mortgage provider to negotiate a suitable hardship arrangement.

Sanjaya had recently switched electricity providers after finding a cheaper deal elsewhere, but was left with a debt of approximately $1000 from his old retailer.

Sanjaya had been in contact with his old retailer in an attempt to negotiate a payment plan but ultimately had to complain to EWOV after his retailer refused to set him up on an affordable arrangement.

**Name changed*

Q11. In your view, is there sufficient clarity in the code of practice about which minimum standards of assistance apply to customers with closed accounts?

There is currently no clarity in the ERCoP that the tailored assistance available to consumers under the Payment Difficulty Framework also applies to debts stemming from closed accounts. The direct consequence of this lack of clarity is far too many instances of retailers providing inadequate assistance to consumers attempting to manage their energy debts.

We recommend that a section be added to the ERCoP explicitly stating that all tailored assistance, aside from concessions and the Utility Relief Grant, are available to consumers on closed account debts. This would make it clear to consumers what protections under the Payment Difficulty Framework were available to them when negotiating on closed account debt, while avoiding any confusion around whether they could apply for a Utility Relief Grant or other concessions to lower the debt of a closed account.

Q12. What considerations should we take into account if we were to clarify protections that apply to customers with closed accounts?

Old energy debt is a significant cause of financial difficulty and exacerbates poor mental health for callers to the NDH. The debt, even if it's small, hangs like a heavy weight on people in financial difficulty preventing them from ever getting back on top of their energy costs. Our Energy Assistance Report[8] recorded concerning growth and persistence of Victorians struggling with old energy debt, leading to energy poverty.

The ESC need to consider the fact that even if retailers were to meet their obligations under the ERCoP relating to providing tailored assistance to those experiencing financial difficulty, there will continue to be a large percentage of the population who will be unable to pay off their debts while continuing to meet their ongoing costs for their shelter, food, ongoing energy usage and other essential expenses.

Our financial counsellors often speak to clients who are unable to afford the basic cost of living, without taking discretionary spending and debt repayments into consideration.

The ERCoP allows for retailers to extend their assistance beyond the guidelines set out under the Payment Difficulty Framework:

Section 142 (1): *Nothing in this Part prevents a retailer from providing to residential customers, who are anticipating or facing payment difficulties, assistance in addition to the minimum standards set out in this Part.*

In reality, our financial counsellors observe that discretionary supports which would assist consumers experiencing ongoing poverty (i.e.. debt waivers) are rarely offered by retailers, particularly when consumers choose to self-advocate.

We recommend that the ERCoP include a section outlining when retailers should consider waiving debts for all closed accounts, at the very minimum, waiver should be listed as a consideration for consumers affected by family violence. Against the growing energy debt figures described above, we believe this option should be extended to support those in long-term financial hardship, as this cohort of consumers does not obtain adequate protections under the ERCoP as currently constructed.

Recommendations

15. The ERCoP be updated to explicitly state what tailored assistance is available to consumers with closed account debt.
16. The ERCoP be updated to specifically outline when a retailer should consider discretionary supports such as debt waivers.

Requirement to publish changes of tariffs and charges in newspapers

Q13. What matters should we take into account when considering removing the requirement to publish variations to standing offer prices in newspapers (relying on online publication only)?

Consumer Action does not have specific comments on this issue

Strengthening requirements for handling complaints

[8] Consumer Action Law Centre Energy Assistance Report (4th edition): Keeping the Lights on

Q14. Do you agree with our assessment of the provisions related to complaint handling and dispute resolution that should be made more consistent?

Consumer Action is supportive of the proposed reforms which would require that retailers follow their own policies and procedures with regard to complaint handling and dispute resolution. We consider that, where an expectation is set by the code (e.g. that complaints be handled via a procedure substantially consistent with ISO 10002), it is entirely appropriate that retailers be obliged to act in accordance with that expectation.

Aggregation of multi-site business customers

Q15. Do you have any views on the aggregation of multi-site business customers for the purpose of disapplying protections in our code of practice?

Consumer Action does not have specific comments on this issue

Clarifying obligations for retailers selling to customers in embedded networks

We support the proposed reforms that would require exempt sellers to comply with the ERCoP. Our financial counsellors often observe that energy prices for those in embedded networks are higher than those available to consumers who have the option to shop around to find the cheapest deal. These high energy costs lead to more people who require tailored assistance under the ERCoP.

It's also important for the ESC to consider that as embedded networks are generally set up in cheaper forms of accommodation such as apartment blocks and caravan parks, they are often the only available housing options for those on low incomes and/or experiencing vulnerability. This is the cohort of consumers that benefit most from the protections set out under the ERCoP, so it is imperative that the ERCoP clearly outlines that the tailored assistance available to consumers is also available to those on embedded networks.

Q16. What opportunities are there to provide the same protections for embedded network customers as for other customers?

We recommend that the ESC amend certain parts of the ERCoP to explicitly state that all protections outlined in the ERCoP are available to those on embedded networks. This is particularly important for Part 6 of the ERCoP, which outlines the assistance available for customers that are experiencing financial hardship & Part 7 of the ERCoP which outlines the assistance available for customers affected by family violence.

Case study

Millie* is a woman in her 20s living on her own in an apartment on an embedded network.

