

Essential Services Commission – Energy Consumer Reform Consultation paper

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Table of Recommendations

Recommendation	Page for details
Recommendation 1: That the ESC obliges an energy retailer to credit the difference between the current plan and the best offer to any customer receiving tailored assistance and to customers with significant levels of debt.	4
Recommendation 2: That the ESC establishes a robust procedure for retailers on how to define the 'best offer', including clear direction on how often a review should be undertaken.	4
Recommendation 3: That the ESC imposes new requirements associated with the best offer message obligations and introduces a ban on acquisition only offers.	6
Recommendation 4: That the ESC provides best practice guidance around solutions that may reduce barriers to switching, particularly for customers who may be less digitally engaged.	8
Recommendation 5: That the ESC requires retailers to proactively check if their customers are eligible for concessions.	10
Recommendation 6: That the ESC requires retailers to evaluate their current practices around how they communicate concession information, implementing any improvement opportunities that may help increase awareness.	12
Recommendation 7: That the ESC remove the grandfathering arrangements for contracts signed before 1 July 2020, limit other conditional discounts and fees, and prohibit conditional discounts and fees which discriminate between payment methods.	12
Recommendation 8: That the ESC mandate details of the Energy and Water Ombudsman Victoria (EWOV) to be prominently displayed on an energy bill, and EWOV contact details included in the body of emails with bills or invoices.	13



Introduction

Energy Consumers Australia appreciates the opportunity to provide feedback on the Essential Services Commission (ESC's) Discussion Paper – Energy Consumer Reforms.

We promote the long-term interests of all residential and small businesses who use energy in Australia by providing and enabling evidence-based advocacy to the energy sector on the issues that affect consumers.

While the sector is squarely focused on the energy transition, it is equally important to address dysfunctions in the current market where consumer protection mechanisms need to be improved.

We welcome the ESC's decision to pause its review of the Energy Retail Code of Practice (ERCOP) to assess how the 'Consumer Reform' Package of rule changes¹ proposed by the Energy and Climate Change Ministerial Council (ECMC) might be implemented in Victoria.

ECA strongly supports these reforms, which will go part way to addressing longstanding market failures, including where the regulation of the Australian energy market has fallen behind other economic sectors. The problems they help address include:

- The overuse of acquisition pricing tactics – the 'loyalty tax' is perhaps the most egregious failure of the current market. The loyalty tax actively harms people in financial stress, as retailers take advantage of consumers' inability or unwillingness to engage in a complex and confusing market (often made complex by retailers' products and services) to increase their energy prices.
- Preventing people in payment difficulty paying more for their energy than they need to – people in financial stress can struggle to find the capacity and information they need to ensure they're paying as little as possible.
- Minimising the transaction costs for people to switch to a better offer, recognising that the market deliberately throws up multiple hurdles for consumers to engage.
- The too low uptake of concessions and rebates - a shared failure between government and retailers. Consumers are currently faced with a number of barriers to accessing concession information and support, missing out on assistance that will lower their energy costs, and to which they are entitled.

We applaud the ESC's work to improve consumer protections, however national reform is needed to address the systemic nature of these issues. We therefore note the importance of wherever possible working and aligning with the Australian Energy Regulator (AER) and the Australian Energy Market Commission (AEMC) to harmonise and strengthen protections for all consumers both in the short, and long term. Addressing current problems will help build trust for the future and provide consumers with greater confidence that the energy system is working in their long-term interests.

¹ <https://www.aemc.gov.au/rule-changes/improving-ability-switch-better-offer>



Response to the discussion paper

Below, we address each of the five areas for reform outlined in the discussion paper.

1) Automatic best offer for customers experiencing payment difficulty

Recommendation 1: That the ESC obliges an energy retailer to credit the difference between the current plan and the best offer to any customer receiving tailored assistance and to customers with significant levels of debt.

Recommendation 2: That the ESC establishes a robust procedure for retailers on how to define the ‘best offer’, including clear direction on how often a review should be undertaken. We recommend that the ESC work closely with AER and AEMC to design and develop a process and/or guideline that is nationally consistent.

