

Making Energy Markets Work for Consumers

The Role of Consumer Advocacy

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DISCLAIMER

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Making Energy Markets Work for Consumers:

The Role of Consumer Advocacy

Final Report

Gordon Renouf and Polly Porteous

2 February, 2011

Foreword

Often as advocates we are asked to present a case for change that is backed by evidence and strengthened by a consultative approach. The sponsoring organisations present this report as just such a resource. As we move to a market that is increasingly nationally focused, we hope that this resource will inform the case for the development of the most effective model of consumer advocacy on energy.

This report brings the views of many stakeholders together and contextualises them with history and lessons learned from other jurisdictions. It is hoped that all involved in designing the future framework for energy advocacy, whether they be from consumer advocacy organisations, the tertiary education sector, regulators, government or funding bodies, will continue with a more developed understanding of what is required to ensure that energy advocacy is able to meet the needs of a diverse range of energy consumers.

The report documents where we have been, while also providing impetus to move into an active phase of creating a framework for future advocacy that is proactive and effective, that builds on existing strengths and is capable of housing an organisational memory that can be drawn upon into the future.

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Executive summary

Consumer advocacy on energy is an integral part of Australia's energy market. The need for and benefits of advocacy are recognised by government, energy suppliers and a wide range of consumer, welfare and environment organisations.

Consumer advocacy has significantly influenced key decisions made by governments, regulators and industry participants. There are however many areas of need for consumer advocacy that are not currently being met. Available evidence about the impact of advocacy and the unmet need for further advocacy is set out in this report.

This project has been sponsored by four consumer advocacy organisations and funded by the Consumer Advocacy Panel. The project sponsors believe there is a need to *identify the demand for and most effective way of delivering general consumer advocacy on energy*. One reason for initiating the project was as a response to perceptions that, given limited resources, some important consumer advocacy on energy is not being undertaken. The project was also motivated by a desire to ensure that the delivery of advocacy is able to respond to the complex and changing nature of the energy market and its regulation in the most effective way.

This report and the research underlying it explore the level of need for consumer advocacy, and identify options for refining the way in which advocacy is currently delivered.

Findings

Current advocacy arrangements

1. Consumers' interests in relation to the supply and consumption of energy are significantly affected by decisions made by parliaments, the executive, regulators and energy supply businesses. Advocacy is one way in which consumer interests can be better taken into account when those decisions are made.
2. In particular, consumers' interests have and continue to be significantly affected by the foundational decision made by Australian governments in the recent past to introduce competition into those areas of the energy market where this is possible (generation and retailing), and to privatise a significant proportion of formerly state-owned energy assets. It is generally accepted that governments and regulators have a responsibility to ensure that consumers are in a position to make competition work effectively, and that policy decisions lead to an increase in net consumer welfare (the stated aim of introducing the reforms).
3. Consumers' experience of the energy market has changed significantly over the past 15 years. A product that once demanded little attention has become increasingly expensive and increasingly confusing. A dynamic market means there is a risk that change happens more quickly than most consumers can keep up. One role for advocacy is to urge that consumers have access to the information and tools they

need to make informed choices, and that the choices they face are not unnecessarily complex. It is in consumers' interests that energy suppliers deliver suitable products, offer fair contracts and use fair marketing practices, and that the non-competitive parts of the market (such as distribution prices) are subject to appropriate network regulation.

4. The need for consumer advocacy in the energy market has long been recognised by governments, energy market regulators, energy suppliers, non-government organisations (NGOs) and others. Energy consumer advocacy is highly valued by many stakeholders, including the regulators and policy-makers who seek out and draw on the input of advocates.
5. That advocacy requires financial support from government and/or industry is also widely recognised. Currently advocacy is supported through the Consumer Advocacy Panel (a body created as part of the legislation which regulates the energy market in Australia), by funding from State and Territory governments in NSW, Victoria, WA and Queensland, and from the internal resources of a small number of larger non-government organisations.
6. Energy consumer advocates must consider a diverse range of issues that involve complex technical, economic, financial and political problems. The structure and design of the energy market is rapidly evolving and is subject to competing demands from different industry sectors and State, Territory and Commonwealth governments. Energy policy often has political sensitivity, and is significantly affected by other priority areas of public policy, including access to essential services, social inclusion, environment policy generally and climate policy in particular.
7. Advocacy is undertaken by a diverse group of non-government organisations, including general consumer organisations, welfare organisations, organisations established specifically to undertake energy advocacy, university centres, environmental advocacy organisations, and organisations that represent specific consumer or business interests. The report identifies 37 organisations that have made submissions to the formal processes of energy market regulators in the past few years. A large subset of these organisations participate in a national network of energy advocacy organisations known as the National Consumers Roundtable on Energy. Among other things, the Roundtable supports advocates to share information and coordinate activities.
8. There is no agreed definition of consumer advocacy on energy, nor of the consumer interests that are to be served. The report proposes a working definition of consumer advocacy on energy. The report considers the extent to which consumer interests do or may vary and the ways in which consumer advocacy can and should serve those diverse consumer interests.
9. Advocates work on a wide range of issues; the report identifies more than 20 distinct issues that have been the focus of advocacy work. Affordability, financial hardship, concessions and pricing are significant areas of work. Other issues include

market problems, the effectiveness of competition, complaint handling, smart metering, energy efficiency, and the regulatory framework (including but not only the consumer protection provisions of that framework).

10. Consumer advocates inform their advocacy via multiple sources. The most common methods (each used by more than 50% of advocates) are:
 - > drawing on their own research and the research of others
 - > drawing on the experience of their member organisations and/or consultation with community organisations, and
 - > analysing the information gained through providing advice and casework services directly to individuals.
11. Advocates undertake different kinds of activities in the interests of consumers. These include:
 - > participating in regulator or industry consultative forums
 - > participation in working committees on specific issues
 - > preparation of submissions
 - > monitoring industry practices and policies and the services provided to consumers, and
 - > informing consumers and other stakeholders of energy consumer advocacy issues through the media and otherwise.
12. Much consumer advocacy is undertaken in response to requests for input into processes undertaken by regulator or policy agencies. Such *formal consumer advocacy* can take the form of preparing a submission to an inquiry or responding to an issues paper, discussion paper or draft report; holding membership of a formal advisory committee; or participating in a working group on a particular issue.
13. Over a two-and-a-half-year period (1 January 2008 to 30 June 2010), consumer advocates made at least 337 submissions to 178 identified formal processes operated by regulators, the Ministerial Council on Energy (MCE) and others. Several processes received more than 10 submissions.
14. Advocates also engage in a range of *informal* activities, including staying in touch and exchanging views with industry participants, regulators, policy agencies, consumers and relevant NGOs. Advocacy initiated by consumer organisations – *proactive advocacy* – is an important area of mostly informal advocacy. Identifying and exploring consumer problems and then getting them onto the agenda of industry and policy-makers is undoubtedly a central function of any advocacy system if it is to adequately represent the interests of consumers.
15. Informal advocacy, including proactive advocacy, is somewhat harder to define and much harder to quantify than the formal advocacy of submission writing and committee work. The report provides a number of case studies that demonstrate

the potential impact of informal and proactive advocacy on policy outcomes. The case studies suggest that such informal advocacy must often be sustained over lengthy periods of time to be successful.

16. A number of mechanisms have been developed to improve the quality of advocacy, to support advocates, and to promote cooperation among advocates and advocacy agencies. The Roundtable has been a particularly successful way for advocacy organisations to work together. Cooperation through other networks has also helped coordinate and strengthen advocacy.

17. Consultees identified a range of perceived strengths in current consumer advocacy arrangements. These include:

- > the diversity of organisations and perspectives available to undertake and inform advocacy
- > the wide coverage of advocacy – most States and Territories benefit from the physical location of an advocacy organisation in their capital city
- > the experience, skills, knowledge and passion of current individuals employed by advocacy organisations
- > the strong collaborative network and culture among advocates, and
- > the strong links to consumers' views and experience obtained through consumer research, provision of direct services to consumers, and extensive links with community organisations.

18. Consultees identified a number of perceived weaknesses in current arrangements. The following weaknesses had reasonably wide resonance:

- > lack of a national voice
- > insufficient coordination of advocacy, especially at the national level
- > lack of access to the full range of required skills and technical expertise
- > insufficient access to research, including but not only consumer research
- > a tendency, despite a commitment to proactive advocacy, to direct resources to some parts of the narrower agenda of regulators and policy-makers, and
- > a focus on the most visible issues to consumers, and hence insufficient attention to the overall regulatory framework.

The following were identified less frequently:

- > absence of a widely agreed and articulated statement about the precise consumer interests served by advocacy, and a lack of capacity to fully meet the advocacy needs of some classes of consumers (e.g. the frail aged and those in rural areas)

- > absence of a strong commitment from all policy-makers to consult with consumers on all issues, or to consult in a timely way, and
- > a concern among a small number of regulators/policy-makers about the quality of advocacy and/or a perceived 'pro-regulation' default position among some advocates.

Some of these perceived weaknesses are important inputs to a discussion about the need for greater support for advocacy and/or the most effective model for the delivery of advocacy. Others do not accurately reflect current advocacy taken as a whole, and need to be qualified and/or require further analysis before they can be used to assist in program design.

The need for increased resources for energy consumer advocacy

19. The weakness most persistently raised by stakeholders, however, is simply a lack of resources to undertake all the advocacy that is required to advance important consumer interests.
20. Not all the formal advocacy that is required is undertaken. The formal advocacy that is undertaken requires more coordination and greater access to technical skills. And the formal advocacy that is undertaken does not necessarily respond to all the issues that are directly or indirectly raised in the relevant process due to lack of resources.
21. The need for increased resources for formal advocacy is probably only the tip of the iceberg. Advocates need a much greater capacity to research the needs of a more diverse range of consumers, and to explore the costs and benefits of potential changes and their likely impact on the market and consumers, including but not only through greater analysis of overseas experience.
22. Case studies of effective advocacy and a number of evaluations and reports demonstrate the impact that advocacy has in securing change in consumers' interests.
23. Other indicators of the likely need for increased resources for advocacy include substantial increases in the number of consumer complaints handled by the energy ombudsman schemes and the ongoing dynamic and uncertain nature of energy regulation, with the full impact of a large number of recent changes not yet known and many more flagged.
24. In response, the report suggests that governments collectively should consider developing means to provide a very substantial increase in the funds available for consumer advocacy. The benefits of an increase in resources will likely include:
 - > capacity for consumer advocates to respond to a greater proportion of the formal processes initiated by decision-makers (whether through submissions or participation in working committees and similar)
 - > capacity for advocates to provide higher quality input to all formal processes

- > capacity for advocates to respond to a greater range of issues, including issues which are currently engaged with less frequently due for example to their complexity, the requirement for specialist knowledge and/or their relative remoteness from the issues experienced directly by consumers
- > ability of the advocacy system—through increased research and better engagement with consumers and service provider and other local organisations—to identify additional issues facing consumers, and to identify issues at an earlier stage, and to undertake ‘proactive’ advocacy to have these issues taken up by policy makers
- > increased capacity of advocates to lobby more effectively for decision-makers to include consumer interests at an earlier stage in the decision-making process
- > efficiencies flowing from greater coordination of advocacy
- > increased access to technical expertise, whether through staff appointments, formal arrangements with relevant university centres and/or capacity to retain professional consultants,
- > the potential to develop a centralised repository of research and other knowledge that would be accessible to consumers, consumer advocates and others, and
- > overall, an increased capacity to respond to the breadth and complexity of issues in the energy market.

Models for the delivery of energy consumer advocacy

25. Changes to decision-making processes and likely changes to the kinds of issues that will be addressed by decision-makers suggest that a review of the way in which advocacy is delivered is appropriate.
26. There have also been calls for improvements to the current approach to advocacy. Those calls focus on one or more of three claimed desirable improvements to current advocacy:
 - > a clearer ‘national voice’
 - > greater access to technical expertise, and/or
 - > action to ensure that under-represented consumer interests have the benefit of advocacy.

While none of these claims is as straightforward as is sometimes imagined, each raises issues worth considering.

27. In appropriate cases a stronger national voice on particular issues would assist advocates to advance consumers’ interests. The report finds, however, that any suggestion there is a need for a *single* national voice is misconceived.

28. Over the years, advocates have had the benefit of access to technical advice in relation to economic, environmental and engineering issues. Nevertheless, there is no doubt that increased access to such technical expertise would enhance advocacy. Further, the report notes that consumer advocacy itself involves a set of technical skills for which there is and will be an ongoing need (a need which is not always fully recognised), and that recruitment or development of such skills can often be as challenging as engaging economic, environmental or engineering skills.
29. While there are a wide range of consumer interests that are not routinely represented by advocacy, the situations where this is likely to cause disadvantage to consumer interests is generally more limited. The report notes a wide divergence in opinion among those consulted about the particular interests that are under-represented: for nearly every view that a particular interest is under-represented, there is a view that that same interest is over-represented. Notable exceptions relate to the interests of Indigenous and rural/regional consumers—these groups are widely accepted as under-represented in current advocacy.
30. The findings of the report suggest that there may be ways to improve current arrangements above and beyond providing additional resources. But one should not underestimate the strengths evident in current arrangements, as noted at 17 above. These strengths are likely to have been important preconditions for the successful outcomes achieved by advocates to date.
31. The report proposes that decisions as to the best system for the provision of energy consumer advocacy should be considered having regard to a set of *system design principles* for an advocacy system, and an agreed conception of the functions an advocacy system should perform. The report also identifies some *good practice principles* that, while valuable, will not strongly aid in discriminating between alternative potential models of advocacy.
32. The system design and good practice principles are the following:

System design principles

P1. The advocacy system is strategic: that is it is able to allocate resources to the activities most likely to advance energy consumers' interests, including proactive and responsive advocacy as required.

P2. Advocacy is based on a robust connection to energy consumers (whether through membership, casework, service provision, research or otherwise)

P3. The advocacy system is able to build and sustain expertise, interest and engagement in local-level organisations

P4. The advocacy system includes the capacity to support the informed voices of diverse energy consumer interests reaching decision-makers

- The advocacy system uses a principled approach to balance the interests of different groups or classes of energy consumers.

- The advocacy system supports advocates representing different interests to exchange views, explore common positions and, where appropriate, coordinate advocacy

P5. The advocacy system has a credible, effective and responsive national voice where required.

P6. The advocacy system ensures that necessary advocacy at a State/Territory level is supported

P7. The advocacy system ensures that relevant local and State/Territory issues that impact on consumers and energy markets are available to national decision-makers through consumer advocacy

P8. The advocacy system includes or has effective access to expertise on technical energy issues, including engineering issues, regulatory economics and environmental issues

P9. The advocacy system is efficient, effective and accountable

- The advocacy system includes incentives and support for effective collaboration among advocates
- The advocacy system has the capacity to generate or collate, store and retrieve relevant data and research
- The advocacy system possesses a strong corporate memory.

Other good practice principles for an advocacy system

GP1. Advocates work in consumers' interests, are independent and free of conflict of interest

GP2. The advocacy system ensures a long-term strategic approach to consumers' interests in energy policy and regulation

GP3. The advocacy system uses a principled approach to balance the long-term and short-term interests of energy consumers

GP4. Advocates have expertise in consumer advocacy

GP5. The advocacy system and its elements is sustainable

GP6. The advocacy system promotes interaction with other consumer advocates

GP7. The advocacy system promotes early engagement with consumer issues by government to ensure advocates are involved in all stages of the policy development process.

33. The broad function of advocacy is to improve consumer welfare in relation to energy. A key way to do this is by ensuring consumers' interests are given sufficient weight in decision-making by regulators, policy-makers and energy suppliers. In

addition, many believe that advocates should also work to ensure energy consumers are able to influence outcomes directly through their individual decisions as purchasers and users of energy.

34. The report identifies the following as the main specific functions of energy consumer advocacy:

Direct and indirect advocacy

- a. Participating in the review and development of legal, policy, regulatory and market reforms, and industry practices and codes, including:
 - > informal consultation
 - > formal submissions
 - > participation in working groups and similar
- b. Participating in formal regulatory review processes (e.g. distribution price reviews)
- c. Participating in regulator or industry consultative forums
- d. Highlighting consumer concerns with the functioning of the energy market or with particular policy proposals (e.g. in the media)
- e. Taking legal action to advance energy consumers' interests
- f. Providing training and other support to consumer organisations to build their capacity to represent energy consumer interests

Informing advocacy: Understanding the energy market and its impact on consumers

- g. Researching and analysing trends and emerging issues that have an impact on energy consumers
- h. Monitoring industry practices and policies and the services provided to consumers
- i. Monitoring the effectiveness of regulators
- j. Engaging with industry ombudsman processes

Ensuring consumers can take action to benefit from the energy market

- k. Informing consumers of energy consumer advocacy issues through the media and otherwise
- l. Creating or advocating systems or tools to make it easier for consumers to navigate the market.

35. The report identifies six models for energy consumer advocacy in Australia. In doing so the report assumes for this purpose that the level of support from State/Territory governments and from NGOs' own resources will remain largely the same and that the level of support from the Consumer Advocacy Panel will increase from current levels in accordance with the suggestion include in section 4.9 of this report.
36. Current arrangements are listed as the first 'model' for energy consumer advocacy Current advocacy is supported by funding for a diverse array of mostly small, jurisdiction-specific advocacy services, the work of which is coordinated and supported through the Roundtable and related secretariat functions.
37. The six models of energy consumer advocacy identified are:
 - A. Current arrangements
 - B. Current arrangements but with a stronger secretariat
 - C. A National Energy Consumer Advocacy Council speaking on behalf of a diverse range of funded constituent members
 - D. A Small National Energy Advocacy Centre, together with continued funding of jurisdiction-specific advocacy services
 - E. A larger National Energy Advocacy Centre with a commitment to State/Territory-based projects
 - F. A larger National Energy Advocacy Centre, primarily located in one city.

Further detail on each model is provided in Section 6.3 of the report.

38. The final section of the report considers some of the strengths and weaknesses of the models in light of the principles for system design set out in the report. The report cautions that this assessment is somewhat tentative, as it tries to apply broad principles to models for advocacy which are described at a high level of generality, and because there is no attempt to weigh the principles, whereas in fact some may be more important than others.
39. While no preferred model is selected the analysis and other factors suggest the following.
 - > It is difficult to see how the current arrangements without amendment can deliver all the advocacy required in the most effective way. It is generally agreed that the current model is insufficiently capable of delivering a national voice when required, does not deliver to advocates all the technical expertise they need and may not adequately represent the interests of Indigenous and/or rural consumers. While coordination between services through the Roundtable is effective, there is widespread agreement that there is scope for additional coordination and cooperation.
 - > It is difficult to see how a funding program that supports only a larger national centre that does not include a commitment to a strong jurisdiction-

based presence could deliver all the required functions or reasonably comply with the system design principles.

- > While the National Energy Consumer Advocacy Council model (model 'C' above) has some attractions in relation to capacity to provide a national voice where needed while maintaining the strengths of current arrangements in relation to local advocacy and connection to local consumers and issues, there are concerns about the high governance costs that such arrangements may require, diverting resources away from undertaking advocacy.
- > Applying the principles to the models suggests that Model D in particular and also models 'B', 'C' and 'E' above are more likely to deliver the functions of advocacy and to comply with the principles as this report has proposed them than the status quo.
- > Models B and D involve the least change and disruption to the current effective system of energy consumer advocacy in Australia.

List of acronyms and other terms

ACCAN	Australian Communications Consumer Action Network
AER	Australian Energy Regulator
AEMC	Australian Energy Markets Commission
CALC/Consumer Action	Consumer Action Law Centre
CCCL	Credit, Commercial and Consumer Law Program at the Queensland University of Technology
Consumer Advocacy Panel	Created by the Australian Energy Market Commission Establishment Act, the Panel has responsibility for granting funding for advocacy and research on electricity and natural gas issues. It is the successor to NECAP
CUAC	Consumer Utilities Advocacy Centre
EFT	Effective full time
ESCOSA	Essential Services Commission of SA
FRC	Full retail contestability
NECAP	National Electricity Consumer Advocacy Panel; provided grants for electricity advocacy prior to 2008.
NECF	National Energy Customer Framework
NEM	National Electricity Market (as distinct from the national energy market)
The Panel	Consumer Advocacy Panel
PIAC	Public Interest Advocacy Centre
Project survey	The stakeholder survey undertaken during the course of this project
SACOSS	SA Council of Social Service

1 Introduction

1.1 Project aims and methodology

The Consumer Advocacy Panel has provided funding to four consumer advocacy organisations to undertake a project to improve consumer advocacy on energy issues in Australia. The project aims to assess the level of need for consumer advocacy and then identify several options for improved delivery of advocacy in the national energy market. The ultimate focus is on ways in which the Consumer Advocacy Panel can respond to the changing need for advocacy. The project terms of reference and methodology are set out in Appendix A.

