



# Victorian Aboriginal Legal Service Co-operative Ltd.

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## Initial Comments about the “Effectiveness of Retail Competition: Issues Paper” Published by the Essential Services Commission

Thankyou for the opportunity to provide comments about the “Effectiveness of Retail Competition: Issues Paper”.

VALS is concerned about the Terms of reference of the review. We recognise that these are established by the Minister, not the Essential Services Commission however we believe that they make the task of the Commission and of groups seeking to respond to the Review more difficult.

The Term of reference 2.1(a) states that effective competition is to be preferred over regulation. This together with 2.1(b) implies that the review is aimed at reducing regulation and that regulation can and must always be the servant and competition the master. It would be preferable to ask whether and in what circumstances consumers will be better protected by competition or by regulation. The review terms of reference imply increased competition is always the preferred solution. The terms of reference imply that regulation will only be considered in the most extreme circumstances. VALS believes that the terms of reference should be more open to considering what mix of policies will provide effective protection and equitable price structures rather than bias the review towards greater competition and less regulation.

*Privatisation even where it is coupled with increased competition often does not benefit the consumer or small local business as these actors usually have insufficient market power to determine prices and standards and demand access to relevant information. (NCAC1988; Ernst 1994; Martin and Parker 1997) Quoted in (Collyer, Wettenhall and McMaster, 2003)*

The name “Essential Services Commission” highlights the reality that gas and electricity are essential. This should mean that a review has as a starting point a strong commitment to establishing an effective mix of policies to ensure that these services are universally accessible.

Triple bottom line accounting would suggest that in an effective competition framework energy providers should be receiving rewards for policies and strategies which encourage energy efficiency and energy saving. The present competition framework does little to encourage providers to initiate energy saving strategies. Low income consumers are usually not able to afford energy saving strategies with high up front costs and those who are renting are at the whim of the landlord in terms of the energy efficiency of the dwelling and its fitting.

### **Vulnerable consumers**

The Issues paper identifies vulnerable consumers as those in regional areas, concession holders, large households and renters. Indigenous people are clearly one of the most disadvantaged groups in the community.

According to the 2001 Census the households where Indigenous Australians reside tended to be:

- larger (3.5 people on average) than other households (2.6 people);
- more likely than other households to be renting (63% compared with 27%);
- and when renting, much more likely than other households to rent from community or - cooperative housing groups (17% compared to 2%).
- Indigenous Australians aged 15 years and over who had left school were half as likely (18%) as non-Indigenous Australians (41%) to have completed Year 12;
- 42% of Indigenous Australians aged 15 years and over were employed (41% in 1996), well below the 59% recorded for the non-Indigenous population in 2001;
- Indigenous Australians in the labour force were much more likely than non-Indigenous people to be unemployed (20% compared with 7%);
- In Victoria 54% of the Indigenous population live outside of metropolitan Melbourne

Aboriginal people are thus more likely to have difficulty paying for essential services and negotiating the repayment of arrears. They are also less likely to be aware of their rights and of services available to them. Research about to be released by CUAC highlights that in this area of service provision there are many similar problems to those encountered by Indigenous people in other civil and administrative law areas. These problems can include lower levels of literacy, lower levels of confidence in dealing with government departments and bureaucracy, higher incidence of ill health, low income and other financial stressors and limited experience of mainstream services working for them.

Even though Indigenous people are a vulnerable group and a low income group VALS does not support an approach which narrows the focus of safety net arrangements. VALS believes that a broad based safety net means both economies of scale and other benefits to do with easier training of energy provider staff, greater simplicity of system and ease of explanation of the system to consumers.

One of the difficulties for disadvantaged consumers in dealing with institutions is the level of complexity and bureaucracy associated with more and more laws, contracts and services. Not only does this make it harder to be sure what you are purchasing or what protection you have by law but it usually makes the process of fixing, amending or where necessary contesting an issue more difficult. Greater complexity and bureaucracy also mean that it is more difficult to educate people about how the system works. The advantage of having clear and simple processes to explain what services are available as well as common across the board processes for dealing with debts are that it would increase certainty and make education easier to provide. In our view the system should be designed as far as possible starting from the needs of disadvantaged consumers not trying to accommodate these issues later. If a system is designed starting from an assumption

such as how to build the cheapest system this can lead to assumptions about people being able to read material and having a home internet connection and that's where the resources go. It is then more expensive to think about how to apply patches to such a system which will ensure that disadvantaged consumers are protected. The CUAC research sounds as though it will highlight the very considerable gaps which there are in the operation of the present system.

VALS believes that: It is too complex to try to narrowly target the most vulnerable consumers. It is often more difficult to design a service system which has add on systems for the vulnerable. The more narrow and complicated the eligibility criteria for the safety net the harder it will be for disadvantaged groups and the greater the stigma about accessing them. As Gas and Electricity are essential items there need to be robust safety net systems to avoid the public health and other costs associated with inaccessible service provision.

Moves to narrow the application of the safety net or codes will reduce the number of people covered also weaken the strength of small consumers which analysts have highlighted are already poorly catered for by privatisation and competition. A recent study on the privatisation of public enterprises concluded that the impact of privatisation is therefore not just shaped by organisational and market circumstances (which financial analysts are keen to emphasise), but is the creature born of political interests and the extent to which citizens are able to organise collectively to press their claims. (Collyer, Wettenhall and McMaster, 2003).

VALS does not support increasing the maximum charge that can be levied (pg 19) in order to encourage providers to spend more on low income consumers. VALS believes that there would need to be detailed cost benefit analysis and modeling before such an approach were considered. There would need to be a high level of certainty that increasing the maximum charge that could be levied did not in fact result in low income consumers being charged at that higher price. One of the assumptions about achieving higher switching levels between suppliers seems to be that that provides a net benefit to consumers. It is not clear that all consumers are prepared to invest time in researching the various offers from different suppliers. Providers have already indicated that they don't target low income consumers as there is little margin for profit. Increasing the maximum charge may well create some interest by providers and some higher level of switching companies may occur but it could well mean that the overall prices charged will go up too which is likely to worsen people's capacity to pay bills.

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### **References**

*ABS 4713.0 Population Characteristics of Aboriginal and Torres Strait Islander Australians:2001 Census*  
*Collyer, Wettenhall and McMaster, 2003 The Privatisation of Public Enterprises Just Policy 31 December 2003*