We strongly support the intention of this proposed reform to ensure that consumers experiencing payment difficulty pay the lowest possible cost for their energy.

As the Discussion Paper acknowledges, there are Victorians who are receiving assistance – and so have been actively identified as in payment difficulty – who are still paying higher than necessary energy bills. Making clear that the obligation is on the retailer and automating an action that will result in a lower bill should go some way to address a range of known problems, including, importantly, removing the onus on the consumer to continually monitor the market to ensure they are on the most advantageous retail offer.

The following provides comment on the preferred option to deliver a lower bill, who should be eligible, and where we see challenges that must be explored further in the design of the obligation, including how and how often the retailer is obliged to confirm that the customer is on the lowest cost plan.

The intended outcome – to lower bills – can be achieved through a range of pathways. ECA’s preferred option is to credit the difference between the current plan and the best offer, for the following reasons:

- It does not require the consumer to give explicit informed consent, as they remain on the same plan: the AER’s Game Changer report proposed moving a customer to a deemed best offer, which would be a different plan. Crediting the difference between the current plan and best offer does not require a retailer to seek a customer’s explicit informed consent, as the energy plan does not change. That means that it can be done quickly.
- It would appear to be the most direct way to address complexity: it would enable the consumer to stay on their preferred energy plan without moving them to plans that could have markedly different terms and conditions around time of use, payment arrangements, billing frequency, etc.
- It reduces the risk of adverse consumer outcomes: as noted in the paper, aligning tariffs of an existing plan to a retailer’s best offer may mean a customer will have to change their energy use to align with the new tariff structure. Consumers in payment difficulty already find it difficult to engage with their retailer for a variety of reasons. Complicating what can already be a distressing and stressful experience for a consumer in payment difficulty would work against the intended outcome.



- It does not remove a customer's agency: research by Uniting² for the Game Changer made clear that some consumers choose an energy plan for reasons other than price. That choice should be respected.

Notwithstanding the above, there are distinct benefits to be achieved from an opt-out migration of eligible customers, including efficiency for retailers (and thus potentially lower cost) and simplicity/clarity for customers. It is noteworthy that the banking examples referenced in the Discussion Paper resulted in a small handful of enquiries and even fewer complaints – and that early concerns by banks regarding explicit informed consent were found to be baseless (for the most part because banks were able to ensure that no product benefits were lost in the migration). ECA remains of the view that if the EIC issue could be satisfactorily addressed – and, through consultation with retailers, we feel it is likely that it can – then an opt-out migration may well be the preferable model.

The Discussion Paper seeks feedback on who should be eligible to receive this support. Our most recent Energy Consumer Survey found that 43% of Victorians found it quite difficult (34%) or very difficult (9%) to pay their energy bills over the last 6 months.³ VCOSS 2023 research⁴ estimated there are over 800,000 Victorians living in poverty, including 216,000 children. And there are some groups who are finding it particularly tough – renters, people living with a disability, First Nations households and multicultural communities who are all more likely to be at risk of energy poverty.

ECA's view is that it be extended at minimum to customers receiving tailored assistance. According to the figures cited in the Discussion Paper, those receiving tailored assistance represent 3.91% of electricity customers and 4.2% of gas customers, which nonetheless will be only a small subset of people experiencing financial stress. We also strongly support extending this assistance to customers who are in arrears, prioritising customers with levels of debt that are not reducing or are significant.

We note that in other jurisdictions and/or essential services sectors, similar programs have tended to utilise external, government-sourced data as a mechanism to determine eligibility for "best offer / basic account" status. In the Australian banking sector, for instance, it has long been the case that any consumer in receipt of Federal Government assistance (via a Centrelink payment – eg pension, unemployment, single parent, veteran, disability support) is eligible for a fee-free basic bank account. Importantly (for efficiency of the process and to ensure current status), customers need only be in receipt of any of three Centrelink Concession Cards to receive assistance.

To deliver the intended outcome, the ESC will need to provide clear direction to retailers across three key areas:

- how they define a "best offer", including which factors should be considered in making that judgement.
- how often they must review a customer's energy plan to make sure that they are still on the best offer. Recognising that cost-of-living pressures are unlikely to abate anytime soon, there will be consumers who receive tailored assistance for a prolonged period.
- how customers are informed of the credit, as part of the tailored assistance.
- how and when a consumer stops being eligible for a "best offer" and what is to occur thereafter.