The energy market has been going through rapid changes, and further changes are currently in train or proposed. Those changes may impact on the overall need for advocacy, the kind of advocacy that needs to be undertaken, and the best model for delivering it.

This project is motivated by concern shared among advocacy agencies and other stakeholders that there is an increasing need for consumer advocacy on energy issues. Advocacy is undertaken by a diverse range of organisations, and is directed at a wide range of decision-makers. The role of those decision-makers is changing, as are the kinds of decisions they need to make. The four consumer organisations sponsoring the project are aware of the interest of the Consumer Advocacy Panel and the Australian Energy Market Commission (AEMC) in the need to review the amount and type of support for advocacy in this changing environment.

This concern found expression at a Consumer Advocacy Panel stakeholder consultation forum held in October 2009.¹ Some stakeholders at this forum felt that the consumer interest was not currently being sufficiently represented in decision-making about the energy market. Stakeholders also wanted to determine the impact on consumer advocacy of developments such as: the gradual shift towards centralisation of decision-making; the changing roles of State and Territory governments; the increasing importance of climate change policies; the impact of rapidly increasing energy prices on the community; and policy changes designed to promote regulatory efficiency, efficient use of energy by consumers, and increased investment in energy infrastructure. A summary of the concerns raised at this forum is contained in Appendix B.

This project takes up the issues about consumer advocacy identified in the 2009 forum to develop options for an improved model of energy consumer advocacy.

Project methodology

The project has been managed by a Steering Committee made up of representatives of four consumer advocacy organisations:

- > the Consumer Action Law Centre
- > the Consumer Utilities Advocacy Centre
- > the Public Interest Advocacy Centre, and

¹ Etrog Consulting Pty Ltd for the Consumer Advocacy Panel, *Stakeholder consultation forum to identify current and emerging consumer energy issues 2009-14*, February 2010, at <http://www.advocacypanel.com.au/documents/StakeholderConsultationForum-EtrogConsultingfinalreport-2February2010.PDF>

- > the Credit, Commercial and Consumer Law Program (CCCL) at the Queensland University of Technology.

The project gathered information from the following sources:

- > a series of face-to-face and telephone interviews with consultees during 2010 (a list of consultations is included at Appendix C)
- > a stakeholder online survey conducted in May 2010
- > a review of national and international literature.

A draft report was distributed to energy advocacy organisations in December 2010 and a small number of comments received and taken into account in preparing the final report.

Invitations to complete the survey and/or participate in consultations were provided to stakeholders from the following groups:

- > energy regulatory bodies (AEMC, Australian Energy Regulator (AER), State and Territory regulatory authorities)
- > energy policy-makers (Commonwealth, State and Territory departments)
- > energy ombudsman services
- > organisations that undertake advocacy on behalf of business end users of energy
- > NGOs known by the Steering Committee to be interested in advocacy on behalf of household end users (including all the members of the National Consumers Roundtable on Energy)
- > energy suppliers and energy industry associations
- > consultants, university centres that specialise in energy policy and consumer protection, and other individuals with energy advocacy or related expertise, and
- > the Consumer Advocacy Panel.

Face-to-face consultations were held in Perth, Adelaide, Sydney and Melbourne from February to April 2010. Additional information and views were sought by telephone and email as the need or opportunity arose.

1.2 Acknowledgements

This project combines the knowledge and experience of all stakeholders who have contributed to the report in the course of interviews and survey responses. Particular thanks go to all those who completed the survey, gave time to participate in interviews or meetings with the consultants, provided information in response to follow up requests or responded to the draft report. Additional input and assistance has been received from members of the Roundtable. The Steering Committee for the project – comprising Catriona Lowe (Consumer Action Law Centre, CALC), Jo Benvenuti (Consumer Utilities Advocacy Centre, CUAC), Kathryn Mellick (CCCL) and variously Mark Ludbrooke, Robin Banks, Carolyn Hodge and Deidre Moor (Public Interest Advocacy Centre, PIAC) – have provided invaluable advice and suggestions.

2 The Australian energy market

As at 2006/07 (the most recent year accurate details are available),² the electricity and gas industry were worth a combined value (gross value added – i.e. after expenses) of \$16 billion.³ In the 2008/09 financial year, Australian households spent \$14,810 million on electricity, gas and other fuel,⁴ comprising 2.1% of annual household expenditure. By way of comparison, Australians spent \$18,913 million on telecommunications, or 2.7% of annual household expenditure.⁵

The energy market and the regulatory arrangements that underpin it are complex. While it is not possible to provide a comprehensive overview here, this chapter identifies key features relevant to the issues to be addressed in the report.⁶

Change in energy supply deregulation and privatisation of state-owned assets has led most Australian states to adopt market-based systems to extract, generate, transmit, distribute and sell gas and electricity.

Since 1998, the generation, distribution and supply of electricity in eastern and southern Australian states have been brought together into the national electricity market (NEM). In south-eastern Australia, work is currently underway to link together more privately managed gas markets to create the potential for trading between south-east Australian state-based hub networks.

Until recently, each gas and electricity market was separately planned and operated by a range of entities. The Australian Energy Market Operator (AEMO) was established in 2009 in response to increasing convergence of markets, including the rise of gas-fired electricity generation. The role of the AEMO is to oversee and integrate infrastructure planning and trading activities across the different types of transmission systems.

Energy market reform in Australia has been orientated around the idea that competitive and transparent gas and electricity markets underpinned by strong governance structures will improve consumer welfare. The objectives of recent regulatory developments have been to build a consistent framework of operational rules and underlying systems. The aim is to ensure maximum efficiency, combined with maximum integrity of energy resource

² Although the Australian Bureau of Statistics (ABS) regularly reports through the Australian System of National Accounts on the value of broad industry sectors such as 'Electricity, Gas, Water and Waste Services' and 'Information media and telecommunications', the value of smaller industry groups within each sector pertaining to Electricity Supply, Gas Supply, or Telecommunications is not routinely reported. However in 2008 the ABS released more detailed reports on several industries, based on data collected for the 2006/07 financial year, which do contain more useful detail for the purposes of this report. These are referenced below.

³ ABS 2006/07 Industry Value Added figures for Electricity Supply were \$14,564m, Gas Supply \$1,528: ABS, *8226.0 - Electricity, Gas, Water and Waste Services, Australia, 2006-07*, Data File 82260D0001_200607 (Summary of operations, 2004–05 to 2006–07), Table 1.

⁴ The vast majority, around 96% of which is electricity and gas: see ABS, *6535.0.55.001 - Household Expenditure Survey, Australia: Detailed Expenditure Items, 2003-04 (Reissue)*, Table 2, which provides a breakdown of the different forms of fuel as at 2003-2004; the proportions are unlikely to have altered much since then.

⁵ ABS, *5204.0 - Australian System of National Accounts, 2008-09*, Table 42. Household Final Consumption Expenditure, at <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/5204.02008-09?OpenDocument>

⁶ This section is substantially based on parts of AEMO *Overview* <http://www.aemo.com.au/corporate/aboutaemo.html> accessed 8 September 2010.

development. Whether or not reforms have fully achieved those aims or delivered the promised increases in overall consumer welfare is a contested issue, but one outside the scope of this report. In any event, the changes to the energy market have brought with them a widely recognised responsibility for government to ensure that consumer interests are properly considered and that consumer voices are heard in all decision-making processes.

While there are ways in which particular electricity markets remain separate, with their own participants and jurisdictions, there is a general trend towards aggregation of some functions and transfer of decision-making from jurisdiction-based institutions to multi-jurisdiction institutions and regulators such as the AEMO and the AER.

2.1 The national electricity market

The NEM was created in December 1998. It supplies more than 8 million end users and serves most of Queensland, South Australia, NSW, Victoria, Tasmania and the ACT.

The NEM is based on a pooled exchange between electricity producers and consumers where the output from all generators is aggregated and scheduled to meet current levels of demand.

The NEM does not operate in those parts of the country, including Western Australia and the Northern Territory that are not connected to the interconnected power system that forms the NEM.

2.2 Gas markets

A national wholesale gas market platform will be established when the short term trading market is created in 2010. This will initially link NSW and SA hubs and operate alongside Victoria's established wholesale gas market, with the potential to link all state-based hubs in the longer term.

Further basic information on the operation of gas and electricity markets is available on the AEMO website.⁷ An analysis of current issues is available in the AER's *State of the Energy Market 2009*.⁸

2.3 Key features of the energy market

The energy market comprises essentially separate markets for electricity and gas. Key features of the energy market relevant to this report include the following (the focus is primarily on electricity but the gas market shares many similar features):

1. Electricity is an essential service for almost all consumer and business end users.
2. Some aspects of the electricity market provide a natural monopoly (transmission and distribution in particular). Regulatory systems to govern network access pricing are used to support the transition to a competitive market.

⁷ <http://www.aemo.com.au/corporate/aboutaemo.html>

⁸ <http://www.accc.gov.au/content/index.phtml?itemld=904614>

3. In the last 20 years, the energy markets have changed from monopoly, government-owned provision of electricity within each State and Territory using a simple pricing model to various forms of market-based structures intended to drive competition. These changes have resulted in much more complex pricing structures.
4. The specific changes to the market include:
 - a. privatisation or corporatisation of energy businesses
 - b. division of those businesses into separate units responsible for generation, transmission, distribution and retail (although more recently government has accepted a degree of reintegration of energy supply businesses, especially the merger of generators and retailers)
 - c. introduction of competition, especially in generation and retail
 - d. creation of new laws and regulatory structures in relation to all aspects of the market, and
 - e. nationalisation or centralisation of many but not all regulatory decisions in those parts of Australia covered by the NEM.
5. The nature and rate of change in energy market structures and regulation varies significantly between jurisdictions. In particular Victoria is the only state to have implemented full retail competition by removing the regulated tariff.
6. A number of important further centralisations of the energy market have been achieved in the last 18 months, including the establishment of the AER and the AEMO, transfer of responsibility for distribution price resets to the AER from State and Territory regulators (excluding NT and WA), and considerable work towards introduction of a uniform National Customer Energy Framework within the NEM. However, State and Territory governments retain a significant role in decision-making, including through their participation in the MCE, through the ongoing role of their regulators and through their equity programs (concessions, grants, hardship programs, etc).
7. The rate of centralisation of decision-making appears likely to slow considerably in the near term compared to the recent past.
8. The impact of the changes on consumer welfare is contested. Areas of disagreement include:
 - f. the effectiveness of privatisation and/or competitive market reforms
 - g. the effectiveness of the particular competitive structures introduced in promoting welfare enhancing competition
 - h. whether or not there are any reliable indicators (e.g. switching rates) of the effectiveness of competition.

9. Electricity prices have increased significantly over the past few years and are likely to continue to do so. Price increases continue to be a reasonably significant political issue in some states.
10. For electricity, a household bill is generally made up as follows: generation 40%, regulated network costs about 40%, and retail 10-15%. For gas, the network cost is lower (around 20%) while the commodity charge is around 80% of the total bill.⁹
11. Climate change policies and energy efficiency policies impact on the outcomes consumers receive from the energy market in a number of ways. A price on carbon may or may not increase the cost of electricity, although the impact is likely to be considerably less than the impact of the current round of price rises based in large part on decisions to increase the amount spent on infrastructure.

⁹ May Mauseth Johnston for St Vincent De Paul Society, *Victorian Energy Prices July 2008 – July 2010*, 2010, at <http://vinnies.org.au/files/VIC/SocialJustice/Reports/2010/Report%20-%20Victorian%20Energy%20Prices%20July2008%20to%20July%202010.pdf>

3 Current energy consumer advocacy in Australia

3.1 The recent history of energy consumer advocacy

Consumers' interests are significantly affected by decisions made by legislators, the executive, regulators and energy suppliers. Advocacy is one way in which consumer interests can be better taken into account when those decisions are made. As the Productivity Commission has recognised, advocacy 'can help to identify problems faced by consumers that warrant government action and to ensure that policy makers properly consider the effects of policy proposal on consumers'.¹⁰ The Commission concluded, in the case of consumer advocacy generally, that there is no practical market-based mechanism for end users to collectively purchase the advocacy they need.¹¹

The need for consumer advocacy in the energy market has long been recognised by governments, energy market regulators and others. Within the first two years of the creation of the NEM in December 1998,¹² a report on the need to enhance end user participation was prepared by the National Energy Code Administrator. The National Electricity Consumer Advocacy Panel (NECAP) – the forerunner of today's Consumer Advocacy Panel – was established in 2001 to grant funds to representatives of domestic and business electricity consumers for advocacy on the development of the national electricity market and the National Electricity Rules. NECAP was funded through a small levy on generators.

Reforms to Australia's energy market agreed by the Council of Australian Governments (COAG) and the MCE in 2002 and 2003 recognised that one objective of these reforms was 'enhancing user participation in energy markets'.¹³ The reference to user participation plainly includes more active decision-making by individual consumers in the market for energy services; as the Productivity Commission recognises, it also includes the ability of consumers to influence government policies.¹⁴

In 2004 the Consumers' Federation of Australia, realising the need for improved consumer advocacy in the increasingly national market, commissioned 'advice on possible institutional models for ongoing consumer advocacy in the national energy market'.¹⁵ The resulting report recommended the creation of a national independent 'consumer-controlled' organisation to replace the existing NECAP and to:

¹⁰ Australian Government Productivity Commission, *Review of Australia's Consumer Policy Framework*, Report 45 Vol 2, 2008, p 274

¹¹ This is less true in relation to larger end users where a much smaller number of organisations affected and the relatively higher impact of energy on their interests means coordinated action to resource advocacy for their interests is more likely to be feasible. As the Productivity Commission noted, 'Free rider problems are not as pervasive for business representative organisations, where interests tend to be more focussed and organisation easier.'

¹² <http://www.neca.com.au/NEM/index.html>

¹³ MCE Communiqué 11 December 2003, <http://www.ret.gov.au/Documents/mce/emr/default.html>

¹⁴ Australian Government Productivity Commission, *Review of Australia's Consumer Policy Framework*, Report 45 Vol 2, 2008 p 274.

¹⁵ The Allen Consulting Group, *National Energy Market Consumer Advocacy: Emerging Needs and Institutional models*, 30 June 2004, p 1.

represent the views of, reflect the impacts upon, and support the involvement of small users, including small business, in policy making in the national energy market as it affects consumers.¹⁶

The Australian Government did not take up the option recommended by the report prepared for the Consumers' Federation. Instead, in 2004 the MCE User Participation Working Group commissioned KPMG to develop options for a national advocacy model.¹⁷ The KPMG report, published in 2005, noted:

there is a clear case for a strong and well-informed consumer voice in energy markets. The case is generally a function of key features of the market, including:

- the 'essential' nature of the services provided;
- the 'imbalance' created by having a few large and sophisticated sellers but many buyers, for whom energy typically represents a small proportion of their expenditure; and
- the highly technical nature of the industry and complex institutional arrangements that are necessary to facilitate competition in these markets, which limits the capacity for most consumers to participate actively in debate on key issues affecting energy supply.

... We note ... that facilitating some degree of energy sector consumer advocacy would appear to have widespread support in most developed countries and the levels of consumer involvement desired by policy-makers have been typically achieved with some level of government facilitation and support.¹⁸

The KPMG report proposed four options to replace the NECAP. All four options envisaged a fairly limited role for an advocacy body, with the emphasis remaining on a grants-based scheme to fund advocacy or capacity-building by existing organisations. Although the Government did not act on these recommendations, the NECAP itself began a process of changing its grants guidelines and establishing a more strategic advocacy agenda in consultation with stakeholders.¹⁹

In 2004 energy consumer advocacy organisations from around Australia met to discuss national energy market issues, and decided to form the National Consumers Roundtable on Energy, which would meet regularly to share information and ideas and to coordinate national advocacy (the Roundtable is further described at 3.7 below).

In 2008 the NECAP was reconstituted as the Consumer Advocacy Panel.²⁰ Among other changes, the scope of the Consumer Advocacy Panel was extended to the funding of 'advocacy projects *and research projects* for the benefit of consumers²¹ of electricity *or natural gas (or both)*'²² (emphasis added).

¹⁶ The Allen Consulting Group, 2004, p vi.

¹⁷ KPMG, *Review of Consumer Advocacy Requirements – Report for User Participation Working Group*, Ministerial Council on Energy, March 2005.

¹⁸ KPMG, 2005, p 8.

¹⁹ See Consumer Advocacy Panel *Updates* between 2005-2008, at <http://www.advocacypanel.com.au/updates.htm>

²⁰ *Australian Energy Market Commission Establishment (Consumer Advocacy Panel) Amendment Act 2007*; Consumer Advocacy Panel <http://www.advocacypanel.com.au/> accessed 30 April 2010.

²¹ Here 'consumers' includes all end users, although the Consumer Advocacy Panel is directed to give priority to 'small to

The recognised need for energy advocacy has been widely applied in practice:

- > A number of State and Territory governments fund organisations to undertake advocacy and/or have established consultative processes to routinely seek consumer input. The Victorian Government, for example, established the Consumer Utilities Advocacy Centre (CUAC) in 2002 to ‘ensure the interests of Victorian consumers are effectively represented in the policy and regulatory debate on electricity, gas and water’.²³ In NSW, the Public Interest Advocacy Centre (PIAC) has received funding for its Energy and Water Consumers Advocacy Program from the NSW Government since 1999.²⁴
- > Most regulators have established some form of standing consultative committee, consistent with requirements that apply to Commonwealth agencies set by the Australian Government in their response to the Business Regulation Task Force in 2006.²⁵ These committees are generally intended to function as an alternative means of comment on regulator proposals, and also to provide opportunities for regulators to keep in touch with what is happening in the market.
- > Some energy suppliers have also identified the need for structured input from consumer advocates, for example by establishing consultative processes or through informal consultation.
- > A number of consumer and welfare organisations (e.g. St Vincent de Paul and CHOICE) have recognised the importance of advocacy on energy issues and from time to time allocated their own resources to undertaking advocacy.

Not surprisingly, respondents to the project survey acknowledged the need for consumer advocacy and the benefits that flow from the fact that there is an accepted culture of advocacy in the energy sector. One commented that advocacy has ‘established a seat at the table for itself [and] is seen as an important input even if [some] individual officials or regulators are sceptical about the quality of the input’.²⁶

This acceptance means there is direct engagement with the energy industry, including ‘seeking partnerships with energy companies for overall beneficial solutions’ and ‘promoting shared responsibility across the industry’.²⁷

3.2 What is energy consumer advocacy?

There is no legislative or other formal definition of energy consumer advocacy. Various provisions identifying the scope and/or purpose of consumer advocacy (or ‘end user advocacy’) have been

medium’ consumers. Due to the potential ambiguity in the use of the term ‘consumers’ this report will distinguish ‘end users’ meaning all end users of electricity, ‘consumers’, meaning household end users, and ‘small business end users’.

²² Australian Energy Market Commission Establishment (Consumer Advocacy Panel) Amendment Act 2007 s 29.

²³ <http://www.cuac.org.au/about/>

²⁴ PIAC *Well Connected*, 1, 1999, at <http://www.piac.asn.au/publication/wellconnected1>

²⁵ Australian Government, *Rethinking Regulation – Report of the Taskforce on reducing regulatory burdens on business: Australian Government’s Response*, 2006, at

http://www.treasury.gov.au/documents/1141/PDF/Reducing_Regulatory_Burdens_on_Business_Final_Government_Response.pdf, see also Productivity Commission, *Review Of Australia’s Consumer Policy Framework*, Final Report, Canberra, 2008, Vol 2, p 278.

²⁶ Survey respondent.

²⁷ Survey respondent.

proposed or used, including by the Consumer Advocacy Panel. The current approach of the Panel to advocacy can be seen in the following extract from its current *Grant Allocation and Application Guidelines*²⁸ (emphasis added):

The Panel grants funding for two types of activity:

- advocacy projects in the form of either discrete advocacy projects or advocacy/capacity building programmes; and
- research projects.

A discrete advocacy project generally arises as a response by an applicant to a *request for a submission in relation to an issue, such as a policy, rule, or regulatory review*. In some cases the applicant will initiate a project whose objective is for a specific review or issue to be put on the public agenda. An advocacy/capacity building programme has two elements:

- discrete advocacy projects; and
- ongoing development of the applicant’s capacity to advocate effectively.

