

2 April 2008

Mr Greg Wilson  
Chairperson  
Essential Services Commission of Victoria  
Level 2, 35 Spring Street  
MELBOURNE VICTORIA 3000

Dear Mr Wilson

**RE: ESC REVIEW OF ENERGY REGULATORY INSTRUMENTS**

The Energy Retailers Association of Australia welcomes the opportunity to participate in the Commission's review of energy regulatory instruments.

As a starting principle the ERAA believes that competition represents the best form of consumer protection in energy markets. This is based on the belief that the entry or threat of entry of new retailers will force incumbent retailers to operate efficiently and to provide competitive energy offers in order to win customers. Retailers who cannot do this will lose market share and suffer financially. A retail code which is not onerous or complex will assist in the development of such retail energy markets by facilitating the entry of new retailers. While the ERAA believes the current level of competition in Victoria has shown to be very strong, it could be improved if the Victorian Retail Code was made less onerous as a result of this review.

It is the view of our members that parts of the Victorian Retail Code duplicate existing measures in the Trade Practices Act, the Privacy Act and the Fair Trading Act. As an example we would question why the marketing of energy should be seen to be any different from the marketing of any other product and thus require the duplication of instruments in the Victorian *Fair Trading Act* and the *Trade Practices Act*. The ERAA believes that the additional measures contained in the marketing code are unnecessary and simply make the interpretation of the Code more complex for retailers while providing no added benefits for consumers.

The focus on the removal of unnecessary regulation was also picked up in the Productivity Commission Review of Australia's Consumer Policy Framework draft report released in November 2007. We would draw your attention to the following recommendations:

Recommendation 5.1

*CoAG should instigate and oversee a review and reform program for industry specific consumer regulation that would:*

- *identify and repeal unnecessary regulation, with a particular focus on requirements that only apply in one or two jurisdictions;*
- *drawing on previous reviews and consultations with consumers and businesses, identify other areas of specific consumer regulation that apply in all or most jurisdictions, but where unnecessary divergences in requirements or lack of policy responsiveness impose significant costs on consumers and/or businesses; and*
- *determine how these costs would be best reduced, with explicit consideration of the case for transferring policy and regulatory enforcement responsibilities to the Australian Government and how this transfer might be best pursued.*

### Recommendation 5.3

*A single consumer protection regime for energy services should be developed and implemented under the auspices of the Ministerial Council on Energy. It should apply to all jurisdictions participating in the national energy market and be enforced by the Australian Energy Regulator.*

The ERAA believes the review of 'red tape' by the Commission is commendable however we would also draw your attention to the increasing problem of 'green tape'. For retailers operating in the NEM the number of schemes announced or in place related to the reduction in greenhouse gases, the promotion of renewable energy and the promotion of energy efficiency has grown from four schemes in 2005 to eight. While the ERAA acknowledges the importance of addressing climate change the ongoing operation of these schemes and the complexity with their compliance is inefficient and very costly.

I understand that some of our members have made individual submissions highlighting other instruments in the Retail Code which they see as unnecessary, and I would draw your attention to their submissions for further information.

Should you require any further information in relation to this matter please feel free to contact me on (02) 9437 6180.

Yours sincerely

*[Transmitted Electronically]*

Cameron O'Reilly  
Executive Director  
**Energy Retailers Association of Australia**