² Uniting, Game Changer Consumer Exploration Workshop, August 2023

³ ECA, Energy Consumer Survey Dec 2024 <https://energyconsumersaustralia.com.au/publications/surveys-energy-consumer-sentiment-behaviour>

⁴Victorian Council of Social Services 'Mapping Poverty in Victoria' <https://vcoss.org.au/projects/2024/06/poverty-mapping/>



Given the Commonwealth Minister's rule change requests for similar reform in the National Energy Customer Framework, ECA also recommends that the ESC work closely with the AEMC, AER and Victorian stakeholders in designing and developing these obligations. These reforms will impose costs on retailers that will be passed through to customer bills – a nationally consistent approach will go some way to minimising that impost, even if it is not material.

2) Improving the ability to switch to the best offer

Recommendation 3: That the ESC imposes new requirements associated with the best offer message obligations and introduces a ban on acquisition-only offers.

Recommendation 4: That the ESC provides best practice guidance around solutions that may reduce barriers to switching, giving retailers the flexibility to implement improvements that best suit their customer base at least cost.

Both the ACCC and ESC report that many Victorians remain on plans with higher prices than the retailers' deemed best offer.⁵ This is despite the introduction of the 'best offer message on bills' requirement in 2019. However, as the ESC reports, there are savings for consumers to realise, and for some, significant savings of up to \$400 per year.

Persistently high transaction costs associated with switching energy plans represent a significant and longstanding market failure. ECA data tells us that the main reasons people considered switching but ultimately chose not to was due to the process being too complicated or confusing, or because the potential savings didn't seem worth the effort.⁶ Solutions to address this have had limited success – largely because they assumed that consumers would switch if they had access to more information, and/or that consumers had the confidence and trust in the market to make a decision. While of use to some consumers, the tools to assist with switching – like Victorian Energy Compare – are not as well-known as they should be and may not help people who are not on a traditional energy plan, e.g. if they have solar panels or batteries.

There are other well-understood barriers to consumers' engagement: e.g. energy bills remain complex and confusing for consumers. Further, consumers who rely on utility connection services via their real estate agent can be stranded on inappropriate and expensive tariffs.

Most critically, market policy for the last two decades has relied heavily (perhaps exclusively) on consumer exertion to create a dynamic market. It is consumers who are required to educate themselves about the often-arcane elements of tariffs and pricing, consumers who are required – in the absence of their own real time consumption data – to identify and compare offers, and consumers who are required to keep switching to avoid becoming subject to 'loyalty tax'. While it is reasonable that consumers who engage with a market receive benefits for doing so, in the energy sector the impediments to engaging are disproportionately felt by those who already experiencing deep and enduring barriers.

Our most recent Energy Consumer Survey found that over half of consumers (54%) want a simple relationship with their retailer – knowing they get a good price, that it's reliable and they receive good customer service. The other 46% want more than just a basic service – they want a choice of different

⁵ ESC Discussion Paper – Energy Consumer Reforms <https://engage.vic.gov.au/energy-retail-code-of-practice-review>

⁶ ECA, Energy Consumer Sentiment Survey December 2023 <https://energyconsumersaustralia.com.au/publications/surveys-energy-consumer-sentiment-behaviour>



tariffs and the ability to monitor their energy use, to choose when they export energy, and being able to choose green energy options. An energy retailer should aim to offer services and assistance that help all their customers.

The Discussion Paper is only seeking comment on how to facilitate switching to the best offer supplied by that consumer's retailer. It should be acknowledged that these reforms are unlikely to address the barriers outlined above or deliver the outcomes and services that consumers are seeking. That noted, they would be deeply welcomed by consumers who cannot – for structural and other reasons – navigate the market alone.

The following provides comments on where we see potential improvements could be made, while preserving explicit informed consent protections. To deliver the intended consumer outcomes, we support stronger regulation of how and where consumers receive information.