Advocacy funded by the Consumer Advocacy Panel is further limited in that it must relate to the national market.²⁹ Of course, not all advocacy is undertaken by programs funded by the Panel.

One feature of consumer advocacy is the role it plays in responding to what many perceive as the ‘better resourced and more powerful voice of business’.³⁰ As the Queensland Government submitted to the Productivity Commission Review:

without adequate consumer input ... agencies risk being captured by the supply side on issues of regulatory burden, competitiveness and efficiency. This perspective is only one side of the story.³¹

Consumer advocacy can be thought of as having both ‘responsive’ and ‘proactive’ elements.

²⁸ <http://www.advocacypanel.com.au/documents/Panelguidelines.pdf>

²⁹ To be eligible a project must address national electricity and/or gas market issues as follows:

*A project intended to benefit **consumers of electricity** should—*

- (a) relate to the development, design or operation of, or policies associated with, the national electricity market or the retailing of electricity, or relate to other issues covered by the National Electricity Law or the National Electricity Rules; or*
- (b) directly relate to an aspect of the responsibilities of the AER, the AEMC or NEMMCO under the National Electricity Law or the National Electricity Rules; or*
- (c) have some other relevance to the national electricity market or the retailing of electricity, when viewed as a whole.*

*A project intended to benefit **consumers of gas** should—*

- (a) relate to the development or operation of gas pipelines, or policies associated with obtaining access to gas pipelines, or relate to other issues covered by the National Gas Law or the National Gas Rules; or*
- (b) directly relate to an aspect of the responsibilities of the AER or the AEMC under the National Gas Law or the National Gas Rules, or the responsibilities of the Economic Regulation Authority under that law or those rules in Western Australia; or*
- (c) have some other relevance to the national gas market or the retailing of gas, when viewed as a whole.*

³⁰ Survey respondent.

³¹ Queensland Government, Submission 87 to the Review of Australia’s Consumer Policy, Productivity Commission, 2008, Vol 2 p 274.

Responsive advocacy responds to proposals by others, including calls for input from decision-makers. Consultations and survey responses noted that responsive advocacy on energy issues is usually a response to formal processes initiated by national regulators. However, responsive advocacy can also be stimulated by less formal opportunities for input arising from the actions of governments or regulators:

Energy consumer advocacy goes beyond responses to regulatory processes. Policy processes are also important. State and Commonwealth energy and environment departments [are relevant] to energy consumer advocates. Their demand for energy consumer advocacy needs to be considered. (Survey response)

Compliance reports by IPART [Independent Pricing and Regulatory Tribunal]. No opportunity to submit to this process but the reports can reveal information that provides opportunities for advocacy. (Survey response)

Proactive advocacy promotes specific proposals for change in the interests of consumers. Those proposals are developed by advocates based on consumer research, and on the experiences of consumers and agencies that provide services to consumers. In 2008 the Productivity Commission considered the need for consumer advocacy and the case for government funding support for advocacy. It noted the important role of advocacy in helping ‘identify problems faced by consumers that may warrant government action’.³²

There is of course no hard and fast division between types of advocacy. A particular project may commence as an inquiry into consumers’ experiences but primarily result in a submission to a formal process. Conversely, research initiated for the purposes of informing a submission to a particular process may uncover issues outside the scope of that process and require advocacy for changes to underlying policy. The point of noting the difference is that there is a danger that, in funding advocacy and designing a system for advocacy, too much emphasis will be placed in the more obvious (and easier to count) formal processes initiated by decision-makers. Case Study 1 is an example of proactive consumer advocacy over an extended period of time. Further case studies are contained in Chapter 4 of the report.

Advocacy case study 1: The impact of proactive advocacy – PIAC’s Cut Off project

In 2004, PIAC’s Utilities Consumers’ Advocacy Program³³ commissioned research into the social impacts of disconnection of NSW households from utilities for failure to pay their account. The report, *Cut Off: The Impact of Utility Disconnections*,³⁴ made a number of findings, including that:

- > disconnection affects the working poor almost as much as people experiencing unemployment
- > sole parents and Aboriginal people are particularly at risk of disconnection
- > disconnection leads people to experience anxiety and distress and other health problems
- > disconnection impacts on the ability of parents to care for their children, and

³² Productivity Commission, 2008, Vol 2 p 274.

³³ Now the Energy and Water Consumers’ Advocacy Program – EWCAP.

³⁴ Ross S, Wallace A and Rintoul D (2005) *Cut off: The impact of utility disconnections* report prepared by Urbis Keys Young for the Utility Consumer’s Advocacy Program, Sydney.

- > many people were unaware of the assistance that was available to support them when they experienced financial hardship.

PIAC identified some key measures to reduce the incidence of residential consumers being disconnected and wrote to the Minister for Energy asking that the Government:

- > review hardship programs and payment plans to determine their effectiveness in reducing the rate of disconnection of customers in hardship
- > require that no residential customer face disconnection or restriction unless they have failed to accept an offer to enter a hardship program or failed to stick to the terms of that plan, and
- > ensure that, notwithstanding compliance with a hardship program, no residential customer experiences repeat disconnections by the same retailer in any 12-month period.

PIAC also wrote to each of the major energy and water retailers calling on them to support the proposed measures.³⁵

In response to high disconnection rates in 2004/05, the Minister asked an Electricity Hardship Working Group³⁶ to develop measures to reduce the number of households in hardship being cut off. Armed with the research in *Cut Off*, PIAC pushed hard for retailers to be forced to improve assistance to consumers in financial difficulty.³⁷

In October 2006 the Government accepted the working group's recommendations:³⁸ many of these had been first advocated in the *Cut Off* report.³⁹ In 2007 Parliament adopted provisions requiring all electricity retail suppliers to develop a payment plan for customers in financial difficulties, and to offer it to customers before disconnecting them.⁴⁰

In 2008 PIAC commissioned new research. Released in 2009, *Cut Off II*⁴¹ revealed that households disconnected in 2008 were more likely to have a member in paid employment than in 2004. The report also noted the barriers to households seeking and receiving support. In July 2009 the NSW Department of Energy released a draft Consumer Assistance Policy. The policy proposed a range of assistance measures, including financial counselling, energy rebates, emergency financial support and mandatory hardship charters. Many of these measures were consistent with the 12 recommendations of *Cut Off II*, and the consultation draft included a summary of the findings of *Cut Off II* to provide one of the contexts for the policy.⁴²

PIAC's submission to the Consumer Assistance Policy consultation draft again drew on *Cut Off II* to provide support for some of the proposed measures and to call for additional measures to be

³⁵ Utility Consumers' Advocacy Program, PIAC, *Well Connected* No 24 April 2005.

³⁶ Utility Consumers' Advocacy Program, PIAC, *Well Connected* No 26, December 2005.

³⁷ Communication from PIAC staff members.

³⁸ EWON Submission to IPART Draft Report *Investigation into the burden of regulation and improving regulatory efficiency*,

³⁹ Communication from PIAC staff members.

⁴⁰ Independent Pricing and Regulatory Tribunal (IPART), *Electricity retail businesses' performance against customer service indicators, for the period 1 July 2002 to 30 June 2007*, 2008.

⁴¹ Connell J and Hill W (2009) *Cut Off II: The Experience of Utility Disconnections*, report prepared by Urbis for the Public Interest Advocacy Centre Ltd, Sydney NSW.

⁴² NSW Department of Water and Energy, *Customer Assistance policy – Consultation Draft*, July 2009, at http://www.industry.nsw.gov.au/energy/files/info_protection_customer_assistance_policy.pdf, p 1; see also p 18 which refers to *Cut Off II* as an example of community research showing 'a progressive shift in the profile of individuals and households experiencing energy related hardship and disconnection from essential services';

implemented.⁴³ Other organisations, including the NSW Council of Social Service and Energy & Water Ombudsman NSW, also referred to *Cut Off II* in their submissions.⁴⁴ A final Customer Assistance Policy has not been published, but many of the measures are in the process of being implemented. For example, the NSW Government is preparing a NSW Energy Hardship Guide to inform community organisations about energy assistance programs.⁴⁵

One issue not taken up in the 2009 Consumer Assistance Policy consultation draft was *Cut Off II*'s recommendation that the NSW Government broaden the eligibility criteria for the energy rebate to cover all Commonwealth Health Care Card (CHCC) holders, including the low-income health care card. PIAC advocated for this recommendation in meetings with the Minister for Energy and Shadow Minister for Industry, through media interviews with the *Sydney Morning Herald*, and on ABC and commercial radio, and in submissions to the IPART electricity price determinations.⁴⁶

Following an IPART recommendation⁴⁷, the Minister announced an expansion of the energy rebate to CHCC holders effective from July 2010.⁴⁸ The announcement referred to consumer advocates submissions to IPART.

IPART's 2010 electricity price determination also waived late fees for customers of standard retailers who receive the energy rebate, as recommended in *Cut Off II*.⁴⁹ IPART noted PIAC's reference to *Cut Off II* in its final report.⁵⁰

Cut Off II has also been cited:

- > by PIAC in submissions to the AER on the impacts of higher prices on NSW electricity consumers⁵¹ and on retail exemptions⁵²
- > by VCOSS in its submission to the Essential Services Commission Review of Victoria's Wrongful Disconnection Payment,⁵³ and
- > by St Vincent de Paul in two reports on smart meters.⁵⁴

⁴³ PIAC, *Keeping Connected: PIAC Submission on the Customer Assistance Policy*, 31 July 2009, at http://www.industry.nsw.gov.au/energy/files/info_protection_survey_subs_piac.pdf

⁴⁴ EWON's submission at http://www.industry.nsw.gov.au/energy/files/info_protection_survey_subs_ewon.pdf;, p 7 cites *Cut Off II*'s statistic that approximately 63% of the households that had been disconnected drew their main income from employment rather than pensions or benefits; NCOSS's submission at http://www.industry.nsw.gov.au/energy/files/info_protection_survey_subs_ncoss.pdf, p 2 notes *Cut Off II*'s findings that sole parents and the unemployed constituted a significant proportion of disconnected households.

⁴⁵ <http://www.industry.nsw.gov.au/energy/customers/protection>

⁴⁶ Communication from Mark Ludbrooke, EWCAP, PIAC, September 2010.

⁴⁷ IPART, *Review of regulated retail tariffs and charges for electricity 2010-2013*, March 2010, p 20 and p 182.

⁴⁸ John Robertson MLC, Minister for Industrial Relations, Minister for Commerce, Minister for Energy, Minister for Public Sector Reform, *Media Release: One Million Households to receive energy rebate*, 18 March 2010, at www.industry.nsw.gov.au

⁴⁹ IPART, 2010, pp 191-194.

⁵⁰ IPART, 2010, p 191.

⁵¹ PIAC, *Response to the Australian Energy Regulator draft distribution determination 2009-10 to 2013-14*, 2009, at <http://www.aer.gov.au/content/index.phtml/itemId/726895>

⁵² PIAC, *Levelling out the playing field: PIAC response to the AER's Issues Paper: AER approach to retail exemptions*, 2010, at

<http://www.aer.gov.au/content/item.phtml?itemId=739144&nodeId=c6e56f889e873262ccb25977f7af04d1&fn=Submission%20-%20Issues%20Paper%20-%20Approach%20to%20Retail%20Exemptions%20-%20PIAC.pdf>

⁵³ VCOSS, *Submission to Essential Services Commission Review of Victoria's Wrongful Disconnection Payment*, 2009, at http://www.vcoos.org.au/documents/VCOSS%20docs/Submissions/2009/October/SUB_091029_ESC%20review%20of%20wrongful%20disconnection%20payment.pdf

⁵⁴ St Vincent de Paul, *Customer Protections and Smart Meters for NSW*, 2009 at

<http://vinnies.org.au/files/NAT/MediaReleases/CustomerProtectionsandSmartMeters-IssuesforNSW.pdf>; St Vincent de

3.3 A working definition of consumer advocacy?

This report proposes that a working definition of energy consumer advocacy be adopted to help clarify issues in the debate about the best model for delivering that advocacy. The purpose of the definition is to describe the rationale for and broad aims of energy consumer advocacy, the basic scope of the activities of advocates, and the classes of energy end users to be served by consumer energy advocacy. Of course any given organisations' ability to deliver consumer advocacy as defined will be subject to factors such as the requirements of a particular funding bodies and the level of funding available.

As noted above, not all consumer advocacy on energy issues will be undertaken by organisations funded by the Consumer Advocacy Panel. The proposed definition is not necessarily one that would be appropriate for the Panel to adopt, although it may be a good starting place for any review of its current approach to defining advocacy.

The project Steering Committee developed a draft definition of energy consumer advocacy for the purposes of consultations. Stakeholders were asked to comment on the draft description as part of the stakeholder survey conducted online in May 2010. The revised definition, set out in Box 3.1, is proposed in light of stakeholder comments. It is somewhat shorter than that initially proposed, but is now supplemented with a short statement of the activities of energy consumer advocates.

Box 3.1: What do we mean by energy consumer advocacy?

Energy consumer advocates act to ensure that small end users of energy – households and small businesses – maintain secure access to affordable, reliable, safe and sustainable energy services.

Energy consumer advocates place an emphasis on supporting the voices and interests of vulnerable and disadvantaged consumers. These include low-income, regional and rural consumers, and consumers with characteristics that impact on their ability to protect their own interests in the energy market due for example to their disability, English language skills, level of literacy, or age.

Energy consumer advocates have regard to consumers' long-, medium- and short-term interests in relation to the mix of energy sources and the need for it to be produced, distributed and consumed in an efficient manner and provide beneficial social and environmental outcomes.

In particular energy consumer advocates recognise that energy is an essential service and that it contributes to wellbeing and the ability to participate in the economic and social mainstream.

What do energy consumer advocates do?

Energy consumer advocates use an appropriate mix of proactive and reactive advocacy to:

- > endeavour to facilitate and develop a robust public debate on energy policy generally and the impacts of the energy market on households in particular

- > work on redressing the power and information asymmetry between energy industry participants and individual consumers in policy and regulatory debates
- > seek to inform and influence decision-makers on energy policies and regulations and industry practice
- > work to remedy policies and practices in the energy market which are unfair
- > work to ensure that government and industry initiatives assist consumers manage their energy use and expenditure operate in the interests of consumers
- > build the capacity of other organisations to advocate on behalf of particular classes of consumers
- > empower consumers to participate directly in advocacy (e.g. by making their views known directly to decision-makers through consumer research or online tools)
- > work to increase consumers' access to information to enable their confident participation in the energy market, and
- > undertake the research and communications activities required to support the above.

3.4 The interests served by energy consumer advocacy

It goes without saying that consumer advocacy is undertaken in the interests of consumers. There can however be different interests among different consumers according to factors such as their income level, geographic location or particular needs and preferences. As the Productivity Commission has recognised:

Consumers are diverse and the interests of different sub-groups of consumers will at times conflict ... some regulatory measures designed to assist disadvantaged consumers may inadvertently harm other consumers. [Where such conflicts exist it will be] difficult to present a single consumer perspective on such issues.⁵⁵

Differences can also arise where one considers the short-term rather than long-term interests of consumers; this becomes particularly important to the extent that consumers are not good at correctly allocating costs, benefits and risks over time, as behavioural economics literature suggests, or where there are different community views about risks in the long term, as is the case in relation to the impacts of climate change on consumers.

From time to time stakeholders express concern that one or another group of end users is not sufficiently represented by currently provided consumer advocacy. The Consumer Advocacy Panel 2008/09 Annual Report, for example, notes the following:

⁵⁵ Productivity Commission, 2008, p 281.

Ensuring diversity

To inform its grant making, the Panel commissioned a study during 2007/08 into the major classes of energy consumers, their interest and current involvement in energy market issues, and any gaps or overlaps in advocacy on their behalf.

From this report, the Panel has now identified three classes of consumers whose interests could be more comprehensively represented in national energy market policy and regulatory decisions – small business, residential households and rural consumers. The Panel is working on encouraging greater participation by these groups and those representing them.⁵⁶

It is important to note that difference in interests is not a universal feature of energy advocacy. Whether or not there is a difference in interests depends largely on the issue at hand. There are likely to be very many situations where the interests of all consumers are served by particular advocacy.

Much energy consumer advocacy, like consumer advocacy more broadly, focuses on the interests of vulnerable and disadvantaged consumers. This can be justified, as noted by the Productivity Commission, on the basis that ‘disadvantaged consumers will often be the ones most in need of effective representation in the policy making process, yet are also less likely to have the financial capacity to contribute [to advocacy]’.⁵⁷

Moreover, there are also issues where a very significant gain can be made for one group of usually vulnerable and disadvantaged consumers at no cost or at a very small cost to consumers generally.⁵⁸

Consultees for this project, particularly those representing disadvantaged consumers, often downplayed the concern that is sometimes raised about whether different consumer interests are adequately represented. Some took the view that ‘getting it right for vulnerable and disadvantaged consumers will in most cases benefit all consumers’. The following comment is an example:

People tend to say that consumer advocacy focuses on the low income and disadvantaged. That is, for the most part, true. But it benefits the wider community. However I expect there are some more ‘middle class’ issues that are potentially overlooked, e.g. billing.

The stakeholder survey asked: ‘Are there particular consumer groups or consumer interests that are well or poorly served by current energy consumer advocacy arrangements?’

The groups most frequently nominated as *poorly served* were regional consumers (mentioned 9 times) and Indigenous consumers (5). A wide range of other groups were nominated one to four times, including, in order: culturally and linguistically diverse (CALD) consumers/recent migrants (4), customers of exempt suppliers and networks (3), middle-class consumers (3), tenants (2), people with disabilities (2), low-income/disadvantaged customers generally (2), small business (2), people with mental health issues (1), consumers with severe medical conditions that require heavy use of

⁵⁶ Consumer Advocacy Panel, *Annual Report 2008/2009* p 11, at <http://www.advocacypanel.com.au/reports.htm>

⁵⁷ Productivity Commission, 2008, p 282.

⁵⁸ Which is not to say that to do so is right in every situation.

energy (1), green consumers and green small businesses (1), solar photovoltaic system customers selling back into the grid (1), children and young people (1) and NT consumers (1).

The much smaller number of respondents who identified *well served* consumers were fairly evenly divided between those who thought disadvantaged people in general and the aged, those on low incomes or in need of hardship assistance are well served, and those who thought consumers generally, including middle Australia, were well served but that some disadvantaged groups especially Indigenous and rural consumers were not.

It may be that in response to this question – and this may be true of the debate more generally – there was some confusion between who energy markets and current programs serve or do not serve, and who is or is not adequately represented by advocacy. In following quote, a survey respondent appears to be focusing as much on the energy market as on the interests served by advocacy:

hard-to-reach consumers experiencing forms of social exclusion, such as those from culturally and linguistically diverse backgrounds, people with disability, and people with mental health issues, may struggle to access hardship programs and other assistance, and remain less likely to access any benefits stemming from competition.

The Panel's conclusion noted above – that small business is not adequately represented – received some support and was not contested, although the following qualification is interesting:

Small business customers do not appear to be well served by the current arrangements. This may reflect broader issues in relation to the difficulties of small business advocacy generally rather than weaknesses of energy consumer advocacy.

There was rather less agreement as to whether current advocacy adequately represents other groups. Two polar positions emerged – many respondents would support the view that there is insufficient representation for vulnerable and disadvantaged consumers compared to consumers generally, but a number of others appeared to hold the opposite view:

The work performed by consumer advocates under the current arrangements in each jurisdiction ensures that the interests of most consumers are well served, with a particular focus on low income and vulnerable consumers, subsections of those, e.g. rural, Indigenous would benefit from a more targeted focus.

In sum there was generally no consensus on whether any particular group does or does not get sufficiently heard (particularly middle class versus vulnerable and disadvantaged consumers). There was however a clear consensus that rural and Indigenous consumers are not as well served as they should be.

This discussion suggests that whether or not a particular class of consumers is adequately represented by advocacy per se may not be the right question. Instead, an approach that combines the following two elements could ensure that the interests of most classes of consumers are put forward as required:

1. Those responsible for the design and funding of an advocacy system, and those responsible for undertaking advocacy, should ensure that they articulate a clear and specific approach to

ensuring that the diverse interests of consumers are served *where they in fact have diverse interests*. This will usually need to consider:

- > the extent to which the full range of consumer interests can be represented by any particular consumer advocacy organisation
 - > the priorities among competing consumer interests, and
 - > the extent to which it is necessary to ensure that each particular interest is represented, and the types of approaches that are required and available to ensure that can occur.
2. Discussion about the most effective advocacy system should pay particular attention to ways to ensure that the interests of Indigenous and rural consumers are served by advocacy.