Millie contacted the NDH for assistance in navigating her financial hardship that started after being approved for a large amount of credit that she was not able to afford. Due to this, Millie had fallen behind on a lot of her financial repayments, including on her energy account, which was in arrears by $500.

Despite disclosing her financial hardship to her retailer, they advised her that the only thing they could do was set her up on a payment plan of $100 per fortnight, even though she was unemployed when she had contacted them.

Her retailer said there were no other supports that could be extended to her. The Utility Relief Grant was not offered to Millie and she was not advised of any of her other protections under the Payment Difficulty Framework.

**Name changed*

Recommendations

17. The ERCoP is updated to explicitly state that all sections of the ERCoP also apply to those on embedded networks.

More fundamental reforms needed to support affordable access to energy

Background

As mentioned above, the ERCoP as currently constructed is not providing adequate assistance to many of our most vulnerable consumers. The cost of energy, along with other essential costs, has risen significantly over the last few years, while wage growth and increases in social security payments have paled in comparison.

Our financial counsellors often observe that consumers are still not able to afford their ongoing energy costs, even when they access all of their protections under the ERCoP. More needs to be done to ensure that these consumers still have access to secure and affordable energy.

While the following proposals are separate to the protections under the ERCoP and may not fall within the confines of this submission, we felt they were important to include as they would lead to positive outcomes for our most vulnerable consumers.

Making the Utility Relief Grant Scheme fit for purpose

While we appreciate that the ERCoP does not set the standards for Utility Relief Grant Scheme (**URGS**), we believe an overhaul of the current scheme is essential to providing assistance to consumers in accessing affordable energy.

The amount that a consumer can access under the URGS has not changed since 1 July 2018, when the cap for each utility increased from $500 to $650 every two years. Given the increased cost of living pressures that have arisen since this time, we believe that a cap of $1,950 is no longer fit for purpose and recommend that it be increased to $4000 every two years.

We also believe that the eligibility criteria to access the Utility Relief Grant is no longer fit for purpose. Our financial counsellors have reported that it is much more common for consumers living in double income households to

contact the National Debt Helpline to discuss ongoing financial hardship that they are experiencing. More often than not, these consumers are not in receipt of a concession card and earn an income deemed to be too high to meet the eligibility criteria for the grant.

We recommend that the household income portion of the eligibility criteria for URGS be increased to ensure households that have been impacted by the cost of living crisis are able to manage their ongoing energy costs.

Proposal for URGS reform

We also recommend that consumers be given more agency on how they choose to use the amount provided to them under the URGS. As currently constructed, consumers are able to access a total of $1950 under the URGS, but this needs to be shared equally towards their electricity, gas and water bills, with a maximum of $650 allowed to be allotted to each.

Our financial counsellors often observe that consumers struggle more with one to two of these utility costs, while they are able to meet the ongoing costs for their other utilities. For instance, our financial counsellors often find that consumers are able to meet their ongoing costs for water usage.

We recommend that under the URGS, consumers should be provided with a pool of money that they are able to allocate to whichever utility they see fit. Under this reform, eligible consumers would have access to a pool of $4000 every two years. They could choose to distribute this amount evenly across all three utilities if necessary but would also be given the freedom to allocate all of this money towards one utility if it were the one they were struggling most to maintain.

Social Tariff

A reform that we think should be considered to support those experiencing long term vulnerability and/or financial hardship is the adoption of a social tariff. This would be a standing reduced rate available to eligible households that would ensure utility costs remain affordable for all consumers.

We see this as a proactive reform that would avoid a lot of consumers falling into debt on their energy accounts and having to rely on retailers to provide tailored assistance to manage these debts.

A social tariff would also improve a lot of the ongoing stress and mental health impacts that energy debts have on consumers and would avoid people needlessly taking out other forms of debts in order to maintain their ongoing energy costs.

Consideration would need to be given on the eligibility criteria to access a social tariff, but in a general sense, we believe that it should be available to all consumers who are not able to afford their ongoing energy usage.

Recommendations

18. Utility Relief Grant Scheme be overhauled to ensure that it is fit-for-purpose.
19. A social tariff be adopted to support consumers in financial hardship.

About Consumer Action

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 marketplace for all Australians.

About Westjustice

Westjustice is a community organisation that provides free legal help to people in the Western suburbs of Melbourne. We can help with a broad range of everyday legal problems including consumer disputes, credit and debt, family law and family violence, fines, motor vehicle accidents, tenancy, youth criminal law and more. We have offices in Sunshine and Werribee, as well as a number of outreach services.

About Mob Strong

Mob Strong Debt Help is a free nationwide legal advice and financial counselling service for Aboriginal and Torres Strait Islander people. The service specialises in consumer finance (such as credit cards, pay day loans and car loans), banking, debt recovery and insurance (including car, home, life and funeral insurance).

Since 2016 Mob Strong Debt Help has been guided, developed and operated by Aboriginal and Torres Strait Islander staff, supported by all our colleagues at Financial Rights Legal Centre.

Our team is small but dedicated, and includes solicitors, policy advocates, financial counsellors and a student financial counsellor. This team brings years of experience to lead the work of Mob Strong. They are backed up by the larger team of solicitors and financial counsellors in Financial Rights, who share the caseload.