We also recommend that more work be done – preferably with the AER and AEMC – to encourage retailers to investigate and trial methods of communicating the best offer message and/or switching information with their customers outside their regulated obligations.⁷ While there are alternate methods, two that look worthy of further consideration include:

- the use of QR codes on paper bills.
- sending an SMS before a bill is about to be issued where the bill will include a best offer message (or alerting them to the best offer message).

Strengthening regulation: minimum requirements

To help break down the complexity associated with switching, at a minimum we recommend the ESC extend provisions in the ERCOP that:

- ensure the best offer message is on both a bill summary and on the actual bill. This could be extended to the summary information/home screen on retailer apps or customer web portals upon signing in.
- ensure consumers can switch via any communication channel (digital and non-digital), and that those channels are well advertised, including as part of the best offer message requirements.
- restrict retailers from offering acquisition type offers to new customers only.

The following provides more detail on how stronger protections should be rolled out.

Improving best offer message practices

To ensure all consumers are receiving the best offer information in an easy, simple and meaningful way, the best offer message obligations should always apply when billing information is being provided to the consumer. This could also then capture any summary information on website portals or on apps that a consumer may use to access bill information. If a retailer faces genuine challenges in providing a best offer message on a bill summary, we expect them to make every effort to uphold the intent of the best offer obligation and implement the closest possible alternative.

⁷ Ofgem 'What works in increasing engagement in energy tariff choices?' 2019 [cross trials paper report.pdf](#)



The UK regulator Ofgem conducted a series of switching trials which found that calling in to switch was the preferred method of action (over online options).⁸ While the ESC already considers it better practice for retailers to include multiple methods for switching to the best deal,⁹ it is not explicit in the rules. At a minimum, the rules should require digital and non-digital contact methods be provided when giving instructions on how to switch to the deemed best offer.

Banning retailers from making new offers available only to new customers

We support a ban on acquisition only offers in the market. We note that similar provisions were introduced in the UK as a temporary measure, however, have since been extended noting “we have heard the voices of consumers loud and clear – and we have responded”.¹⁰

As noted in our submission to the ERCOP review, the experiences for loyal customers can be vastly different from that of a new customer.¹¹ The ACCC’s December 2023 Inquiry into the National Electricity Market Report found that large numbers of small consumers were on plans that were equal to, or higher than, the default offers. Over time, customers who have stayed loyal to their retailer are paying higher prices than they need to.¹² Ensuring existing customers are equally offered ‘sign up’ benefits, is a positive and accessible measure to help reduce the number of customers on legacy plans, and who may have large conditional discounts.

It is important to note that in the wake of financial sector scandals across the industrial world, there has been very considerable reconsideration of the appropriateness – and fairness – of acquisition-only pricing.¹³ The “frontbook vs backbook” pricing models used extensively in the past are increasingly being replaced by fairer pricing that rewards consumer loyalty, rather than penalises it.

Best practice improvement opportunities:

Quick Response (QR) Codes

In 2014, the UK Department for Business Innovation and Skills released their ‘Feasibility study on the use of QR codes in the energy sector.’ It found that adding QR codes to energy bills or statements was relatively low cost and technically highly feasible and marked a possible way to empower consumers to engage confidently in the market.¹⁴

QR codes have since been implemented on all UK energy bills, and in 2017, the Consumer First Panel tested their effectiveness. Participants noted that it was a highly useful tool, and could help them find a

⁸ Ofgem ‘What works in increasing engagement?’ final report 2019

https://www.ofgem.gov.uk/sites/default/files/docs/2019/09/cross_trials_paper_report.pdf

⁹ ESC Guideline 1 (2023) - Form and content of deemed best offer messages https://www.esc.vic.gov.au/sites/default/files/documents/GL%20-%20ESC%20-%20best%20offer%20guideline%20-%20final%20-%2020231117_4.pdf

¹⁰ Ofgem notes that concerns were raised that if the ban was lifted the market would return to being unfair to inactive switchers – the ban has been extended to March 2025 <https://www.ofgem.gov.uk/press-release/ofgem-retains-ban-acquisition-only-tariffs>