This analysis is brought to bear in considering the principles that should guide decisions about the design of an optimum advocacy system.

Finally, although it is outside the scope of this report, it is worth noting one respondent's view, likely shared more widely, on the significant benefits that the current system provides to large business energy consumers:

I believe large energy representative bodies such as EUAA [Energy Users Association of Australia] and MEU [Major Energy Users Inc] are substantial direct beneficiaries of current arrangements, including budgetary support of staffing positions. I don't believe this serves the interests of average small household consumers adequately in the debate, as effectively levy resources flow to subsidising major energy customers to pursue individual issues that don't reflect householders' priorities.

3.5 Who undertakes energy consumer advocacy?

Energy consumer advocacy is currently undertaken by a wide range of NGOs; as noted in section 4.2, 37 NGOs made submissions to formal energy processes in the period from January 2008 until June 2010. These include:

- > organisations established specifically to advocate on energy issues in the interests of consumers (e.g. CUAC)
- > consumer organisations with a broad consumer brief (e.g. CALC, PIAC, CHOICE)
- > welfare organisations (e.g. St Vincent de Paul, the Australian Council of Social Service (ACOSS), State and Territory councils of social service)
- > environment protection organisations (e.g. Total Environment Centre, Australian Conservation Foundation), which undertake consumer advocacy in relation to the long-term interests of consumers in protecting the environment and the issues on which the interests of the environment and consumers converge, such as demand management and energy efficiency
- > University centres focused on consumer interests (e.g. CCCL at QUT)

- > Other organisations representing particular end-user interests (e.g. small business groups, ethnic community councils, tenants’ unions, farmers’ federations).

There are two organisations that regularly undertake energy advocacy on behalf of larger business interests, the Major Energy Users Association and the Energy Users Association of Australia. As the interests for whom they advocate fall outside the scope of the definition of energy consumer advocacy proposed above, they are not considered further.

Appendix D lists organisations that have provided submissions to energy regulator reviews in the past three years in the interests of households or small business energy users.

Funding

The Consumer Advocacy Panel is a significant source of funding for energy consumer advocacy. As noted above (3.2), the Panel grants funding for advocacy projects, advocacy/capacity building programs, and research projects.⁵⁹

In relation to advocacy/capacity-building programs, the Panel’s guidelines specify:

Funding for advocacy/capacity building programmes is generally directed to paying the salary, or part salary, of a person engaged by the funded applicant to undertake the project. Funding is provided for a defined period of time, normally twelve months. Within the funding period, the applicant will enhance and expand its capacity to advocate through the development of expertise and experience, and the sharing of knowledge within its organisation and will also advocate positions in specific policy, rule and regulatory reviews that are relevant to its consumer constituency.⁶⁰

Currently 13 organisations receive advocacy/capacity building funding from the Panel. Two of these represent major energy users, three focus on environmental issues and the remaining eight focus on residential consumer (small end user) issues. Table 3.1 sets out the amount of funding allocated to each in 2009/10 for the following year’s programs.

Table 3.1: Consumer Advocacy Panel 2010/11 Capacity-Building and Advocacy Funding Model Grants divided into small end users, large end users and environmental organisations⁶¹

Organisation	2010/11 Capacity-Building and Advocacy Funding Model Grants	Funding provided in 2009/10
<i>SMALL END USERS</i>		
Australian Council of Social Service	ACOSS NEM advocate 2010/11	\$143,000
Consumer Action Law Centre	Consumer advocate 2010/11	\$ 216,226
Consumer Action Law Centre	NEM Network Coordination	-

⁵⁹ Consumer Advocacy Panel, ‘Grant Allocation and Application Guidelines’, August 2008, p 1 at <http://www.advocacypanel.com.au/applications.htm>

⁶⁰ Consumer Advocacy Panel, ‘Grant Allocation and Application Guidelines’, 2008.

⁶¹ Consultants’ analysis of the groupings and sub-totals, sourced from Consumer Advocacy Panel, ‘Grant Applications and Approvals as at 29 June 2010’, at <http://www.advocacypanel.com.au/documents/Grantapplicationsandapprovalsasat29June2010.pdf> accessed 12 August 2010

	Roundtable meeting costs to a maximum of \$ 78,600	
Ethnic Communities Council of New South Wales	NEM advocacy 2010/11	\$33,000
Kildonan Uniting Care	Indigenous community energy education and advocacy	\$102,102
QUT Credit and Consumer Law Program	NEM advocacy 2010/11	\$135,354
South Australian Council of Social Service	NEM reform advocacy capacity-building project – South Australia – 2010/11	\$109,080
Tasmanian Council of Social Service	Energy research and advocacy 2010/11	\$39,340
Uniting Care Australia	Informing Uniting Care Energy Advocacy 2010/11	\$100,000
Sub-total		\$879,476
<i>LARGE END USERS</i>		
Major Energy Users Inc	MEU global funding 2010/11	\$206,000
Energy Users Association of Australia	Priority projects for 2010/11	\$206,000
Sub-total		\$412,000
<i>ENVIRONMENTAL</i>		
Alternative Technology Association	NEM advocacy 2010/11	\$103,338
Central Victorian Greenhouse Alliance Inc	Growing regional capacity	\$36,000
Total Environment Centre	NEM advocacy 2010/11	\$127,000
Sub-total		\$266,338
TOTAL FUNDING FROM ADVOCACY/CAPACITY BUILDING PROGRAM		\$1,557,814

The stakeholder survey for this project asked consumer advocacy NGOs about their source of funding (Q 11). Sixteen NGOs responded to this question, of which:

- > three receive ongoing Panel funding⁶²
- > 10 support advocacy from their own resources (although often the amount of internal funding is very small)
- > seven receive funding from other sources (including one that also receives a project grant from the Panel).

Other sources of funding comprised state government (5 respondents), Energy Australia's Seniors Peer Education Program, and sitting fees from the Queensland Competition Authority. Of State and

⁶² Most of the other funded agencies participated in the project through interview rather than survey response, See Appendix C.

Territory governments, the Victorian, NSW and WA governments appear to provide the highest levels of support for energy consumer organisations.⁶³

3.6 Current activities of consumer energy advocacy organisations

The stakeholder survey asked energy consumer advocacy organisations to provide information about their current operations. Responses to this question were received from 16 consumer advocacy organisations and one small business advocacy organisation.

Issues taken up

The survey nominated 15 issues for advocacy and asked respondents to indicate whether or not they had recently undertaken advocacy on this issue or planned to do so in the next 12 months (Q13). Table 3.2 shows the responses.

Table 3.2: Advocacy issues NGO respondents worked on recently or planned to work on in the next 12 months

	Number who have worked on or are planning to work on issue in next 12 months	Number who responded to the question
Affordability/hardship	15	15
Improving consumers' ability to navigate the market	13	15
Smart metering	13	14
National Energy Customer Framework	13	13
Other changes to legislation/regulatory framework	13	13
Energy efficiency	12	14
Pricing generally	12	14
Market problems (e.g. mis-selling)	12	13
Carbon Pollution Reduction Scheme ⁶⁴ /Climate change	11	15
Effective consumer advocacy (resources, models, support systems)	11	14
Complaint handling (including internal and external dispute resolution processes)	10	13
Distribution/transmission price reviews	9	13
Reliability, quality and security of supply	9	14
Overall structure and design of the energy system	8	13
Issues specific to the gas market	4	12

⁶³ Joint submission by participants in the National Consumers' Roundtable on Energy in response to the Productivity Commission's *Draft Report – Review of Australia's Consumer Policy Framework*, 2008; submission is at http://www.pc.gov.au/__data/assets/pdf_file/0005/89132/subdr199.pdf

⁶⁴ At the time of the survey that particular model for placing a price on carbon had not yet been put 'on hold' by the Commonwealth government.

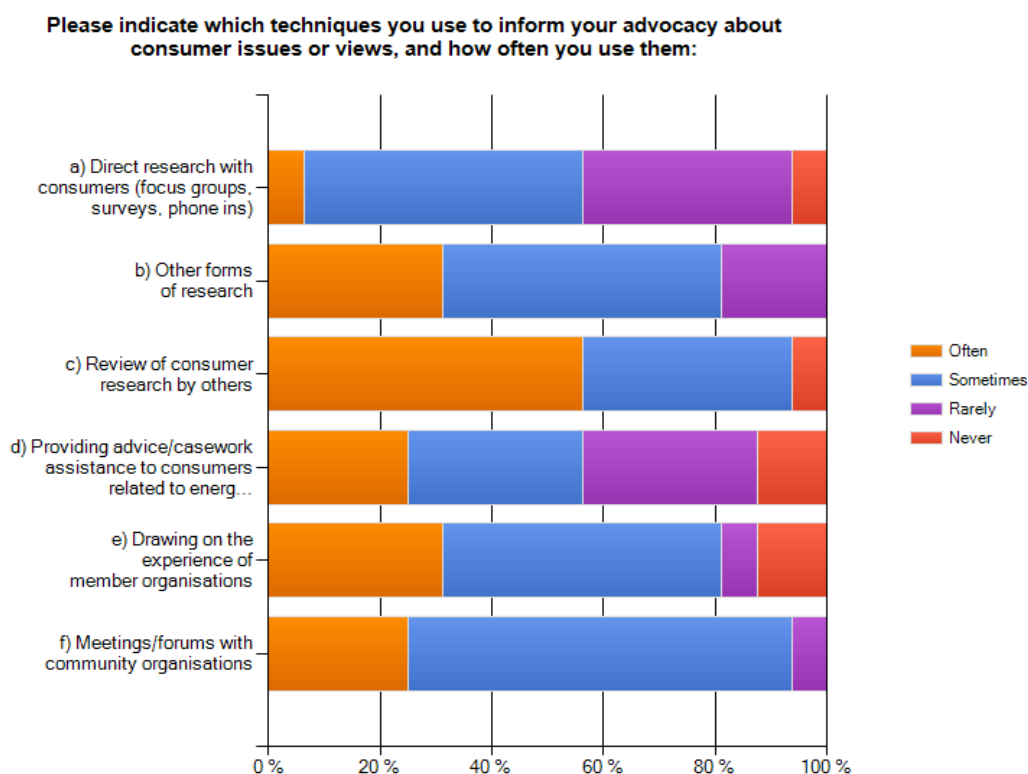
Respondents were also asked to indicate any other issues they work on. The following were listed:

- > concessions
- > State energy policy
- > feed-in tariffs
- > effectiveness of competition in NSW energy market
- > consumer engagement in the energy market
- > price comparison and tariff analysis
- > tenants in blocks of units where the body corporate has an agreement with an energy company⁶⁵
- > capacity-building to other organisations.

Advocacy techniques – understanding consumer issues

Respondent advocacy organisations were asked to report on the techniques they used to inform their advocacy and how often those techniques were undertaken (Q14). Sixteen respondents replied to this question, and a summary of their responses is shown in Figure 3.1.

Figure 3.1: Techniques used by NGOs to inform their advocacy



⁶⁵ i.e. on selling. Tenants do not have a choice of energy retailer in these circumstances. Some situations have occurred where the body corp[orate] has cut the electricity to the tenants and there is nothing that anyone can do about it.' survey respondent.

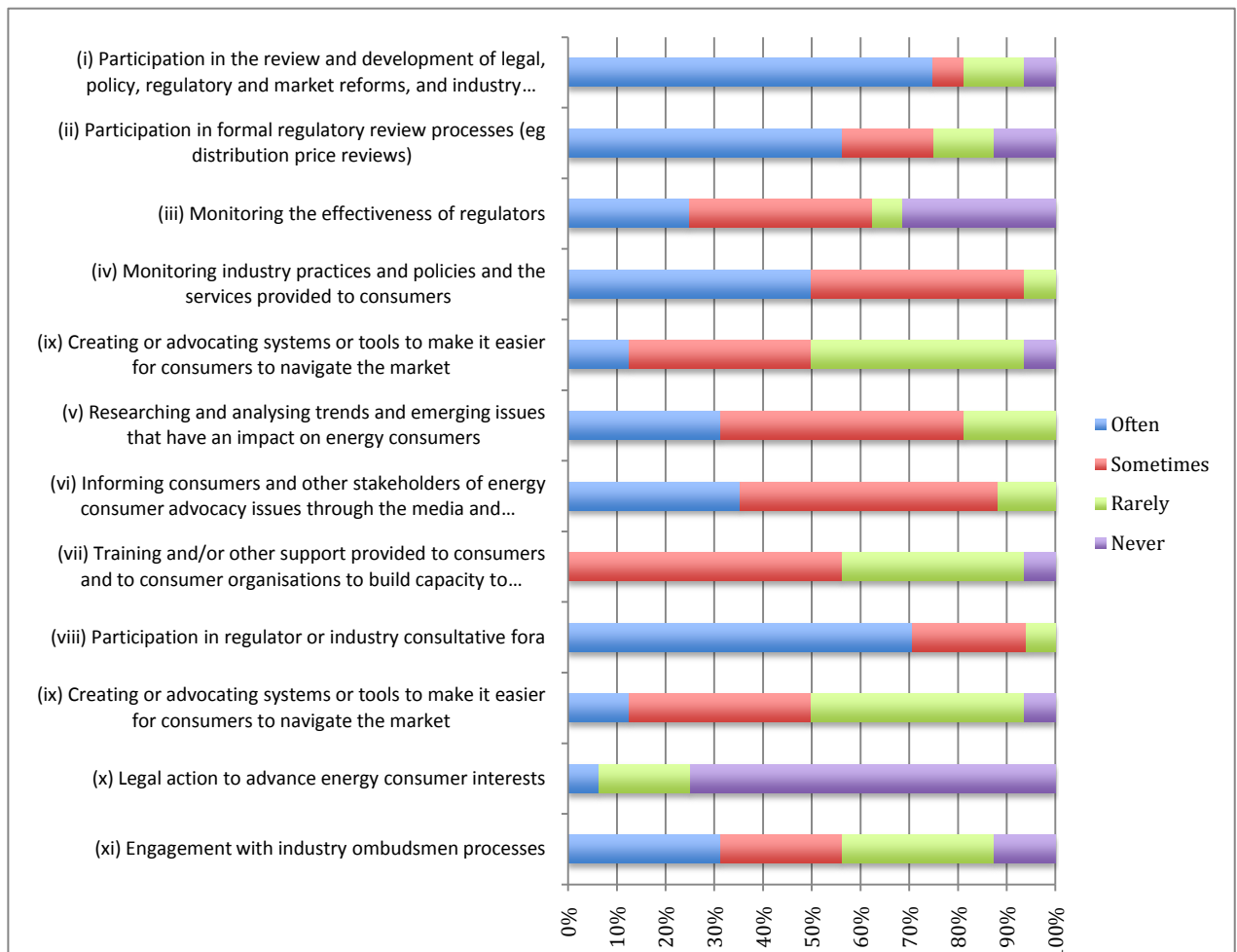
Figure 3.1 shows that:

- > ‘Review of consumer research by others’ is the most common technique used to inform advocacy, with over 50% of respondent NGOs often using the technique and another 40% sometimes using it
- > the second most utilised technique was ‘Meetings/forums with community organisations’, with 25% of respondents often using it and another 69% sometimes using it
- > only 50% of consumer advocate respondents provide casework services
- > only 50% of consumer advocate respondents undertake primary consumer research.

Advocacy techniques – achieving outcomes for consumers

Respondent advocacy organisations were asked to report on the particular advocacy techniques they use to advance consumers’ interests (Q15). Sixteen organisations responded to this question. Figure 3.2 sets out the results (the roman numbers indicates the order the activities appeared in the question).

Figure 3.2: The kinds of energy advocacy activities currently undertaken and how often they are done



When these activities are grouped into ‘often/sometimes’ undertaken and ‘rarely/never’ undertaken, a ranking can be achieved, as set out in Table 3.3.

Table 3.3: A ranking of advocacy activities currently undertaken from those most often undertaken by the majority of NGOs to those activities least undertaken by NGOs

Current activity	Often or sometimes
(viii) Participation in regulator or industry consultative fora	94%
(iv) Monitoring industry practices and policies and the services provided to consumers	94%
(vi) Informing consumers and other stakeholders of energy consumer advocacy issues through the media and otherwise	88%
(v) Researching and analysing trends and emerging issues that have an impact on energy consumers	81%
(i) Participation in the review and development of legal, policy, regulatory and market reforms, and industry practices and codes	81%
(ii) Participation in formal regulatory review processes (e.g. distribution price reviews)	75%
(iii) Monitoring the effectiveness of regulators	62%
(vii) Training and/or other support provided to consumers and to consumer organisations to build capacity to represent energy consumer interests	56%
(xi) Engagement with industry ombudsman processes	56%
(ix) Creating or advocating systems or tools to make it easier for consumers to navigate the market	50%
(x) Legal action to advance energy consumer interests	6%

Survey respondents were also invited to name other activities they engaged in as part of energy consumer advocacy (Q15). Table 3.4 sets out these activities.

Table 3.4: Other activities considered by respondents to be ‘energy consumer advocacy’

Activity described by survey respondent
Complementary non-regulatory strategies, e.g. concessions, utility grants, energy efficiency
Provision of hardship training for industry call centre staff
PowerAssist – funds provided by the retailer to assist customers in hardship with payment towards electricity accounts to avoid disconnection
Advocacy to/lobbying of energy policy bureaucrats, advisers and ministers
Working with retailers on hardship, pricing, prepayment meter and other issues
A consumer engagement strategy to enable consumers to advocate on energy and water issues
Support to SMEs on sustainability and energy efficiency actions informed by policy work on small business energy consumer issues.

The data in this section has been taken into account in preparing the list of functions of energy advocacy in Chapter 6.

Respondents were then asked to provide examples of how their service used any of the advocacy techniques set out in question 15 (Q16-25). Appendix E lists the responses in full.

3.7 Coordination of consumer energy advocacy

An initial ‘one off’ meeting⁶⁶ of consumer advocates held in Melbourne in 2001 was the foundation of collective consumer advocacy in energy nationally. In 2005 a second ‘one off’ meeting was convened jointly by Consumer Action and CUAC to discuss the National Energy Customer Framework.⁶⁷ This meeting led to the creation of the National Consumers Roundtable on Energy, comprising consumer organisations, social welfare organisations and environmental organisations with a collective and active interest in providing consumer advocacy in the National Electricity Market (NEM) reform process.

Since 2006, Consumer Action and CUAC have convened regular two-day face-to-face meetings of Roundtable participants three times each year. In 2007 participant organisations developed a charter of principles for energy supply to shape joint advocacy in areas of common interest. The charter defined the Roundtable as ‘an informal coalition of advocates for energy consumers’.

Roundtable participants regularly contribute to decision-making processes of Commonwealth and jurisdictional governments, the MCE, the AEMC and the AER. The organisations that attend each Roundtable vary depending upon a range of factors, including whether organisations continue to participate in energy consumer advocacy and whether they continue to receive funding to employ advocacy staff.

Through the Roundtable, advocates share information, identify areas of consensus, identify information gaps and research needs, and develop joint strategies to enable both individual and collaborative representations to governments, market institutions, industry and others.⁶⁸

In addition to providing the opportunity for learning from colleagues, Roundtable agendas typically provide a mix of speakers, both internal and external. Each session provides either capacity-building opportunities or advocacy opportunities, or both. The agendas are structured to reflect issues of common interest to the majority of participants. As the market develops, the agenda topics vary, but consistently include a session on State/Territory updates, enabling participants to share knowledge regarding energy issues in their own jurisdiction. External presenters include Commonwealth ministers, departmental representatives, and staff from the national regulator and the AEMC. The speakers invited are generally targeted to particular work programs or areas of common advocacy, and internal discussion enables consumer representatives to discuss issues of concern and identify areas of potential joint advocacy and updates of work programs. Relationships are developed and an opportunity is provided to contribute to policy and regulatory processes. Sessions presented by participants reflect the increasing expertise among the group. Roundtable meetings provide an

⁶⁶ Organised by John Dick from the Energy Action Group.

⁶⁷ The meeting was funded by the NECAP.

⁶⁸ A detailed description of the role and activities of the Roundtable can be found in the Joint Submission by participants in the National Consumers’ Roundtable on Energy, in response to the Productivity Commission’s *Draft Report – Review of Australia’s Consumer Policy Framework*, 2008, at http://www.pc.gov.au/__data/assets/pdf_file/0005/89132/subdr199.pdf

opportunity for the advocacy work being completed to be shared, and for the formulation of common (as well as some jurisdictionally different) positions on energy issues.

