

The Consumer Law Centre of the ACT
and
Care Inc. Financial Counselling Service

Submission to the Independent Competition and
Regulatory Commission
Review of Metrology Procedures – Issues Paper (Feb 05)

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The Consumer Law Centre of the ACT

The Consumer Law Centre of the ACT (CLC) is a free, independent community legal centre funded by the ACT Government. It provides legal assistance, advice and representation to low to moderate income consumers in the ACT. Co-located with Care Inc Financial Counselling Service, the CLC is most active in the area of consumer credit, although the practice is engaged with telecommunications and utilities issues, as well as general fair trading and consumer protection. The Centre also works towards improving legal protection for all consumers, and raising awareness and understanding of consumer rights nationally and in the ACT.

Care Inc. Financial Counselling Service

Care Inc has been the main provider of financial counselling and related services to low income and vulnerable consumers in the ACT since 1983. Those services include:

- Financial counselling and information services (including an outreach service in Queanbeyan and a dedicated service for tenants of ACT Housing and applicants for public housing)
- Community Development and Education
- Policy and Social Action.

General Comments

The CLC and Care Inc welcome the opportunity to respond to the Issues Paper.

There are a variety of issues on which comment is sought that we do not have the technical expertise to address. That should not come as a surprise to the ICRC.

Indeed, the Joint Jurisdictional Review of Metrology Procedures (October 2004)(the “Joint Report”), which forms the basis for the current ACT review process, reported a total of 36 submissions from interested parties. Only 4 of the submissions reported were described as having been provided by “consumer” bodies.

This fact alone should act to remind the authors of the Joint Report and the ICRC how little capacity exists to fully and thoroughly represent the issues of concern to vulnerable and disadvantaged consumers. We are aware of and have on a previous occasion made use of the NECA Consumer Advocacy Panel to resource the preparation of an ACT specific consumer submission. Whilst helpful on that single occasion, the resource and its availability has done little to build capacity in the ACT to understand and respond to issues of local hardship and exclusion in the electricity market.

If consumers were not engaged in these processes because the outcomes were of little concern to them or unlikely to impact in any practical way, then there would be no issue. That is clearly not the case. At one level, improvements in metering facilities can add transparency to billing processes and act to support growing consumer understanding and empowerment in managing energy usage. At another, pay for use or prepayment metering technology can act to further exclude the vulnerable and disadvantaged.

We note that discussion of prepayment meters is excluded from the Issues Paper (and we assume from the Joint Report, although in the time available it has not been possible to review that document in its entirety). Instead the review process appears to focus exclusively on interval metering. The issues seem to have been artificially separated and that separation is indicative of the way that the needs of vulnerable and disadvantaged consumers are mismanaged, or ignored. If we had to predict the likely

outcome for our clients, based on our understanding of the process to date and what is envisaged:

- low income consumers are less likely to benefit from improvements in technology that might assist in understanding and varying energy usage, to the extent they are able to do so and
- commercial pressure will continue to move less competitively attractive small end consumers (including the vulnerable and disadvantaged) onto arrangements like prepayment meters.

We would submit therefore that the lack of consumer engagement has nothing to do with a lack of potential importance of the review process to consumers. It has everything to do with a national reform process that has left the building of consumer capacity a distant afterthought. As the CLC and Care Inc have constantly restated in other submissions, the existence of competition alone does not deliver safe and fair markets.

If regulators want to understand the real risks that exist for low income and vulnerable consumers in competition based reform, then they must invest in research that asks the right questions and act on the outcomes. That investment must be more than consultation on specific issues such as the current review. This position is one that the CLC and Care Inc have put to the ICRC before and it is expanded upon in the following brief comments against several of the discussion points in the Issues Paper.

Comments against specific sections of the Issues Paper

The structure of the Paper follows the recommendations in the Joint Report. We have not commented on all sections, making observations about issues that appear to be of most relevance to our client group and having regard to limitations in our expertise and understanding.

Part 2: Developing the Assessment Framework

Recommendation 2.1 of the joint report, proposes an assessment framework to consist of the following criteria:

- Economic Efficiency,
- Practicality and
- Equity.

Recommendation 2.2 significantly notes:

“Jurisdictions may add jurisdictional specific criteria which are consistent with the jurisdiction’s objectives under legislation (eg social equity) and government’s energy policy objectives. The criteria may be weighted.”

The ICRC’s objectives are set out in section 7 of its principal legislation, with section 7(b) requiring it:

“to facilitate an appropriate balance between efficiency and environmental and social considerations”.

“Social considerations” are not defined. We would submit that issues like market exclusion and vulnerability and disadvantage are clearly anticipated in such an objective. We note there has not been, to the best of our knowledge, any specific research undertaken or commissioned by the ICRC to add to its understanding of vulnerability and disadvantage in the ACT and to in turn deliver on section 7(b) of its objectives. This review, as well as the ICRC’s many other activities, would benefit from just such an undertaking.

Part 3 - National Consistency of Metrology Procedures

Whilst the Joint Report recommended the development of a single national Metrology Procedure, we note recommendation 3.2(c), recommending that any such procedure:

“exclude non technical provisions, such as consumer protection, which will continue to be the responsibility of the jurisdictions”.

The CLC and Care have in a number of local forums on issues relating to the national market, made the point that ACT consumers will look to ACT Government and local regulation to deliver safety and fairness. As with our comments on Part 2, it is hard to see how the ICRC can effectively deliver on its consumer protection responsibilities without a clear understanding of the needs of :

- those for whom the market does not work well and
- those who are at risk of or are excluded from safe and fair participation.

Part 5 - Ownership

As the Issues Paper suggests, we would oppose a wholesale rollout of new meters if costs were directly passed on to consumers. We should however seek more information about the possible impacts of utilising new technologies, positive and negative, particularly as a tool for tackling market exclusion and delivering safe, affordable access for low income consumers.

Our current view is that ownership should stay with providers as responsibility vests with ownership. If such a system were adopted, not only would service be linked to affordability, so too would upgrades. This would inevitably mean that as new technology evolved or old technology failed, those without means to pay for new meters or repairs to old ones, would be left behind.

Further a system of private ownership would introduce 3rd parties into the provision of services, such as landlords. While ownership of meters remaining

with retail suppliers may tie the occupier to that supplier and in turn inhibit choice, the complexity of issues and likely interference in supply flowing from private ownership is outweighed by the possibility of “choice of supplier” being inhibited. We note we have previously commented upon the fictitious construct implicit in the term “choice of supplier” and the real costs of choice.¹ In our view no “choice” is on offer where the same product is delivered without variation in quality or reliability regardless of provider “chosen”.

Part 8 – Current metering arrangements

We do not know what the impact of a roll-out of interval meters might mean for our clients. In the absence of a more holistic approach to the causes of their vulnerability or disadvantage, we suspect very little. For example:

- there would need to be some targeted information and education for our clients to understand and access any potential benefits;
- there would also need to be some recognition of other non-discretionary needs, like usage patterns driven by health needs;
- finally changes to metering arrangements will have limited impact without a broader commitment to tackle energy inefficiencies over which our clients have little control, like poorly maintained rental accommodation and inefficient, inappropriate fixtures for heating etc.

We therefore support recommendation 8.1, suggesting research be undertaken and, as with earlier comments, we urge the ICRC to prioritise the issues confronting vulnerable and disadvantaged consumers.

April 2005.

¹ CLC/ACTCOSS Submission to ACT Inquiry on Prices for Electricity Distribution Services; January 2003.