¹¹ ECA Submission to the ESC Energy Retail Code of Practice Review 2024 <https://energyconsumersaustralia.com.au/publications/submission-essential-services-commission-issues-paper-review-energy-retail-code-practice>

¹² ACCC, Inquiry into the National Electricity Market, December 2023 Report https://www.accc.gov.au/system/files/accc-inquiry-national-electricity-market-december-2023-report_0.pdf p49

¹³ For example, as noted in Chapter 5 Financial Conduct Authority UK ‘Pricing practices in the retail general insurance sector. Household insurance. 2018 <https://www.fca.org.uk/publication/thematic-reviews/tr18-4.pdf>

¹⁴ UK Dept for Business Innovation and Skills ‘Feasibility Study on the use of QR Codes in the energy sector <https://assets.publishing.service.gov.uk/media/5a7c9ba4ed915d6969f46144/bis-14-519-midata-programme-feasibility-study-on-use-of-qr-codes-in-energy-sector.pdf>



better deal, but they were not familiar with QR codes and they needed to be explained first.¹⁵ However, since COVID-19 the use of QR codes has grown exponentially, which continues globally in a post COVID-19 world.¹⁶ In this context, a QR code has potential to bridge the gap between the online and offline journey for consumers. Consumers who receive a paper bill may be less likely to take the additional step to use the provided link, or even engage with the message because they are deterred by a link. A QR code coupled with a phone number may help remove barriers to engagement, by presenting information in a way that is more accessible to the consumer.¹⁷ QR codes also enable accessibility opportunities, such as multi-language capabilities,¹⁸ and improved access to information for people who have dyslexia or low vision.¹⁹

Therefore, the feasibility and effectiveness of including a QR code on paper bills, either in a best offer type box (see Figure 1), or presented in some other way should be explored. The ESC may like to invite testing of this nature, undertaken in a sandbox environment.



Figure 1. Example from UK energy bill

SMS – Best offer information

Many retailers communicate to their customers via SMS - for example, as a prompt that their bill is about to be issued, to encourage them to submit a meter read if the bill is estimated, or to remind a customer that their bill is overdue. Retailers must see communicating via SMS a useful way to prompt consumers to take an action, and so it could be used to increase awareness of best offer information.

We note the need for caution, given the potential for scams, and that many consumers will be wary of trusting a link in a text message. That said, it is a channel that is likely to be read and lends itself to simple and direct messages telling the customer to look at their bill as they could be on a better offer.

¹⁵ Customer First Panel 2017 'Understanding Information Needs'

https://www.ofgem.gov.uk/sites/default/files/docs/2017/12/consumer_first_panel_2017_-_understanding_information_needs.pdf

¹⁶ QR Code Management blog 'QR Code Trends' <https://www.uniqode.com/blog/qr-code-insights/qr-code-trends-report#:~:text=QR%20Code%20scans%20surged%20by,a%2026%25%20increase%20from%202020>

¹⁷ QR Code Management blog '5 reasons why QR Codes are still effective' <https://www.uniqode.com/blog/qr-code-insights/5-reasons-why-qr-codes-are-still-effective>

¹⁸ QR Code Management blog 'How to create multi-lingual QR codes' <https://docs.uniqode.com/en/articles/3486769-how-to-create-multi-lingual-qr-codes>

¹⁹ Work should be undertaken to understand how the QR code can best enable accessibility functions, noting is not the be all solution. Bureau of Internet Accessibility 'Are QR Codes Accessible for People with Disabilities' 2023 <https://www.boia.org/blog/are-qr-codes-accessible-for-people-with-disabilities>



3) Improving the application of concessions to bills

Recommendation 5: That the ESC requires retailers to proactively check if their customers are eligible for a concession.

Recommendation 6: That the ESC requires retailers to evaluate their current practices around how they communicate concession information, implementing any improvement opportunities that may help increase awareness.