Consultations and survey responses suggest that Roundtable meetings have proven extremely valuable in boosting community sector capacity to participate in NEM regulatory and policy debates. The Roundtable has received very positive feedback from regulators, commenting that they value this consultative function. Consultees and survey respondents strongly valued the Roundtable. Comments include:

The roundtable allows for 'sharing of ideas, knowledge and capacity.

Good national cooperation and coordination means there is an 'ability to join together on key national processes and the sharing of jurisdictional experiences to optimise national outcomes'.

In their evaluation of 2008-2009 Consumer Advocacy Panel grants, the Allen Consulting Group found that the Roundtable was "effective in fulfilling its existing mandate as an information sharing and capacity building body."⁶⁹ According to this evaluation, the strengths of the Roundtable were its ability to bring diverse groups together,⁷⁰ its "ability to attract decision-makers to its meetings, such as state and federal government Ministers and the Chairman of the AEMC,"⁷¹ and its advocacy coordination and planning across the various state and federal jurisdictions.⁷² However, the evaluation also found some weaknesses in the Roundtable, namely a lack of formalised terms of reference and an inability to advocate forcefully around collective positions.⁷³

Roundtable meetings are supported by Panel funding,⁷⁴ which covers the costs of travel, accommodation, facilitation, venue, catering and ancillary expenses. Consumer Action is also funded to support communication among Roundtable participants outside of meetings, including through the NEM CHAT e-group:⁷⁵

... the Roundtable would not be as successful without the financial support of ... the Panel ... Panel funding pays for travel and related costs of Roundtable meetings, as well as teleconferences, the email forum and some administrative costs. Without Panel support, face-to-face meetings would be much more difficult to arrange.⁷⁶

⁶⁹ The Allen Consulting Group, *Evaluation of 2008-09 Consumer Advocacy Panel Grants*, Report to the Consumer Advocacy Panel, 2010, p v.

⁷⁰ The Allen Consulting Group, 2010, p 13.

⁷¹ The Allen Consulting Group, 2010, p 65.

⁷² The Allen Consulting Group, 2010, p 68.

⁷³ The Allen Consulting Group, 2010, p 13.

⁷⁴ Consumer Action currently receives funding of approximately \$78,000 p.a. from the Panel to cover the annual disbursements associated with supporting the Roundtable. Any unspent money is returned to the Panel at the end of each funding period.

⁷⁵ The NEM Chat is a Yahoo e-group administered by Consumer Action on behalf of the Roundtable. It was 'created to enable community advocates to communicate about issues relating to the Ministerial Council on Energy's (MCE) reform of the National Electricity Market, particularly in relation to reforms in the areas of governance and institutions, economic regulation and user participation. Participants are encouraged to share information, concerns, ideas and advocacy proposals in relation to the above', at <http://au.groups.yahoo.com/group/nemchat/?tab=s>

⁷⁶ Joint submission by participants in the National Consumers' Roundtable on Energy in response to the Productivity Commission's Draft Report – Review of Australia's Consumer Policy Framework 2008, submission is at http://www.pc.gov.au/data/assets/pdf_file/0005/89132/subdr199.pdf

Consumer Action and CUAC provide in-kind support to co-convene each Roundtable. Activities include coordinating teleconferences for agenda development with energy consumer advocates, meeting with and briefing the facilitator, coordinating each session for the Roundtable, inviting speakers and coordinating the agenda to meet their availability, developing agenda documentation and briefing notes, and developing follow-up documentation of outcomes from each Roundtable.

3.8 Strengths and weaknesses of current advocacy system

Previous reports and the consultation undertaken for this project have identified perceived strengths and weaknesses in current advocacy arrangements. This section presents those views with comments as required. The views are later taken into account in presenting the pros and cons of potential models for advocacy.

The stakeholder survey asked respondents to identify strengths and weaknesses of *current energy consumer advocacy*; whether in their view the ‘current provision of energy consumer research, analysis and advocacy is adequate’, and whether there are advocacy strategies that they think are particularly effective (questions 34-37). The responses are summarised below.

Strengths of current energy consumer advocacy

Survey respondents identified the following strengths.

- > *Diversity*: there is diversity in the size, purpose, interests and speciality of advocacy organisations
- > *Coverage*: most states and territories have local NGOs involved in energy advocacy
- > *Quality of advocates*: advocates have passion, expertise, skill and commitment
- > There is a *strong, collaborative network* of energy consumer advocates who share information and work together effectively
- > *Reliable funding* - for some advocates
- > *Broad range of policy issues taken up* (but see inconsistent view in ‘weaknesses’ listed below)
- > *That the voice of consumers is heard*: Advocacy is based on direct consumer experience from service providers and some consumer research, as well as secondary research and community consultation (but note below under ‘weaknesses’ the comment that some consumer interests are not adequately heard).

In reviewing the model of advocacy it is vital that the strengths of current arrangements be fully understood and that they be built on and not undermined in the development of any new model. While a number of current advocates were, perhaps not surprisingly, quick to point out the strengths (as well as some weaknesses) in the current arrangements, the views of one senior regulator are also persuasive. He noted that despite resource limitations consumer advocacy in energy is a relatively strong area of consumer advocacy at present, primarily due to the skill, knowledge, commitment and connectedness of current advocates. He cautioned that any changed arrangements should ensure that the current strengths continue to be supported.

Weaknesses of current energy consumer advocacy

Survey respondents identified the following weaknesses. It is important to note that some of the identified weaknesses are generally agreed and systemic. These include the absence of a strong national voice, the need for greater coordination, and the need for greater access to research and data and the need for increased access to skills. Other identified weaknesses are more particular (they may apply only to some situations or some advocates), contested, or (where accepted) subject to differing views as to their importance.

Lack of a national voice:

- > The current advocacy system is ‘relatively weak in providing a “national” voice and perspective. Of the organisations most involved, only ACOSS is a national body’
- > Energy issues are ‘hard to push out to the national market’
- > ‘Fragmented nationally’
- > Energy consumer advocacy ‘lacks a properly resourced central focus’
- > There are ‘inconsistent levels’ of advocacy ‘across jurisdictions; in a more national energy market, advocates need to be careful [about] becoming isolated within jurisdictional boundaries (e.g. national decision-making is less likely to be informed by advocates from a single jurisdiction).’

Insufficient coordination:

- > ‘Having a limited organisational hub for the Roundtable and NEM CHAT (could be full-time secretariat for instance and a central resource library/policy team)’
- > ‘Expertise is diffuse and not always well co-ordinated, advocates concentrate on their separate agendas but are not held accountable to the wider network’
- > ‘Lack of resourcing for coordination between disparate consumer groups.’

Insufficient research and data:

- > ‘Inadequate access to, timeliness and confidentiality of relevant data’
- > ‘Lack of a national research base on energy consumer issues. (Despite best intentions, the advocacy panel model does not seem to achieve this.)’

The subjects and/or objects of energy consumer advocacy can be too narrow:

- > a ‘lack of mainstream consumer advocacy as most representatives focused only on disadvantaged / vulnerable customers (not to say this not important)’
- > ‘frail aged, rural and remote communities, and CALD consumers’ are neglected
- > ‘difficult to track key issues of small business energy consumers’ (although perhaps this is more about the availability of data rather than the lack of a voice).

Insufficient resources and funding:

- > 'There could always be more resources – especially to do proactive activities, rather than merely be responsive to government regulatory consultations'
- > Insufficient numbers of 'advocates in all jurisdictions with sufficient time to devote to issues'
- > 'With the very high level of activity in energy sector in each jurisdiction and nationally, there is a lot of work that each organisation has to focus on and a need to be across a lot of information'
- > 'Many of the advocates are volunteers, with limited resources available'
- > 'ad hoc funding'
- > 'Under-resourced when compared to government and industry.'

Insufficient skills or access to the right technical expertise:

- > 'Is it unfair to suggest that some advocates don't appreciate the amount of work that's required to be across the issues in the energy market'
- > 'Lack of easy access to technical expertise'
- > 'Whilst there are very good people in advocacy organisations, they tend to be stretched across a range of issues (many non-energy) and there is a limit to which they can be across the detail in order to provide a fulsome response to some of the detailed changes being introduced'
- > 'Not enough advocates with enough skill and knowledge'
- > 'Poor intellectual quality of submissions'
- > 'Over-reliance on a narrow base of known energy consumer consultants.'

Failure by decision-makers to consult adequately

- > absence of a strong commitment from all policy makers to consult with consumers on all issues, or to consult in a timely way
- > advocates are 'only consulted as a last resort'.

Lack of attention to the overall regulatory framework:

- > 'At times, there is considerable focus on the impact of regulatory decisions without sufficient recognition of the rules framework in which they are made. There could be greater focus on the development of rules by the AEMC. For example, at a forum convened by the Consumer Advocacy Panel in October 2009, much of the discussion focussed on the AER's regulatory determinations, and there was almost no discussion of the electricity and gas rules frameworks under which they were made.'
- > Current advocacy 'focuses on the retailers as the primary body for the responsibility to reduce vulnerability without subsequent pressure on government bodies, and other parts of the energy industry such as generators and distributors.'

- > ‘Consumer advocates have not yet become actively involved in sponsoring rule changes in relation to economic regulatory rules, even though these rules can have considerable impact on small consumers.’
- > ‘Too narrow a focus – looking at the fine detail and not the bigger strategic issues (e.g. with National Energy Customer Framework (NECF) advocates were slow to drive the issue of the objective clause but spent a lot of energy on minor rules provisions)’
- > ‘Focussed on the end outcome without spending the energy to examine the entire regulatory framework (e.g. retail price regulation is less effective when network prices are rising by 20%+ per year)’

A somewhat different view is evidenced in this response:

- > ‘It is difficult for advocates to have meaningful input into economic arguments and pricing decisions – effort should go in to the end result – who bears what pain and in what proportion. Consumer advocates will never win an argument about the value of gamma or beta and shouldn’t even try to be part of that debate.’

Occasional didactic tone or fixed ideological positions:

- > ‘Some advocates have an “I know what is best for you” attitude – and seek to impose their personal ideology on everyone. When that comes through - regulators turn off.’
- > ‘A tendency to not promote the customer benefits that might arise through competition, and a default “pro-regulation” stance which equates consumer protection with inventing new sets of rules, rather than seeking alternative ways to achieve the same outcomes’
- > ‘Tendency to resort to adversarial “name-calling” as a substitute for persuasive empirical analysis to support their case (e.g. networks are all “monopolies”, generators are all “gaming”, retailers are all exploiting vulnerable consumers). This rhetoric may activate the base but it leads to their views being easily dismissed in serious policy debates.’

4 The need for energy consumer advocacy

This chapter considers the need for energy consumer advocacy in Australia. The chapter begins by noting the rationale for providing financial support for consumer advocacy (4.1). It then turns to the question of *how much* consumer advocacy is required, that is, the level of demand for formal advocacy and informal advocacy both now and into the future. Ultimately there is no way to devise a precise formula for the appropriate level of consumer advocacy. The material provided in this chapter is designed to help inform a judgement.

Section 4.2 identifies the range of opportunity for advocacy and leads into section 4.3 which considers formal advocacy, primarily through an analysis of the submissions made by consumer groups to the formal processes undertaken by decision-makers during the period 2008/10. The analysis suggests, first, that consumer advocates have completed a very significant body of work and, second, that it is likely that a number of decision-making processes have taken place over the past few years with very limited consumer input. While submissions are a key output of consumer advocacy, they are not the only form of engagement with formal processes. Participation in consultative committees and particularly in multi-stakeholder working parties is an important function of advocacy, one that can often be more effective than submission writing.

Next, section 4.4 describes the informal and proactive advocacy undertaken by advocates. Informal advocacy responds to the actions of governments, regulators and energy suppliers where no formal process has adequately dealt with consumer concerns. This is generally in the form of proactive advocacy that seeks to bring information about consumers' problems and other experiences with the energy market to bear on decision-makers where the relevant issue is not already part of a decision-makers' agenda. Presented here are a number of case studies describing successful outcomes achieved by consumer advocates as the result of sustained advocacy work, generally comprising a mix of formal, informal and proactive advocacy undertaken on the one issue.

Section 4.5 discusses the impact of advocacy, drawing on the conclusions of several reports to supplement the case studies included in section 4.4.

Data from energy ombudsman schemes is then presented (4.6). The data shows a significant upward trend in energy complaints by consumers over the past three years.

Identification of the main challenges and emerging issues facing consumers in the energy market in the near term follows (4.7). This discussion suggests that advocates and the consumers they represent will face a range of new challenges in the medium term.

Finally, the chapter identifies the potential outcomes of a better-funded advocacy system (4.8) and concludes that a substantial increase in advocacy resources is required to meet the challenges identified.

4.1 Why should energy consumer advocacy be supported?

As noted in Chapter 3, governments, other stakeholders and formal reviews have all accepted that there are significant barriers to consumers collectively undertaking or financially supporting the level of consumer advocacy that is justified in their interests and in the interests of the development of optimal public policy. The Productivity Commission, for example, found that there is ‘a general case for governments to help ensure that consumer representatives have the financial wherewithal to make an effective input into policy. The free rider problem alone provides a prima facie rationale for government to consider assistance for such bodies.’⁷⁷

As also noted in Chapter 3, governments have since at least 2001 agreed that consumer advocacy on energy issues should be supported. There are a number of other areas where governments directly support consumer advocacy, including in relation to telecommunications, other utilities, health, financial services and general consumer advocacy. Examples of Australian government support for other types of consumer advocacy and international government support for energy specific consumer advocacy and the associated models are described in more detail in Chapter 5.

4.2 Opportunities for energy consumer advocacy

There is opportunity for advocacy whenever a decision is made by an authority with power to affect consumers’ interests in the energy market. Decision-makers include governments and their agencies and energy suppliers. Some decisions are taken in a transparent and structured way. Others are less open, less structured or both.

Examples of decisions that might be the subject of advocacy include:

- > a decision by the MCE to adopt a uniform consumer protection framework
- > a decision by the AEMC to change a rule that applies to the energy market
- > a decision by the AER on a distribution price reset
- > a decision by a State government to privatise government-owned energy assets, and decisions about any conditions that will apply
- > a decision by a State government to introduce, extend or change a concession scheme
- > a decision by a generator to build a new gas generation plant in an area with high visual amenity
- > a decision by a distributor to reduce its maintenance inspection regime from five years to three years

⁷⁷ Productivity Commission, 2008, Vol 2 p 280. The Productivity Commission had in mind supporting advocacy from government revenue rather than obtaining funds through a hypothecated levy on industry revenue. So long as there are no consequential problems (such as industry capture or conflicts of interest) there is no reason why the required financial support for advocacy should not come from a levy as is currently in place for the energy industry.

- > a decision by a retailer to limit hardship options available to consumers experiencing payment difficulty by limiting its incentive program of matched payments, and
- > a review of an external dispute resolution scheme.

4.3 Analysis of formal advocacy 2008/10

This section reviews the demand for advocacy in response to ‘structured’ or ‘formal’ opportunities for advocacy. ‘Responsive’ opportunities primarily comprise highly structured, formal decision-making processes implemented by regulators or other decision-makers where the decision-maker identified the decision it was to make and sought input, normally through submissions or formal consultations prior to making the decision. Table 4.1 sets out the formal opportunities for advocacy during the period 1 January 2008 through to mid-2010 and the response by consumer advocates to those opportunities. (The table is displayed in Appendix F due to its size.)

The table was compiled by:

- > first surveying the websites of all energy market decision-makers for the period 1 January 2008 to 30 June 2010
- > identifying calls for submissions or other input by each regulator, agency or ministerial process, and, as far as possible, the responses received from consumer advocates
- > asking all respondents to the stakeholder survey to identify specific opportunities for energy consumer advocacy⁷⁸ – these were added to the list and again checked for the responses received from consumer advocates
- > asking some of the larger advocacy organisations for a list of all processes they submitted to.

Accurately identifying all submissions from decision-makers’ websites has proved to be a daunting task. For this reason, Table 4.1 is probably not exhaustive, and we welcome feedback in relation to missing or inaccurate data. The table does, however, provide a good indication of the range and quantity of processes that decision-makers have initiated, the quantity of responses they have received from consumer advocates and the range of organisations that have undertaken formal advocacy.

Table 4.1 shows that there is an extraordinarily large number of processes that energy consumer advocates could respond to in any given year. Opportunities include national regulatory processes, driven mostly by the MCE, the AER and the AEMC, as well as ad hoc processes initiated by the Australian Government. In addition there are State/Territory processes, driven by State/Territory regulatory authorities but also, as the transfer of powers to national regulators proceeds, by the AER and the AEMC.

⁷⁸ Stakeholder survey question 8: ‘Please list any specific opportunities for energy consumer advocacy that you are aware of that have arisen in the past 12 months other than those that will be covered by the data identified above [i.e. listed in the preamble to that part of the survey].’

Many regulatory questions involve a number of different processes requiring responses; for example, an AEMC review on a particular topic may include an issues paper, a first draft report, and a second draft report, all of which are open to consultation/submissions. In the case of the development of the NECF, there were 12 documents issued for public comment over four years (see case study in 4.3 below). Each process has its own timetable, many of which impose quite tight deadlines for submissions despite the complexity of the issues.

Table 4.2 summarises some of the information in Table 4.1 (the extensive list of formal advocacy at Appendix F). It shows that in the 30-month period from 1 January 2008 to 1 July 2010 consumer advocates made at least 337 submissions to 178 identified formal processes. Submissions were made by 37 different consumer advocacy organisations,⁷⁹ including all members of the Roundtable and a handful of other consumer organisations. The highest number of submissions to an individual process (13)⁸⁰ was to the consultation by the MCE Retail Policy Working Group in July 2008 on the National Energy Customer Framework – subsequent consultations on the Framework’s first and second exposure draft in June 2009 and February 2010 respectively each elicited 12 consumer submissions.

Table 4.2: Summary of formal advocacy opportunities, 1 January 2008 to 30 June 2010

Jurisdiction	Total number of processes identified between 01/01/08 and 30/06/10	Number of submissions provided by consumer organisations	Number of these processes which received no submissions from consumer organisations
Cross-jurisdictional (e.g. MCE)	14	53	–
National	23	84	24
SA	23	19	12
NSW	15	27	–
Queensland	28	52	3
Victoria	38	70	4
Tasmania	18	11	9
WA	11	17	2
NT	6	1	5
ACT	2	3	–
Total	178	337	59

Source: Derived from Table 4.1, Appendix F

Identifying the number of submissions is not an entirely accurate measure of the quantity, let alone quality, of advocacy. Some submissions are larger pieces collectively authored by several agencies. Others are substantial pieces from one agency; yet others are likely to be less substantial, perhaps covering only one or two of the relevant issues. Advocates make

⁷⁹ The submitting organisations are listed in Table 4.4, also in Appendix F.

⁸⁰ Excluding supplementary submissions.

strategic decisions as to whether it is better (or possible) to jointly work on a single submission or to provide multiple submissions from several or many agencies.

On the other hand, identifying processes where no consumer submissions were received gives some indication of the 'responsive' advocacy that might have been undertaken but has not been. The fact that no submission has been received may indicate that the advocates perceived the process as one that was relatively unlikely to affect consumers' interests. Alternatively it may be because no consumer advocacy agency had the capacity⁸¹ to make the submission.

An analysis of Table 4.1, summarised in Table 4.2, suggests that there has been strong consumer advocacy engagement with many inquiries at the Commonwealth/cross-jurisdictional level. On the other hand, responses to State and Territory processes were uneven:

- > Victoria had the largest number of processes (38) to which consumer advocates could potentially submit, and, although there were very few processes which received no consumer submissions, it is noticeable that one agency – CUAC – is often the only consumer advocate, whereas there may be 5-10 other non-consumer organisations providing submissions.
- > In Queensland, there were a relatively large number of processes (28), with only 3 receiving no consumer submissions.
- > South Australia has a relatively high number of processes (23) given its size, but just under half of all these processes received no consumer advocacy submissions, suggesting a possible lack of resources to cope with the demand on advocates.
- > Although Tasmania is a small market, it generated at least 18 processes, of which half received no consumer submissions despite being on topics clearly relevant to consumers,⁸² again possibly revealing a lack of resources for consumer advocacy.
- > In NSW, where the market is not as deregulated as in Victoria or South Australia, there were fewer processes (15) identified, all of which received at least one submission from a consumer advocate. Another feature of NSW is the large number of submissions from individual people to various processes; many of these individual submissions are letters or emails from pensioners, suggesting a concerted campaign by consumer advocates in NSW to encourage consumer engagement with the process.⁸³

⁸¹ Capacity here may refer to the time allowed by the decision-maker, or the resources or technical expertise available to advocacy organisations.

⁸² For example the Office of the Tasmanian Economic Regulator's review of the Consultation Policy and Procedures of the Regulator, <http://www.energyregulator.tas.gov.au/domino/otter.nsf/8f46477f11c891c7ca256c4b001b41f2/20f4f80c310b6a27ca2575bc0009f1a4?OpenDocument#The%20Regulator%20has%20released%20a>

⁸³ See for example the Independent Pricing and Regulatory Tribunal of NSW (IPART) Review of regulated electricity retail tariffs and charges for small customers 2010 to 2013, http://www.ipart.nsw.gov.au/investigation_submissions.asp?industry=2%20§or=3%20&inquiry=196

Identifying the number and nature of the organisations that have provided submissions gives a sense of the diversity of issues raised by advocates, but does not definitively show that particular specific interests have or have not been represented.

Energy market decision-makers often also obtain formal stakeholder input through standing consultative committees and issue-based working parties. A separate Table 4.3 (also in Appendix F) lists the ten major standing consultative committees identified. In addition to submissions, Table 4.1 notes some occasions where public submissions have not been invited but instead consultation has taken place directly with consumer advocates and other stakeholders. This may have resulted in consumer advocates providing written policy submissions that are not published on the decision-maker websites.

Formal advocacy requires advocates to accept invitations to participate in topic-based working groups and their subcommittees; the current Commonwealth process on smart meters is an example.

One consultee noted that there are currently far more working group processes and sub-processes that advocates need to be involved in than resources allow. Even for the processes on which they have agreed to participate, ‘trying to make every meeting is challenging. AER and regulators always seeking input (e.g. on Distribution Price Reviews) and not getting it’.⁸⁴

4.4 Informal and proactive advocacy

As noted in section 3.2 above, in addition to their input to formal processes initiated by decision-makers, it is important for advocates to:

- > respond to decisions, proposals or events that do not involve formal submission processes, and
- > identify issues that *ought* to be on the agenda of government and other decision-makers.

Information was obtained from consultees and survey respondents on opportunities for advocacy that go beyond the formal invitations to contribute to processes initiated by government, including regulators. In response to the stakeholder survey, respondents identified examples of informal advocacy in a wide range of situations. The full list of responses is set out at Appendix G. They can be broadly grouped into the following types of stimuli for advocacy.

Table 4.5: Stimuli for informal advocacy

Type of stimulus	Examples (Quoted material is from responses to the survey or consultations)
Reports from energy suppliers	‘In particular on disconnection data, payment and/or financial difficulties’
Reports from	Annual market reviews that set out changes in the energy

⁸⁴ Consultation with ATA September 2010.

regulators and ombudsman offices	market (e.g. from the AER) Annual reports ('The results of various Ombudsman reports, indicating consumer issues which need input from advocates and complaints data from ombudsman schemes [are] useful in assessing the need for energy advocacy.') Investigation/compliance reports (e.g. from IPART NSW)
Reports and research from overseas jurisdictions	'For example, annual reports from the UK's Ofgem [Office of Gas and Electricity Markets] may provide information on standards and protections available elsewhere that can inform our own policy positions.'
Ministerial and departmental announcements	'PIAC follows up on public commitments made in media releases by Minister for Energy and [Industry and Investment] NSW too.'
Reports from pilots and trials	Mandatory Renewable Energy Target, Victorian Renewable Energy target, smart meter, solar cities
Consumer affairs prosecutions of energy industry participants	
Direct and indirect information from consumers	'Information from community service providers involved in direct [services to clients], such as financial counsellors and emergency relief providers ... assists in the identification of systemic advocacy issues and enables more targeted advocacy.'
Consumer research	'can examine issues that are not on the regulatory agenda but perhaps should be.' TEC (Total Environment Centre) example: original research on demand management in NSW (showing past expenditure on demand management has been effective in limiting need for investment in increased capacity)

The case studies below and at 3.2 above suggest the nature of proactive informal advocacy and the impact that it can have on energy decision-makers. They also suggest a number of characteristics of successful proactive advocacy, including the long timeframes that can be required and the need to use a range of strategies, including participation in formal processes.

Advocacy case study 2: Joint consumer advocacy on the National Energy Customer Framework 2006/10

The National Energy Customer Framework (NECF) is a set of consumer protections that will apply to small retail consumers of energy in the national energy market.

The process of developing the NECF was commenced by the MCE in August 2006. A Bill to bring the NECF into operation was introduced into the South Australian Parliament on 27 October 2010. Similar legislation will follow in other jurisdictions.

The final NECF is the result of four years of policy development. Consumer advocates have made significant contributions to the policy process and have had a significant

impact on the outcome. Consumer Action's assessment is that 'Whilst no consumer protection bill is perfect, the NECF Bill does contain hard fought and vital protections for consumers with particular changes and improvements to most jurisdictions'. Among other outcomes, consumer advocacy achieved:

- > additional obligations being placed on the AER and the AEMC to carry out their functions 'in a manner that is compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers'
- > modification of a proposal to rename consumer disconnections as 'de-energisation'
- > improvements to a wide range of specific provisions
- > a commitment from the Victorian Government to maintain consumer protections at existing levels.

A detailed chronology of the development of the NECF, with a particular focus on the advocacy undertaken by consumer advocates and its impact, is set out in Appendix K. The key points are as follows:

- > Consumer advocacy was sustained over a four-year period.
- > A large number of consumer organisations were involved with advocacy on the NECF. Several organisations engaged directly with the Commonwealth Minister at both Roundtable events and at specific meetings and many were also engaged in meetings with State ministers and officials from policy departments and regulators.
- > Targets of advocacy included State/Territory-based decision-makers and cooperative federal bodies, including the MCE and Commonwealth agencies.
- > Twelve different policy documents were released by government inviting responses, including six working papers, a composite consultation paper, an MCE policy paper, a regulatory impact statement and two exposure drafts of the legislation.
- > Consumer organisations responded to the great majority of these documents. Consumer organisations variously provided individual submissions (e.g. 13 consumer organisations submitted in response to the Composite Consultation Paper released by the Retail Policy Working Group in June 2007) or coordinated a joint response (including in response to the Regulatory Impact Statement and each of the exposure drafts of the legislation). Where consumers worked collectively on submissions, they often submitted them separately, providing additional information on issues of concern to their specific organisation, resulting in multiple submissions that in general advocated for similar or the same outcomes.
- > Advocacy in the public sphere, including use of the media and a street protest, was undertaken at strategic points during the policy development process.
- > While much advocacy was undertaken by consumer organisations using resources derived from their ongoing funding sources (whether that is Panel, State

government or their own resources), one additional specific piece of work was funded by the Panel.

- > The initial working papers were generally released prior to discussion or other input from consumer representatives.

Advocacy case study 3: The impacts of full retail contestability in South Australia

When full retail contestability (FRC) was introduced into South Australia, prices rose by 25-30% for residential customers over a very short time. Financial counsellors were seeing very large numbers of people who were unable to pay their electricity bills, with seemingly greater numbers of people being disconnected. Energy retailers were not responsive to approaches from community organisations seeking to discuss better approaches to people who were experiencing hardship, regarding them as ‘won’t payers’, not ‘can’t payers’.

Concerns were raised by SACOSS (SA Council of Social Service) at the Essential Services Commission of South Australia (ESCOSA) consumer consultative committee, with ESCOSA agreeing to advocate requests to collect and report on disconnections. When the first annual performance report with disconnection data was due to be released, UnitingCare Wesley coordinated a media conference that included consumers with disabilities, carers, financial counsellors and energy advocates. The reported disconnection numbers were high, guaranteeing strong media interest in the media conference; indeed, one journalist was heard to utter ‘so much “talent” – where to start?’ The story about rates of energy disconnects due to inability to pay was the lead story in every TV news bulletin, and angry phone calls were received by energy advocates from senior government ministers, and within a few days electricity retailers asked for a meeting. A constructive dialogue was soon established, and relationships between retailers, financial counsellors and advocates have been much more constructive ever since.

Advocacy was successful in this instance due to the following:

- > advocates with experience and continuity of engagement with an issue over a period of time
- > ESCOSA’s inclusive processes, and data reporting
- > the ability of SACOSS, UnitingCare Wesley and Seniors Voice to exercise the influence that flows from their large membership
- > collaborative work among different consumer organisations
- > preparedness by some retailers to admit to problems they had tried to ignore.

Advocacy case study 4: South Australian code on pre-paid meters

The South Australian regulator, Energy Services Commission of South Australia (ESCOSA), was approached by Aurora Energy, which wanted to offer pre-payment meters as an option for South Australian consumers.

ESCOSA allocated funds to employ a consultant. Community sector advocates engaged in a dialogue with ESCOSA and the consultant about the issues.

Advocates were conscious of the risk that any consultant might not really understand the issues from the consumer's point of view or might recommend outcomes that would not address those issues.

ESCOSA accepted consumer submissions that the consultant be briefed and report to a working group that included consumer advocates. The process also enabled advocates to work constructively with Aurora to seek workable solutions to consumer concerns, particularly about unidentified self-disconnection and high prices.

The outcome was an effective code that addressed many consumer concerns.

In addition to the work undertaken by advocates, ESCOSA has adopted a style of operation and has in place a number of procedures that facilitate consumer input. Indeed, one very experienced advocate describes ESCOSA as 'a lifetime exemplar of openness and transparency'.⁸⁵

Advocacy case study 5 – Consumers and distributors

In 2009, CUAC received Consumer Advocacy Panel (CAP) funding to conduct a project that examined the relationship between customers and electricity distributors under the proposed National Energy Customer Framework (NECF). The advocacy panel funding was for the engagement of a consultant to examine the contractual and regulatory arrangements that would govern the relationship between consumers and the distributors with a view to assessing the adequacy of the consumer protections contained therein.

The relationship between consumers and distributors is an important one. Distribution companies have responsibility for the quality and reliability of the electricity supply to consumers as well as services such as metering and connections. If consumer protections are inadequate, then consumers may suffer poor service from the distribution companies. The position of distribution companies as natural monopolies makes the appropriate regulation of the relationship critically important.

Prior to the initiation of this project, consumers did not have a detailed knowledge of the status of the regulations on the customer distributor relationship under the proposed NECF. Furthermore, there was not a strong position being presented on what best practice regulation should look like. Consumer advocates, generally, were much more aware of appropriate regulation for retailers rather than distributors. This project served to address that gap in knowledge.

The report from this project was distributed widely to the members of the Ministerial Council on Energy, Commonwealth and State energy departments and consumer advocates. It was well received by decision-makers and was acknowledged as being an important contribution to the debate. It greatly increased CUAC's knowledge of the issue that will be valuable as regulatory development continues.

⁸⁵ | Yates, Seniors Voice, SA.

As a product of the outcomes of this project and the newly formed relationship between CUAC and the consultant who worked on it, CUAC was made aware of a significant issue related to the smart meter rollout that is occurring in Victoria. Specifically, the consultant indicated that there had been scant attention paid in policy/regulatory processes to the issue of data privacy and the use of information generated about consumers as a result of the introduction of smart meters. This is a key component of the customer distributor relationship in a market characterised by the presence of smart meters.

As a result of this information, CUAC raised the issue with the Victorian Department of Primary Industries and the office of the Minister for Energy. The issue was recognised as being of significance. Subsequently, a broad regulatory review was initiated that closely examined the issues raised by CUAC. The consultant who worked on the initial project was engaged by the department to assist its understanding of the issue.

This project is a clear demonstration of effective relationships between consumer advocates, government and energy market specialists to bring about improved consumer outcomes. In the absence of financial support for such a project it is unlikely that the issues raised would have come to the attention of government in a timely fashion allowing for appropriate actions to be taken.

The level of need for informal and proactive advocacy

Measuring the need for informal and proactive advocacy is a good deal more difficult than documenting the opportunities for advocacy in response to formal processes. Whether or not an issue comes to the attention of advocates depends to some extent on how well connected they are to consumers and frontline service delivery agencies and whether they have the capacity to initiate appropriate consumer research. Then, of course, whether or not an issue is a priority for advocacy is a question of judgement in each case. It is difficult in the abstract to say whether a particular issue ought to be the subject of advocacy.

Advocacy organisation respondents to the stakeholder survey were asked to identify specific energy issues that they could or should have worked on but did not due to a lack of resources (Q 27). The issues identified included the following (each cited by one organisation except where indicated):

- > the NECF (3 organisations)
- > smart meters – the National Smart Metering Program and issues with local retailers who have rolled out meters (5 organisations)
- > the Australian Consumer Law
- > greater engagement with the Distribution Price Review (3 organisations) – examples of what could have been done include advocacy in relation to distribution tariff amendments, and compiling resources to aid consumers to participate in future Distribution Price Reviews

- > greater participation in the development of AER guidelines
- > gas advocacy generally (2 organisations)
- > educating and informing customers on how to effectively participate in a competitive retail energy market (2 organisations)
- > further work to analyse the effects of unregulated retail prices on energy prices paid by consumers across different retailers and geographic areas
- > improving the available data, including statistics on energy poverty and the effectiveness of competition, so as to inform consumer advocacy
- > specific research aimed at understanding the consumer experience of direct energy marketing, including breaches of marketing regulations
- > hardship among older people where current practices do not provide an adequate response (e.g. non-payment of bills)
- > working more closely with retailers to develop solutions that would make the delivery of energy to disadvantaged households better or more inclusive, including a concerted campaign to get energy retailers to commit to reducing the number and proportion of households that experience utility disconnection each year
- > involvement, either as a member or via liaison with members, with customer councils of first-tier retailers
- > problems arising from body corporates/caravan parks on-selling electricity
- > more participation in the campaign for more demand side management in the NEM
- > climate change
- > the impact of energy market on children and young people
- > the actual price impact for SMEs from an emissions trading scheme
- > small business renewable energy opportunities
- > standards of energy efficiency in rental housing.

It can be seen that some of the issues raised were in fact attended to by other consumer advocates, or are stated at a high level of generality. Nevertheless there is a wide range of issues that likely were not taken up and appear to have potential merit, even though this is a partial list drawn only from quick survey responses from those advocates who participated in the survey.

One stakeholder suggested during consultations that it might be appropriate to posit a rough benchmark of how much informal (including proactive) advocacy ought to be done as a proportion of formal advocacy. Views are likely to differ, but it is difficult to see that there should be any less informal advocacy than responsive formal advocacy. Setting the agenda for reform and responding to decisions where adequate consumer input has not been sought by decision-makers is clearly of more significance to consumers' long-term interests

than responding to an agenda set by others. The same stakeholder suggested that, working effectively, advocates ought to be spending far more time on proactive than responsive advocacy.

4.5 The impact of advocacy

It can sometimes be difficult to determine the impact of consumer advocacy; in particular it is often hard to show a direct link between a particular consumer advocacy activity and a particular legal or policy change. Reasons for this include the long timeframes often involved in achieving change, and the cumulative effect of many advocates (or advocates and other voices) putting forward a particular point which results in a policy shift towards the final decision.⁸⁶

The case studies in 4.3 above demonstrate that advocates have been able to observe positive changes in the interests of consumers following their advocacy work. This suggests that consumer advocacy has had an impact on policy-makers and/or energy suppliers in those instances.⁸⁷

The impact of energy consumer advocacy can be discerned in a variety of other sources, including:

- > the written decisions or reports of regulators or government decision-makers on key policies (reference to submissions and indications that the policies advocated were taken up by decision-makers)
- > the second reading speeches for relevant legislation
- > the statements of key decision-makers about the influence of particular advocates or advocacy strategies.

A 2007 report on the advocacy or law reform efforts of several community legal centres in Victoria across a wide range of issues found that advocacy achieved the following kinds of outcomes:

amendments to legislation, the enactment of new legislation, prompting government regulators to take action, and convincing government and business to change their practices, and cementing ongoing consultative roles with governments and businesses.⁸⁸

⁸⁶ L Curran, *Making The Legal System More Responsive To Community: A Report on the Impact of Victorian Community Legal Centre (CLC) Law Reform Initiatives*, 2007, La Trobe University and West Heidelberg Community Legal Service, at http://www.communitylaw.org.au/public_resource_details.php?resource_id=1152, p 64.

⁸⁷ Where positive change follows advocacy for that change it will often, but not always, be the case that the advocacy resulted in the change, and hence in the absence of other evidence it's not always possible to know for sure. Conversely, advocacy can often fail to be followed immediately by a change, but can ultimately have an impact at a later date, at which time the effective advocacy may no longer be top of mind. See Allen Consulting Group, 2010.

⁸⁸ Curran as summarised by N Rich, *Reclaiming Community Legal Centres: Maximising our potential so we can help our clients realise theirs*, 2009, Victoria Law Foundation pp 13-14.

This 2007 report examined a number of individual advocacy or law reform projects. One of these was energy consumer advocacy in Victoria from 1993 to 2006, which is described in the following case study.

Case study 5: The impact of energy consumer advocacy by community legal centres in Victoria 1993-2006

A 2007 report by academic Liz Curran reviewed the documentation of six areas of advocacy and law reform undertaken by Victorian community legal centres in the past 15 years. The report found that the energy regulator and the Victorian Government frequently accepted advice from community legal centre advocates, leading to regulatory change.

Most relevantly, the report found:

1. that the Consumer Law Centre Victoria submission to the Essential Services Commission Review of the Effectiveness of Retail Competition and the Consumer Safety Net for Electricity and Gas in February 2004:

was a key submission that led the regulator to determine that the Victorian energy market was [at that time] not sufficiently competitive or mature enough to justify a reduction in either price regulation or consumer protection.⁸⁹

2. that the Tenants Union of Victoria's submission to the same review:

argued that the competitive energy market, in the first two years, had designed products that were contradictory rather than complementary to the fundamental characteristics of the tenancy market. The submission highlighted the mismatch in contract periods between three-year energy market contracts and twelve-month lease agreements as evidence that tenants were unlikely to benefit from the more competitive market in the short to medium term. This argument was acknowledged at pages 63 & 105 of the 2004 Draft decision and contributed to the Essential Services Commission finding that [there was] a continuing need for an energy industry-specific safety net after 31st December 2004.⁹⁰

3. that the 2005 Consumer Law Centre Victoria submission to the Victorian Essential Services Commission's 'End-to-End' Project Issues Paper:

persuaded the Commission that a proposed policy change on consumer transfers within the electricity market should not proceed on the public interest ground that the change could be damaging to the policy objectives of the direct sales provisions of the Fair Trading Act 1984 (Vic).⁹¹

4. that the 2004 report *Access to Energy and Water in Victoria – A Research Report*, co-written by the Consumer Law Centre Victoria and the Consumer Utilities Advocacy Centre:

⁸⁹ Curran p 44.

⁹⁰ Curran pp 44-45.

⁹¹ Curran p 45.

together with the ‘Utility Debt Spiral Project’ by the Committee for Melbourne (published in April 2005), was largely responsible for the decision of the Victorian Government to introduce legislation imposing penalties on retailers for wrongful disconnections.⁹²

This legislation significantly reduced customer disconnections.

5. that key individuals within the regulatory bodies attributed many of the pro-consumer policies in the energy regulatory framework in Victoria to the work of advocacy organisations such as Consumer Action.⁹³

A 2009 report funded by the Victoria Law Foundation documented the way in which the consumer advocacy and law reform activities of community legal centres can improve the lives of clients more effectively than merely providing individualised assistance.⁹⁴ Although that report focuses on community legal centres, many of its arguments are also relevant to other advocacy organisations. The report argued that advocacy improves the lives of individuals currently experiencing hardship, as well as the lives of ‘persons who [may otherwise] ask for help in the future’.⁹⁵

In late 2009, the Consumer Advocacy Panel commissioned an evaluation of a selection of projects funded in the 2008/09 financial year. Criteria for assessing funded projects were determined in consultation with stakeholders. A set of potential *outputs* (such as a report or a workshop), *outcomes* (changes to decisions or full consideration of stakeholder concerns) and *assessment criteria* (the extent to which these outcomes had been achieved) were identified. These are set out in Table 4.6 for the two different types of Panel-funded projects: advocacy projects and capacity-building projects.

Table 4.6: Outcomes and assessment criteria for the evaluation of Panel-funded projects⁹⁶

	Outcomes	Assessment criteria
Advocacy projects	An existing or proposed policy, rule or regulatory outcome is to pass a review process, or change as a result of review An existing or proposed policy, rule or regulatory outcome is made the subject of a review. Policy and regulatory decisions give full consideration of stakeholder concerns.	Target outcome is achieved. Evidence of influence on decision-makers. Output was considered seriously in the decision-making process. The process increased understanding and knowledge among stakeholders of issues and processes for well-targeted advocacy. The process created greater capacity among stakeholders to support well-targeted advocacy in the future.