ECA strongly supported the call to action in the AER's Game Changer report which said, "concession and rebate systems should be improved to allow automation, portability and proactive support to ensure more consumers receive the concessions and rebates to which they are entitled".²⁰

We support the ESC's intention to improve consumer outcomes, while a critical longer term and national solution is found. As the Discussion Paper notes, extensive research demonstrates that there are too many eligible households missing out on a reduction to their energy bills due to concessions not being applied.²¹ Consumer Policy Research Centre's (CPRC) 2022 report 'Mind the Gap' found that of over 900,000 households eligible for an electricity concession, 12% of concessions were not applied.²² Further, the report highlighted that for consumers to access these programs or support, they are faced with three different kinds of administrative costs:

- Learning – seeking information/finding out programs exist and navigating eligibility
- Compliance – time and effort required
- Psychological – stigma around programs, experiences of disempowerment, loss of autonomy, stress and frustration.²³

Retailers are best positioned to help consumers overcome these barriers. They have a direct contact point and relationship with the account-holder, they know a household's consumption and usage and they have first insight into indications of financial stress. As such, retailers should be actively trying to remove barriers for consumers who are eligible for an energy concession to access their entitlement.

Because that is not currently the case, ECA supports an obligation on retailers to proactively seek information about a consumer's eligibility for concessions and rebates. Retailers should be required to seek that information at different points of contact with a customer. As we see new cohorts of consumers entering energy stress, it becomes critically important to reach consumers who, for example:

- may be eligible for the first time and unaware
- do not consider themselves as needing support, so wouldn't actively look for this information
- find it difficult to navigate information online and determine what is relevant to their circumstances.

There is an important caveat in our comments regarding retailer obligations to inform customers of their concession rights. While this is an important – and indeed urgent – assistance that can be provided to customers, we remain very strongly of the view that given concessions are government-sponsored

²⁰ AER Gamechanger Final Report 2023 <https://www.aer.gov.au/system/files/2023-11/Game%20Changer%20Report%20-%20November%202023.pdf> p 18

²¹ See Consumer Policy Research Centre – "[Mind the Gap' 2022 report](#)", Consumer Action Law Centre "[Keeping the Lights On' 2024](#)" and Victorian Council of Social Services "[The Missing 14%' 2023](#)"

²² ESC Energy Consumer Reforms – Discussion Paper 2024 p20

²³ Consumer Policy Research Centre 'Mind the Gap: identifying the gap between energy concessions eligibility and concessions received. 2022 https://cprc.org.au/wp-content/uploads/2022/11/Mind-the-Gap_Report_Update-1111.pdf p4



support (both Federal and state), a more necessary reform is that such concessions are auto paid – just as they are in other sectors.

In our view, it is entirely reasonable that vulnerable persons who are otherwise eligible for a concession should not be required to 1) know it exists, and 2) find out who to speak with about it, and 3) provide unnecessary documentary proof and/or 4) fill in forms or request others do so. We believe that taxpayer-funded relief should not require exposed persons to jump through hoops where governments already have the required data.

We remain very hopeful that this issue is soon addressed in the next phase of consumer energy reforms, thus obviating the requirement on retailers discussed here.

Proactive checks on eligibility

We agree with the three proactive touch point scenarios presented in the Discussion Paper for both new, and existing customers.

For new customers, it seems a straightforward process for retailers to include within their online sign-up process a step to check eligibility, and that phone scripting ensures agents address concessions appropriately.

For existing customers, proactively undertaking regular eligibility checks may help bridge an information gap and prompt engagement. However, the engagement pathway/call to action must be clear, simple and manageable, and retailers may like to test these outreach communications with plain language or community experts.

In addition, when considering frequency, the ESC should provide guidance around potential ‘meaningful points in time’ that may help elicit a call to action. CPRC reported that fewer gas concessions had been applied than electricity. One reason suggested is that historically gas bills have been lower than electricity so is less front of mind.²⁴ However, the price of gas is increasing, along with complaints around high gas bills.²⁵ ‘Pro-active check in’ material should be tailored to and aligned with seasonal peaks and seasonal concessions.

We also recommend the ESC amends the payment difficulty framework to improve proactive behaviour from retailers.

For example:

- Under standard assistance – including that, where relevant to do so, the retailer must raise government concessions and potential eligibility with the customer.
- Under tailored assistance - where retailers are required to provide specific advice about any government and non-government assistance (including Utility Relief Grants and energy concessions),²⁶ it should be clear that specific advice includes proactively providing concession information when relevant and meaningful to do so.