⁹² Curran L *Making The Legal System More Responsive To Community: A Report on the Impact of Victorian Community Legal Centre (CLC) Law Reform Initiatives*, La Trobe University and West Heidelberg Community Legal Service, May 2007, at http://www.communitylaw.org.au/public_resource_details.php?resource_id=1152 p 45.

⁹³ Curran names specific staff at the Essential Services Commission Victoria and the Energy and Water Ombudsman, as having confirmed (presumably to Curran) the role of Consumer Action in achieving change; Curran p 45.

⁹⁴ Rich, 2009, at <http://www.consumeraction.org.au/publications/policy-reports.php>

⁹⁵ Rich refers to the US lawyer Paul R. Tremblay’s arguments about triaging types of activities; Rich p 58.

⁹⁶ Table compiled from information in Consumer Advocacy Panel, *Process for evaluating the effectiveness of projects funded by the Panel*, 2008, Sydney.

	Outcomes	Assessment criteria
Capacity-building	Increasing information available to stakeholders on the operation of the market. Greater understanding of consultation processes and timing. Better-targeted advocacy.	Influence on decision-makers over time. Evidence that the applicant has greater understanding and knowledge of issues. Extent of long-term net increase in capacity to advocate effectively.

The evaluation report, prepared by The Allen Consulting Group and published in 2010, included an evaluation of the capacity-building projects run by TasCOSS and the Consumer Action Law Centre.⁹⁷ The evaluation report found that both TasCOSS and CALC were effective in their advocacy.⁹⁸

As part of their assessment of projects, the evaluation consultants interviewed people from organisations the subject of advocacy by CALC and TasCOSS, including regulators and government decision-makers. The Tasmanian regulator, OTTER, and the Tasmanian Climate Change Office (COO) gave evidence that they found TasCOSS to be a valuable contributor to their processes, and the COO noted particular policy changes for which TasCOSS had been at least partly responsible.⁹⁹ Similarly, the Victorian regulator, ESC, advised that CALC was an effective consumer advocate.¹⁰⁰ Regulators consulted during the course of the current project made similar comments.¹⁰¹

The consultants noted that, although a particular project may have been unsuccessful in achieving a direct outcome (e.g. convincing a regulator about a particular point), it may have an indirect outcome: the act of putting forward a consumer perspective may have a 'cumulative effect on decision-makers' which over time would result in policy outcomes favourable to consumers.¹⁰² Capacity-building in general tends to have indirect benefits, and the report found, for example, that the Roundtable 'delivers significant indirect benefits from developing the overall capacity of the sector to advocating on behalf of consumers'.¹⁰³

Internationally, consumer and welfare organisations have also begun monitoring the impact of their advocacy work. Citizens Advice in the UK publishes an annual social policy impact report that documents various campaigns undertaken by Citizens Advice Bureaux, including on energy issues. In the most recent of these social policy impact reports, Citizens Advice described the pressure it put on Ofgem to more strictly regulate doorstep mis-selling by energy suppliers as being influential in Ofgem introducing a new requirement for written estimates to be provided prior to face-to-face sales.¹⁰⁴

⁹⁷ The Allen Consulting Group, 2010

⁹⁸ The Allen Consulting Group, 2010, p v.

⁹⁹ The Allen Consulting Group, 2010, p 55.

¹⁰⁰ The Allen Consulting Group, 2010, p 67.

¹⁰¹ Notably ESCOSA and ESC.

¹⁰² The Allen Consulting Group, 2010, p 14.

¹⁰³ The Allen Consulting Group, 2010, p 70.

¹⁰⁴ Citizens Advice service, *Social Impact Policy Report 2009/10*, p 15, at http://www.citizensadvice.org.uk/index/publications/impact_social_policy.htm

4.6 Trends in complaints to energy ombudsman services

Much of the work of consumer advocates responds to problems directly experienced or perceived by consumers. One measure of the level of consumer problems within a market is the level of complaint.¹⁰⁵ Table 4.7 suggests that there has been a steady (and in NSW, Victoria and WA, quite sharp) rise in the level of complaints to energy ombudsman services.

Further, the much higher per capita level of complaint in Victoria and SA – where full retail contestability and privatisation is more extensive and has been in place longer than in other jurisdictions such as NSW – suggests that consumer complaints have considerable scope for further increases.

The trends in complaints to energy ombudsman suggest that, all things being equal, the demand for consumer advocacy will grow.

Table 4.7: Energy Ombudsman Scheme complaints (regardless of outcome) 2007/10

	2007/08	2008/09	2009/10
Energy and Water Ombudsman of NSW	7,983	9,746	14,073
Energy and Water Ombudsman of Victoria	23,510	34,818	Not available
Energy Ombudsman of Queensland	6,743	13,456	12,590
Energy Industry Ombudsman of SA	5,293	8,608	8,840
Energy Ombudsman of WA	1,093	1,227	2,646
Energy Ombudsman of Tasmania	227	279	414

Sources: Annual Reports of each agency

4.7 Future challenges and emerging issues

Survey respondents were invited to identify the '3-4 major decisions' to be made by regulators, government and energy companies and other industry participants 'over the next ten years that have the greatest impact on consumers (and are therefore some of the most important issues for advocacy)?' (Q32) and to comment on the impact of 'currently planned changes to the regulatory environment, and any other likely changes to that environment or in the energy market' (Q33).

A very large number of issues were reported as likely to 'have the greatest impact on consumers' in the following broad groups:

- > price increases/price determinations /distribution price reviews
- > affordability, concessions, and hardship programs, especially in response to price increases
- > how concessions and hardship programs are handled by increasingly national regulation (The suggestion is that there is or will soon be a disconnect between State

¹⁰⁵ Organisation for Economic Co-operation and Development (2010) *Consumer Policy Toolkit*.

responsibility for concessions, and an increasing national responsibility for energy generally.)

- > decisions to remove or impose price regulation
- > tariff structures
- > cost-reflective pricing
- > metering, especially smart meters, and time-of-use tariffs
- > proposed AEMC reviews of competition in various markets and flow-on issues/introduction of full retail contestability (in States where it is not yet in place)
- > decision by the NSW Government on the sale and/or lease of energy utilities
- > implications of further national policy harmonisation
- > the implementation of the NECF in each jurisdiction
- > attempts to change the NECF by retailers
- > AER coming up to speed on consumer issues
- > access to information by consumers and particular user groups (on rebates, price changes and environmental impacts)
- > network investment decisions
- > investment decision re large-scale renewable energy
- > reviews of advocacy models
- > overall strategic policy/Commonwealth White Paper
- > introduction of the WA Strategic Energy Initiative 2030
- > MCE-initiated reviews of NEM rules
- > continued approach of the AER to economic regulation (especially using the 'propose/respond' framework in the Rules)
- > AER cost of capital review
- > Hot water systems – tenants will not have a choice and lessors may choose options that increase costs of bills for tenants
- > guaranteed continuous supply
- > climate change policies
- > energy efficiency and demand management
- > network connections and market management services for small-scale energy generation.

Turning to the most important ways in which currently planned changes to the regulatory environment (and any other likely changes to that environment or in the energy market) will impact on consumer advocacy, survey responses most often focused on the introduction of the NECF.

Several responses noted that the sheer number of changes to the regulatory environment and the energy market were creating a more complex environment, making it harder for consumers to understand the issues, and requiring greater skill from advocates.

There was also a feeling that the rapid rise of energy prices meant consumer advocacy was increasingly going to have to deal with affordability issues.

One response took a wide perspective, asserting that:

One big challenge for governments and regulators (and hence where decisions are likely to have impact for consumers) is the continued balance of market and intervention – centralised decisions or market signals. This will be seen in relation to the CPRS, climate change, investment in generation, smart meter policy and so on.

One other respondent mentioned greenhouse issues as possibly changing consumer advocacy:

[There is a] question about how advocates are going to combine greenhouse policy/initiatives with consumer protection (beyond calls for more [community service obligation] payments).

4.8 Advocacy outcomes that might be achieved with a greater level of resources

Material presented in this chapter to date suggests that advocacy achieves outcomes for consumers, that advocacy is valued by decision-makers, and that there are formal and informal opportunities for advocacy that are not being undertaken by advocates, in many cases likely due to a lack of resources.

The benefits of an increase in resources will likely include:

- > capacity for consumer advocates to respond to a greater proportion of the formal processes initiated by decision-makers (whether through submissions or participation in working committees and similar)
- > capacity for advocates to provide higher quality input to all formal processes
- > capacity for advocates to respond to a greater range of issues, including issues which are currently engaged with less frequently due for example to their complexity, the requirement for specialist knowledge and/or their relative remoteness from the issues experienced directly by consumers
- > ability of the advocacy system – through increased research and better engagement with consumers and service provider and other local organisations – to identify

additional issues facing consumers, and to identify issues at an earlier stage, and to undertake 'proactive' advocacy to have these issues taken up by policy makers

- > increased capacity of advocates to lobby more effectively for decision-makers to include consumer interests at an earlier stage in the decision-making process
- > efficiencies flowing from greater coordination of advocacy
- > increased access to technical expertise, whether through staff appointments, formal arrangements with relevant university centres and/or capacity to retain professional consultants
- > the potential to develop a centralised repository of research and other knowledge that would be accessible to consumers, consumer advocates and others, and
- > overall, an increased capacity to respond to the breadth and complexity of issues in the energy market.

4.9 Conclusions of level of need for energy consumer advocacy

The discussion in this chapter shows that consumer advocacy organisations have not been able to make contributions to all the formal processes that have been identified. While the review of formal advocacy opportunities contained in this report may not be absolutely comprehensive, the conclusion is that government decision-makers, including regulators, have made a number of significant decisions affecting consumers' interests without the benefit of sufficient (or in some cases any) consumer advocate input.

In relation to proactive advocacy, again the conclusion is that there are a number of areas where advocacy could have been undertaken, and a number of areas where further research is indicated and likely to expose further issues of consumer detriment that ought to be taken up by advocates.

The data on the significant levels of consumer complaint and their actual and potential rate of increase also point to a likely need to increase resources for advocacy.

Finally, it is possible to identify a large range of issues that will require advocacy in the near future, and to note that energy policy is and will for some time be in a state of development. Both these factors suggest that increased advocacy is required and that at least some of the issues will have policy and political complexities that need to be addressed.

There is no mechanical way to calculate the level of funding required to ensure that all issues that are important to the welfare of diverse consumer interests are taken up adequately. Nevertheless, the overall conclusion is that consumers' interests would be well served by a fairly substantial increase in the amount of consumer advocacy undertaken. While there may be ways to obtain some more advocacy for the same funds (or more likely obtain greater efficiency through some strategic investments in coordination and access to technical support), this is unlikely to deliver the kinds of increase that is warranted. The case for substantial increases to core advocacy resources appears to be very strong.

5 Advocacy models from other industries and other countries

This chapter describes advocacy models in other industries in Australia, and in the energy consumer sector in several international jurisdictions. The primary reason for including this information is to inform the discussion in the next chapter about possible models for energy consumer advocacy in Australia. It also serves to indicate in broad terms the level of support for consumer advocacy that governments have judged to be appropriate in those industries and jurisdictions.

5.1 Consumer advocacy in other Australian industries

Telecommunications

Since the early 1990s the telecommunications industry has provided support for consumer advocacy, originally through voluntary agreement between Telecom and community groups, and from 1997 as a requirement of the Telecommunications Act.¹⁰⁶ From 1997 to 2007 approximately \$800,000 per annum was provided for advocacy primarily to three advocacy organisations – representing consumers with disabilities, small business consumers, and consumers generally.

Following a review in 2008, the Australian Government agreed to substantially increase funding for a new peak consumer advocacy body for telecommunications.¹⁰⁷ After commissioning and then considering a report containing a number of options,¹⁰⁸ it was agreed by Government and advocates to combine the three existing small advocacy organisations into one new national body, the Australian Communications Consumer Action Network (ACCAN), and to substantially increase the funding available to \$2 million per annum indexed from 2009/10.¹⁰⁹ ACCAN allocates \$250,000 of its total income each year to a grants scheme from which applicants can apply for funds of \$10,000, \$20,000 or \$50,000 to conduct research, provide representation or assist in achieving ACCAN's objectives.¹¹⁰

¹⁰⁶ *Telecommunications Act 1997* (Cth), s 593 (1) The Minister may, on behalf of the Commonwealth, make a grant of financial assistance to a consumer body for purposes in connection with the representation of the interests of consumers in relation to telecommunications issues. (2) The Minister may, on behalf of the Commonwealth, make a grant of financial assistance to a person or body for purposes in connection with research into the social, economic, environmental or technological implications of developments relating to telecommunications.

¹⁰⁷ Minister for Broadband, Communications and the Digital Economy, 'Telecommunications consumer stakeholder forum' Media Release 4 April 2008, at http://www.minister.dbcde.gov.au/media/media_releases/2008/021

¹⁰⁸ *ACCAN A Beacon of Best Practice*, No author, 2008 (prepared by a consumer working group facilitated by Philippa Smith). The issues considered are rather different to the present project; in particular there was no prospect of any State or Territory funding for telecommunications advocacy.

¹⁰⁹ ACCAN, *Annual Report 2009*, p 12, at www.accan.org.au/uploads/ACCANAnnual.doc

¹¹⁰ ACCAN, 'Grant Scheme Guidelines and Applications', at http://www.accan.org.au/grant_full.php?id=3

Health

The Australian Government has funded the Consumers Health Forum (CHF) since 1986:

CHF can trace its beginnings to ‘A petition of reform addressed to the Minister’, in May 1985, which called for a formal system of public participation to be built into the national health administration. A subsequent review of community participation undertaken by the Department of Health recommended establishment of a Health Forum consisting of a coalition of community and consumer groups to provide a strong community voice on health issues. Government funds were provided to establish ‘a health forum, made up of representatives of community groups to advise the government on health issues affecting Consumers in the 1986/87 Federal Budget’.¹¹¹

CHF is now an incorporated peak body representing hundreds of health-related community organisations (PIAC and ACOSS among them), with an annual income of approximately \$1.5 million and core staff of about 7-9 effective full time (EFT).¹¹² CHF ‘works to achieve safe, quality, timely healthcare for all Australians’¹¹³ by advocating on and researching health issues, raising health literacy, and supporting consumer health representatives.¹¹⁴ CHF has a publicly available Policy Development Framework which outlines the processes involved in the development of CHF policy and clarifies the relationship between the employed staff of CHF and those of member organisations.¹¹⁵

Community legal centres

There are about 200 community legal centres (CLCs) in Australia. The primary but by no means only source of funding for these is a joint State and Commonwealth program. Advocacy in the form of ‘law reform and legal policy’ projects is explicitly supported by the funding program, and is defined as ‘projects to influence and effect changes to the law, legal processes and service delivery to enable the community’s active participation in the legal system’.¹¹⁶ CLCs work on advocacy projects on their own, in collaboration with others, and at a State or national level through State/Territory representative organisations and the National Association of Community Legal Centres. The National Association does not receive any government funding explicitly for law reform or legal policy work, but uses funds from its membership fees to support a wide range of networks – including a Youth Network, a Women’s Legal Services Network, a Welfare Rights Network and a Human Rights Network – and to engage staff to work on law reform, legal policy or human rights issues.¹¹⁷

¹¹¹ <https://www.chf.org.au/history.php>, accessed 10/08/10.

¹¹² Consumers Health Forum, *Annual Report 2008/2009*, p 12 and p 21, at <https://www.chf.org.au/annual-reports.php>.

¹¹³ <https://www.chf.org.au/who-we-are.php>

¹¹⁴ <https://www.chf.org.au/who-we-are.php>

¹¹⁵ <https://www.chf.org.au/policy.php>

¹¹⁶ Defined by the Community Legal Services Information Service (common database used by CLCs), quoted in Commonwealth of Australia and NSW Government, *Review of the NSW Community Legal Centres Funding Program*, Legal Aid NSW, Sydney, 2006, p 64.

¹¹⁷ Communication with NACLCL, September 2010.

5.2 International models of energy advocacy

This section presents a summary of the features of energy consumer advocacy models found in four English-speaking countries with roughly similar energy regulatory environments to that of Australia: the US, Canada, the UK and New Zealand.

Appendix H contains more detailed information about energy advocacy in these four countries, including their regulatory environment (and how it differs from Australia), the models of energy advocacy that exist at a national level and, in the case of the US and Canada, the models that exist at a state/provincial level.

The United States

Regulation of energy in the US is split between the federal and state governments, but the federal government's regulation is restricted to interstate projects, competition issues, reviewing the energy market, and hydroelectricity.¹¹⁸ Retail gas and electricity are regulated by state public utility commissions through formal legal proceedings that are open to the public and to 'intervenor's'¹¹⁹ in the public interest. Most state governments also have a statutory advocate such as an 'Office of the Consumer Advocate' whose mandate is to ensure the public utility commission considers the interests of disadvantaged people during regulatory proceedings.¹²⁰

In most states there are also a number of independent legal consumer advocacy organisations that engage in interventions at proceedings of the public utility commission. Most of these organisations also provide legal advice and support to individual consumers, conduct research, provide public education about energy issues, and campaign around consumer protection issues such as service quality, reliability and price stability.¹²¹

Energy consumer organisations in the US obtain funding through a range of sources, some more reliable than others:

- > Some state public utility commissions (most notably California's) provide compensation to public interest intervenors. By way of example, California's largest energy consumer organisation, The Utilities Reform Network (TURN), has an income of about \$4 million per year, 85% of which comes from intervenor compensation.¹²²
- > Membership fees from individual consumers provide a substantial source of income for US energy consumer organisations. Some state governments actively foster memberships; for example, Illinois' Citizens Utility Board is a statute-created consumer advocacy body that receives its \$2 million annual funding from individual membership fees solicited via inserts in state mailings such as vehicle registration forms and tax returns.¹²³

¹¹⁸ www.ferc.gov/about/ferc-does.asp

¹¹⁹ Intervenor is the US term for a non-party formally participating in regulatory proceedings.

¹²⁰ For a list of all statutory advocates see www.nasuca.org/archive/about/membdir.php

¹²¹ A history of state utility advocacy is at <http://www.nasuca.org/archive/about/index.php>

¹²² www.turn.org; email from Mandy Spratt, Communications Director, TURN, 25 August 2010

¹²³ www.citizensutilityboard.org/funding.html and

www.citizensutilityboard.org/pdfs/CUBInTheNews/20060116_STPD_MissouriConsumers.pdf

¹²³ <http://www.citizensutilityboard.org/funding.html>

- > There are several national peak bodies and networks – such as the National Association of State Utility Consumer Advocates¹²⁴ and the Campaign for Home Energy Assistance¹²⁵ – which are funded through organisational membership fees.
- > Some energy consumer organisations receive funding from state governments. An example is New York’s Public Utility Law Project (PULP), which for 29 years received about \$450,000 annually from the New York government.¹²⁶
- > Most energy consumer organisations also receive grants from philanthropic funds and charities.

Energy advocacy specifically on behalf of low-income people is also undertaken from time to time by churches, charities and Community Action Agencies;¹²⁷ such organisations often base their advocacy on their experience of providing people with financial assistance for energy bills under the federal Low-Income Household Energy Assistance Program (LIHEAP) or similar state programs.¹²⁸

The United Kingdom

The Office of Gas and Electricity Markets (Ofgem) regulates gas and electricity in the UK. Its activities include working to eradicate fuel poverty,¹²⁹ for example through regulating to protect vulnerable customers.¹³⁰ Ofgem has a Consumer First Panel, a group of 100 domestic energy consumers formed to help Ofgem ensure policy developments are consumer focused.¹³¹

General energy consumer rights in the UK were for many years the domain of Energywatch and then Consumer Focus, an independent statutory consumer watchdog created by the UK government in 2007 through merging five existing consumer organisations (Postwatch, Energywatch, and the Welsh, Scottish and British Consumer Councils). Consumer Focus’s annual funding of around £15 million¹³² came primarily from consolidated revenue and from licence fees paid by energy suppliers and the postal industry. Consumer Focus’s role was to research ‘issues of concern within various markets and services’, propose policy and legislative changes, educate consumers, provide representation of vulnerable consumers to

¹²⁴ www.nasuca.org/archive/about/index.php

¹²⁵ www.liheap.org

¹²⁶ In August 2010 the organisation closed when the New York legislature failed to allow for PULP’s funding in the annual budget: pulpnetwork.blogspot.com/

¹²⁷ There are over 1300 designated Community Action Agencies in the US which ‘provide a diverse array of services to and advocacy on behalf of low-income individuals and families’: at www.capl原因.org/background-mission.html.