²⁴ Consumer Policy Research Centre ‘Mind the Gap’ report 2022 https://cprc.org.au/wp-content/uploads/2022/11/Mind-the-Gap_Report_Update-1011.pdf

²⁵ Energy and Water Ombudsman Annual Report <https://www.ewov.com.au/reports/annual-report-2024#cases-received>

²⁶ Energy Retail Code of Practice Clause 128(1)(d) <https://www.esc.vic.gov.au/sites/default/files/documents/Energy-Retail%20Code-of-Practice-20220301.pdf>



Improving consumer awareness of concessions

In ECA's latest survey, 91% of Victorian participants expressed interest in learning about energy rebates and concessions.²⁷ However, reports show a widespread lack of awareness or understanding of these concessions,²⁸ pointing to a gap between information being "available" and it being truly accessible. This is unsurprising, as finding concession details on retailer websites can often require navigating multiple clicks, making it easy for consumers to feel overwhelmed and disengage.

We would like to see the ESC require retailers to critically evaluate all possible user journeys a consumer may take (online and offline) when looking for concession information or looking to apply a concession to their account. From this assessment, retailers should conduct user testing to consider, for example:

- if improvements can be made to reduce the mental effort or 'clicks' required to get to the right information
- how proactive checks (discussed above) are most effectively displayed at the point of sign up, or discussed in scripting over the phone
- If there are language or visual alternatives that better encourage action or help to find information. For example, retailers could consider the use of a visual such as a generic concession card on their landing page, or for instance in the UK, equivalent supports are often referred to as discounts, such as the 'Warm Home Discount'.²⁹

The customer journey for online vs offline customers is obviously very different. However, as explored under Q2, we see validity in testing whether QR codes might help bridge that gap. Where the QR code points to is of course particularly important to best ensure the customer makes the next required step in journey. However, even if the customer does disengage after scanning the QR code, valuable insights on what may or may not have worked well can still be gained, and improvements possible.

4) Extending protections for customers on legacy contracts

Recommendation 7: That the ESC remove the grandfathering arrangements for contracts signed before 1 July 2020, limit other conditional discounts and conditional fees to reasonable costs, and prohibit conditional discounts and conditional fees which discriminate between payment methods.

While the number of Victorian electricity consumers on legacy contracts with conditional discounts has been decreasing, there are a material number of consumers on energy plans that leave them vulnerable to a large energy bill if they are late with a bill payment.

The ACCC December 2023 Inquiry recommended that addressing this should be considered a priority, recognising that these plans, in effect, penalise customers who do not achieve the conditions to realise the discounts. It is important to acknowledge that by design conditional discounts are far less likely to be achieved by consumers on low fixed incomes, have seasonal financial insecurity or work casually, have lower financial or technical language literacy, or are experiencing unmanageable results of life events. All

²⁷ Energy Consumer Sentiment Survey Dec 2024 <https://energyconsumersaustralia.com.au/publications/surveys-energy-consumer-sentiment-behaviour>

²⁸F Botha, K Prakash, Melbourne Institute Applied Economic & Social Research 'Insights into energy concession awareness and energy-related behaviours among concession card holders in Australia 2024' https://melbourneinstitute.unimelb.edu.au/data/assets/pdf_file/0009/4971096/Energy-Charter_Report_Final.pdf piv

²⁹British Gas website <https://www.britishgas.co.uk/energy/help-with-bills/warm-home-discount.html> accessed 18 November 2024



of these consumers are unlikely to be able to pay their bills in the limited number of days provided in order to achieve the discount – unlike those of us who are able to arrange reliable direct debit arrangements from accounts in surplus.

Previous reforms assumed to a greater or lesser degree that competition would address grandfathered arrangements – that has clearly not occurred, and it is unfair and unreasonable to not provide these customers with the same level of protections afforded to consumers who signed a contract after 1 July 2020.

ECA therefore strongly supports regulatory reform to bring those contracts into alignment with contracts signed after 1 July 2020.

We also strongly support the other two options proposed by the ESC:

- To limit other conditional discounts and conditional fees to reasonable costs, which would be consistent with national energy retail rules.
- To prohibit conditional discounts and conditional fees which discriminate between payment methods. As the Discussion Paper notes, consumers are being punished for using their preferred payment method – e.g. digitally excluded consumers are unable to easily access online payment methods.³⁰

5) Improving awareness of independent dispute resolution services

Recommendation 8: That the ESC mandate details of the Energy and Water Ombudsman Victoria (EWOV) to be prominently displayed on an energy bill, and EWOV contact details included in the body of emails with bills or invoices.

Confidence in complaint/dispute resolution is a tell for how effectively a sector engages with its customers. All retailers should be confident to refer their customers to external dispute resolution in the knowledge that their own internal dispute resolution would (or should) have been sufficient to address the issue.

Importantly, EWOV operates a system under which a consumer who approaches them for resolution of a complaint is 'referred back' to the retailer if the consumer hasn't exhausted the internal processes available. This is a very reasonable and generous approach by the Ombudsman, and one that should give retailers confidence that providing customers details of the relevant dispute resolution service does nothing to undermine the regulated obligation on retailers to try to sort out customer disputes themselves; rather, it demonstrates retailers' commitment to helping resolving complaints about an essential service.

While many Victorian retailers already provide EWOV's details on bills, it is not consistent, creating disparity across the market for consumers.

We strongly support the ESC requiring that all retailers include the Energy and Water Ombudsman (EWOV) phone number and web address prominently on energy bills.

We also support the inclusion of EWOV's details on bill summaries, as well the ESC investigating the best way to include information around the steps to engaging with EWOV. In addition, we recommend

³⁰ see National Seniors campaign 'Keep cash' which calls for cash to be accessible and accepted, to ensure seniors are not digitally excluded <https://nationalseniors.com.au/resources/keep-cash>



the ESC extend these provisions to retailer apps or web portals. In their annual report, EWOV states they undertook 17,047 energy cases – from a total of 18,703 total cases.³¹ This is despite ECA survey data reporting that 66% of Victorians are either not familiar or only somewhat familiar with EWOV services.³² EWOV is a vital service for Victorian consumers that many are clearly not accessing.

While it goes beyond the Better Billing Guideline, we recommend including both the phone number and the web address on the bill (or email bill summary). EWOV reports that across all cases 9,989 contacts came through their 1800 number, and 6,956 came through the EWOV web complaint form,³³ suggesting that both methods are important to promote.

We agree with the rationale within the Discussion Paper that many consumers who are on direct debit and receive an e-bill may be unlikely to open the bill attachment, if all relevant information is provided within an email summary (as discussed in detail under Q2 above). We therefore support inclusion of EWOV details on both the physical bill and within a billing email summary. We further suggest this could be extended to appear on retailer apps and within web portals.

Final remarks

We appreciate the effort undertaken by the ESC to place the Energy Ministers' Consumer Reform package of proposals within the Victorian context, and where they may feed into the overall ERCOP review that began earlier this year. We support the proposed changes and have made recommendations on where we see further opportunities for better practice by retailers.

However, we reaffirm our strong view that these reforms only go so far to addressing what are some fundamental market failures. We would like to see robust collaboration between the AER, the ESC and the AEMC that looks to develop the longer-term solutions that are required and that will help consumers trust that the energy market is acting in their long-term interests.

We thank the ESC for the opportunity to provide comment on these important reforms. If you have any questions, please reach out to Melissa McAuliffe on [REDACTED]

Yours sincerely

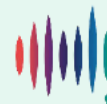
A black rectangular box redacting the signature of Melissa McAuliffe.

Melissa McAuliffe
Executive Manager, Advocacy and Policy

³¹ Energy and Water Ombudsman Annual Report 2024 <https://www.ewov.com.au/data-and-reports/annual-reports>

³² ECA Energy Consumer Sentiment June 2024 <https://energyconsumersaustralia.com.au/publications/surveys-energy-consumer-sentiment-behaviour>

³³ Energy and Water Ombudsman Annual Report 2024 <https://www.ewov.com.au/data-and-reports/annual-reports>



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