¹²⁸ Roxanne de Lourdes Figueroa Aguilar, *Empowering Communities Through Comprehensive Community-Based Energy Advocacy: Assessing Energy Programs and Advocacy in California and New Mexico*, 2004, Master’s Thesis, MIT, Massachusetts, at <http://dspace.mit.edu/handle/1721.1/30109>; p 54.

¹²⁹ ‘Fuel poverty’ is said to occur when in order to heat its home to an adequate standard of warmth, a household needs to spend more than 10% of its total income on fuel use. The term was popularised by Brenda Boardman, *Fuel poverty: from cold homes to affordable warmth*, Belhaven Press, London 1991, referred to in http://en.wikipedia.org/wiki/Fuel_poverty

¹³⁰ Ofgem, *Annual Report 2009-2010 Change, Challenge and the Consumer*, London, 2010, p 50; at www.ofgem.gov.uk

¹³¹ www.ofgem.gov.uk/Sustainability/Cp/CF/Pages/CF.aspx

¹³² Consumer Focus, *Forward Work Plan 2008/10*, London, 2008, p 9; at <http://www.consumerfocus.org.uk/about-us/work-planning>.

energy companies through an Extra Help Unit, and provide advice or training to staff at community agencies such as Citizens Advice Bureaux.¹³³

The Citizens Advice service consists of almost 450 independent Citizens Advice Bureaux across England, Wales, and Northern Ireland, plus the separate charity Citizens Advice, which is the national membership organisation that receives government funding then channels it to the member bureaux; Citizens Advice also provides training and support to member bureaux and coordinates national policy work. Citizens Advice Bureaux make extensive use of volunteers to deliver advice, information and support to people throughout the UK, including on energy consumer issues. In 2009/10, the Citizens Advice service spent approximately £4.3 million on policy work, around 7% of its total expenditure.¹³⁴ Current policy projects include energy issues such as fuel poverty campaigns.¹³⁵

There are a number of other charities active in fuel poverty issues, such as National Energy Action, which has an annual income of around £4.5 million – 55% from the government, 22% from sponsorship by private companies and subscriptions, and 18% self-generated, including from training fees, publications and research/consultancy fees.¹³⁶

The total level of support for energy advocacy is quite likely much higher *per capita* in the UK than in Australia.¹³⁷

Canada

Canada's energy market is only partly deregulated, with provincial governments continuing to supply much of the country's electricity and gas. In those provinces where deregulation has occurred, provincial or territorial utilities commissions similar to those in the US are responsible for regulating retail gas and electricity.

There appear to be no individual consumer advocacy organisations in Canada dedicated exclusively to energy issues. Some national consumer organisations advocate on energy, including the Consumers Association of Canada¹³⁸ and the Consumers Council.¹³⁹ Provincial organisations such as Quebec's Option Consommateurs¹⁴⁰ and Union des Consommateurs¹⁴¹

¹³³ Consumer Focus, *Who we are, what we do*, 2010, at <http://www.consumerfocus.org.uk/assets/1/files/2009/06/Who-we-are-June-20101.pdf>. In October 2010, as part of wide-ranging savings measures, the UK Government foreshadowed the abolition of Consumer Focus and the transfer of most its functions (and the transfer of advice services of the Office of Fair Trading) to the Citizens Advice service, to take effect from 2012: <http://www.bbc.co.uk/news/business-11540624> also see www.citizensadvice.org.uk/press_2010141 and www.consumerfocus.org.uk/news/e-newsletter/e-newsletter-october-2010.

¹³⁴ Citizens Advice, *Annual Report and Accounts 2009-2010*, at www.citizensadvice.org.uk/publications, p 40

¹³⁵ www.citizensadvice.org.uk/index/campaigns.htm. With the announcement of the transfer of funding from Consumer First, Citizens Advice's policy work in energy and other consumer issues will presumably increase.

¹³⁶ NEA *Annual Impact Report 2009*, at www.nea.org.uk/nea-2008-200/

¹³⁷ Allocating just 10% of the advocacy resources available to Consumer Focus and Citizens Advice to energy issues (likely an underestimate) funding for the energy work of Consumer Focus, Citizens Advice and National Energy Action was probably in the order of 6.4 million pounds, A\$10.3 million dollars at the current unusually high exchange rate. The UK has a population a bit more than 3 times the Australian population, suggesting per capita funding somewhat in excess of that available in Australia – the A\$1.5 million provided by the Panel to small end users in 2010/11 plus something less than that again from other sources. While Consumer Focus will be wound down, much of their advocacy work will be handed over to Citizens Advice.

¹³⁸ www.consumer.ca

¹³⁹ www.consumerscouncil.com/index.cfm?pagepath=Issues_Engagement&id=13928

¹⁴⁰ www.option-consommateurs.org/en/who/mission/

also engage in energy advocacy. There are also two Public Interest Advocacy Centres, one in Ontario and the other in British Columbia, which represent consumers groups and anti-poverty groups in litigation at their provincial utilities commissions.¹⁴² Awards of costs are sometimes available for this litigation.¹⁴³

Many of these consumer organisations work together on national consumer issues (including energy) via the Canadian Consumer Initiative, a non-incorporated coalition which develops common policy positions and campaign strategies.¹⁴⁴

There are a number of more localised energy advocacy campaigns in Canada, a prominent example being Ontario's Low Income Energy Network, which brings together 80 organisations to develop and promote low-income energy assistance policies, educate the public, and build the capacity of members of the network to become 'resource people' on low-income energy issues.¹⁴⁵ The network is unincorporated, with organisational members providing the resources and engaging in advocacy activities. Tenancy and environmental organisations are among the most active network members.¹⁴⁶

New Zealand

Electricity in New Zealand is regulated by the Electricity Commission, while gas is self-regulated. Energy consumer advocacy shows a kinship to the UK, particularly in its use of the concept of fuel poverty. Consumer NZ – sister organisation to the UK Consumers' Association (Which?) and the Australian Consumers Association (CHOICE) – is the country's main independent consumer body. It focuses more on providing consumer information about energy choices than advocacy campaigns directed at government.¹⁴⁷ Some energy advocacy is taken up by welfare services, including Citizens Advice Bureaux, which are similar to their namesakes in the UK; as in the UK, most of this policy work is undertaken by the peak body for the Association of Citizens Advice Bureaux.¹⁴⁸ There is also a charitable trust called Community Energy Action that models itself on the UK's National Energy Action, although it appears to engage in very little systemic advocacy.¹⁴⁹

¹⁴¹ www.consommateur.qc.ca/union-des-consommateurs/

¹⁴² See www.piac.ca/information/ and bcpiac.com/wp-content/uploads/2007/06/bcutilitiescommissionfactsheetjune2005.pdf

¹⁴³

www.piac.ca/energy/media_release_consumer_groups_appeal_ontario_energy_board_s_billion_dollar_giveaway

¹⁴⁴ The history and process of the Canadian Consumer Initiative is outlined at

www.consumerscouncil.com/index.cfm?pagePath=About_Us/Canadian_Consumer_Initiative&id=18300

¹⁴⁵ www.lowincomeenergy.ca/members/

¹⁴⁶ See for example

www.torontoenvironment.org/newsroom/reports/climate/LowIncomeEnergyEfficiencyProgram and www.acto.ca/en/community-campaigns/low-income-energy-network.html

¹⁴⁷ <http://www.consumer.org.nz/powerswitch>

¹⁴⁸ www.cab.org.nz/issues/index.html; also see B Lloyd, *Fuel Poverty in New Zealand*, *Social Policy Journal of New Zealand*, Issue 27, March 2006, pp 152-153, at www.sustainablecities.org.nz/wp-content/uploads/Fuel-Poverty-paper.pdf

¹⁴⁹ www.cea.co.nz

Review of the relevance of international energy consumer advocacy models for Australia

A review of energy consumer advocacy in the US, UK, Canada and New Zealand shows the following:

- > Energy consumer advocacy tends to be divided between general energy consumer advocacy – concerned with the interests of all consumers and covering issues such as service quality, reliability, price stability and smart meters – and advocacy on fuel poverty, which focuses on improving the ability of low-income households to afford energy through better hardship policies, government financial assistance programs and targeted energy efficiency programs.
- > Fuel poverty or low-income advocacy campaigns tend to be run by smaller, localised organisations engaged in providing material assistance to vulnerable people, such as Citizens Advice Bureaux in the UK and New Zealand, and community aid organisations and churches in the US through coalitions and networks.
- > General energy consumer advocacy tends to be conducted by organisations with a statutory or membership mandate to engage in energy policy development – for example, Consumer Focus in the UK, the Citizens Utility Board in Illinois and TURN in San Francisco.
- > The organisation of advocacy is usually strongly influenced by the design of regulatory decision-making. For example, in most US states (and some Canadian provinces), regulatory bodies make decisions through legal proceedings which allow for intervention by public interest bodies, leading to a plethora of legal NGOs active in energy advocacy; this is particularly the case where jurisdictions allow for intervenor compensation. In the UK and the NZ, as in Australia, regulatory decisions are not litigated in this way and therefore advocacy NGOs tend to be focused on policy submission writing and lobbying rather than legal advocacy.
- > Broad national consumer advocacy organisations such as the consumers associations in the UK, US, Canada, New Zealand and Australia conduct very little advocacy in relation to energy issues; their work is usually limited to providing information to assist consumers to choose between energy providers.

5.3 Types of international advocacy models in Australia and overseas

The different models of consumer advocacy outlined above – in other industries in Australia or in the energy consumer sector overseas – can be grouped into five broad groups. Each group/model has strengths and weaknesses, as outlined below.

Statute-created advocates/watchdogs – Examples are UK’s Energywatch and Consumer First and Illinois’ Citizens Utility Board.

National/jurisdictional peak bodies – Examples are Australia’s National Association of CLCs and Councils of Social Services, the US National Association of State Utility Consumer Advocates, and the peak Citizens Advice associations in the UK and NZ. One strength of peak

bodies is the structured way they formulate policy, such as using committees/networks on particular topics; these committees allow local organisations to share what’s happening at their state level, which can then inform national policy to guide the national peak body’s advocacy at a national level. Another strength is the way such bodies are able to maintain a clear link between their advocacy and consumers, through the day-to-day experience of their frontline member agencies. However, this strength may come at the cost of high governance overhead, as the rules for policy development may use up member time, or hinder quick responses or the building of effective campaigns. Such organisations also seem to suffer from low funding, being funded mostly through membership fees rather than ongoing government or other funding. They are often stretched across the many different sorts of disadvantage experienced by consumers – they tend to be generalists not specialists. Funds can sometimes be taken up by a secretariat function rather than earmarked for proactive campaigning or research/technical advice.

Formal coalitions of agencies – Examples include the Canadian Consumer Initiative. These coalitions can act on national policy issues while diverse member agencies can act separately on their local/specialist issues. The strength of this model is that it allows for a diversity of voices, but a weakness might be a difficulty in aligning all members’ policy positions.

Informal standing or ad hoc coalitions/campaigns – Examples include the Campaign for Home Energy Assistance Low Income Energy Network in Ontario and the US Campaign for Home Energy Assistance. Strengths are they can draw on expertise of a wide range of different groups at any time and do not need to devote time to agreeing policy or governance arrangements; weaknesses include a lack of ongoing funding and the need to ensure members of the coalition agree with policy directions (often operating on a consensus basis with members free to disagree).

Legal centres or legal consumer advocacy organisations – These are substantially funded by costs for intervening in regulators proceedings or other legal actions. Prime examples are organisations such as TURN in California and the PIACs in Canada. Intervenor funding in California has led to a growth of active, passionate consumer advocacy NGOs that are not reliant on government funding but can use fees from legal matters and memberships to campaign for consumers’ interests where they conflict with those of corporations and governments. There is no equivalent system in Australia among energy regulators. Australian CLCs such as PIAC and Consumer Action do not routinely recover significant costs from their public interest casework.

6 Models for energy consumer advocacy in Australia

This chapter describes a number of possible models for energy consumer advocacy in Australia, after first identifying criteria that should underlie the development of an effective model. These criteria are made up of the *principles* that should govern design of a national consumer advocacy system (6.1) and the *functions* that such a system should perform (6.2).

The focus of the chapter is on providing options for the model of consumer advocacy that should be funded by the Consumer Advocacy Panel. Other funders, including State and Territory governments, charitable trusts and individual NGOs, should and probably will support energy consumer advocacy, although their priorities are likely to be different to those of the Panel.

The point is not to stress any (rather theoretical) need to avoid duplication¹⁵⁰ but to focus on the inevitability of a diversity of voices and the need to maximise interaction, information-sharing and coordination. This issue is picked up as one of the proposed principles for system design below.

The final section of the chapter (6.3) outlines six broad models for the organisation of advocacy. The intention is that the criteria for system design – the principles and functions – can be used to inform discussion on the optimal model for a system of energy consumer advocacy in Australia, or at least that part of it within the responsibility of the Panel.

6.1 Principles for energy advocacy

This section identifies *principles* that could be used to assess the relative merits of a system for energy consumer advocacy, drawing on:

- > principles proposed in previous reports on consumer advocacy in energy
- > information and views provided in consultations
- > responses to the draft principles circulated as part of the stakeholder survey
- > an analysis of the reported strengths and weaknesses of current energy consumer advocacy set out in Chapter 3 above. Future developments in the energy advocacy system should build on the *strengths* of the current advocacy system and, as far as possible, respond to current *weaknesses*, and

¹⁵⁰ This was a concern of a 2008 ACIL Tasman review of energy advocacy: ACIL Tasman, *Advocacy Process: Final report on the gaps and overlaps in advocacy*, Prepared for the NECAP, June 2008. There are a number of reasons why the rather theoretical problem of duplication should not be a key focus of attention. First, there is an enormous amount of work that needs to be undertaken by advocates, much of which is not reached. Second, there is little to no evidence of duplication of effort (as opposed to differences of opinion or sub-optimal coordination). Third, it is not possible *a priori* to determine with certainty that on a given question several advocacy organisations working on the same issue is not in fact the most effective way to advance consumers' interests.

- > comments received on the draft Report circulated in December 2010.

Some of the principles that should underlie an effective system of energy advocacy are not controversial. To the extent that there is broad agreement as to what they should be, what they mean and their relative importance, then drawing them out will not provide the assistance required by decision-makers to make hard decisions about system design.

It is where views differ on whether a suggested principle should apply, what precisely it means and/or its relative importance in relation to other principles that refinement of those principles through debate and analysis can help clarify a preferred approach. For example, if a principle can be refined by more precisely identifying the underlying need and assessing the importance of that need in light of past experience, then an apparent conflict with another important principle may be eliminated or reduced.

There is broad agreement, for example, that energy consumer advocacy in Australia would benefit from a national voice, but not on *when* a national voice is required, nor *what exactly* is meant by a national voice. There are also a range of views about the relative importance of this principle as against other principles that seem to some degree to be in conflict with it – for example the widespread recognition of the value of advocacy at a jurisdictional level and local input into national policy issues. The object of this discussion is to ensure that principles accurately reflect the underlying need, and that the way a principle is expressed does not incorporate a way of meeting the need that closes off potential alternative solutions.

Responses to the principles set out in the stakeholder survey

The stakeholder survey sought respondents' views on a set of principles that might guide the development of a national advocacy system.¹⁵¹ Respondents were also invited to suggest additional principles.

Table 6.1 sets out the principles suggested in the survey instrument and the relative importance placed on them by all respondents. The responses have been reordered according to the average rating by respondents.

¹⁵¹ Question 39 asked: 'Please indicate the importance or otherwise of each of the following possible principles in the design of an effective energy consumer advocacy system in Australia. Please use 'Very Important' for the three principles you think are the most important and then use 'Important' or 'Not Important' for the rest.'

Table 6.1: Rating the importance of suggested principles for energy advocacy, sorted according to rating average

	Very important	Important	Not important	Rating average	Response count
1. The advocates work strategically to undertake work that is most likely to advance energy consumers' interests, including a mix of work that is both proactive (setting its own agenda as to issues) and responsive (responding to the agendas of regulators/government)	82.1% (23)	17.9% (5)	0.0% (0)	2.82	28
2. The advocates act in consumers' interests based on a robust connection to energy consumers (whether through membership, casework, service provision, research or otherwise)	75.0% (21)	25.0% (7)	0.0% (0)	2.75	28
3. The advocacy system/network uses a principled approach to balance the long-term and short-term interests of energy consumers and the interests of different groups or classes of energy consumers.	60.7% (17)	35.7% (10)	3.6% (1)	2.57	28
4. The advocacy system/network includes the capacity to support the informed voices of diverse energy consumer interests reaching decisions-makers	60.7% (17)	32.1% (9)	7.1% (2)	2.54	28
5. The advocacy system/network ensures a long-term strategic approach to consumers' interests in energy policy and regulation, including through possessing a strong corporate memory.	29.6% (8)	66.7% (18)	3.7% (1)	2.26	27
6. The advocacy system/network is able to sustain expertise/interest/engagement in local-level organisations	28.6% (8)	64.3% (18)	7.1% (2)	2.21	28
7. The advocacy system/network includes or has effective access to expertise on technical energy issues, including engineering issues, regulatory economics and environmental issues	29.6% (8)	55.6% (15)	14.8% (4)	2.15	27
8. The advocates have expertise in consumer advocacy	21.4% (6)	71.4% (20)	7.1% (2)	2.14	28
9. The advocacy system/network is able to build and maintain capacity in other NGOs to undertake energy consumer advocacy	21.4% (6)	60.7% (17)	17.9% (5)	2.04	28

While all of the principles proposed in the survey received strong support, only the first two listed in Table 6.1 were regarded as ‘very important’ or ‘important’ by all respondents. In relation to some of the principles, comments received through the survey or otherwise suggest the need to clarify the intent of the principle. Further, some of the principles capture more than one idea and/or the principle or an element of it has been criticised as not especially useful in discriminating between different advocacy models. After discussing each principle, together with further suggested principles, the report proposes an adjusted set of principles responding to these concerns.

1. The advocates work strategically to undertake work that is most likely to advance energy consumers’ interests, including a mix of work that is both proactive (setting its own agenda as to issues) and responsive (responding to the agendas of regulators/government)

This principle was the most strongly supported by survey respondents. It is quite similar to one of the three core principles for an advocacy system advanced by KPMG in their 2005 report for the MCE: ‘[adoption of] a strategic forward looking approach to help select and prioritise issues requiring advocacy, that are significant to consumers’.¹⁵²

While there is no dissent on the broad thrust of the principle, comment on the strengths and weaknesses of the current system suggests that it is not realised in practice to the extent it might be. This suggests there is a need to provide more detail about what would be required to see the principle realised.

There was an important strain of comment from some former NGO advocates and from national regulators about the need for advocates to focus on the strategic matters underlying impacts on consumers and not so much on the detail of those impacts:

At times, there is considerable focus on the impact of regulatory decisions without sufficient recognition of the rules framework in which they are made. There could be greater focus on the development of rules by the AEMC. For example, at a forum convened by the Consumer Advocacy Panel in October 2009, much of the discussion focussed on the AER’s regulatory determinations, and there was almost no discussion of the electricity and gas rules frameworks under which they were made.

Consumer advocates have not yet become actively involved in sponsoring rule changes in relation to economic regulatory rules, even though these rules can have considerable impact on small consumers.

[There is often] too narrow a focus – looking at the fine detail and not the bigger strategic issues (e.g. with [advocacy around the] NECF advocates were slow to drive the issue of [changes required to] the objective[s] clause but spent a lot of energy on minor rules provisions).

[Advocates are] focused on the end outcome without spending the energy to examine the entire regulatory framework (e.g. retail price regulation is less effective when network prices are rising by 20% and more per year).

¹⁵² KPMG 2005 p 1.

This observation is closely aligned with a perceived strength of the current system, that advocates are strong on retail issues – consumer regulatory policies and practices such as energy efficiency, concessions, hardship policies and rebates. Conversely, a perceived weakness is that the focus on the end outcome means less attention to the overall regulatory framework, including the role played by generators and distributors.

This discussion suggests some specific areas for focus by advocates that are (it is said) not getting enough attention, including network pricing and rule changes. It also suggests that the advocacy system should have greater capacity for making and implementing strategic decisions. What has not yet been explored, as part of this project, is whether the failing identified here is widely agreed, and if so the reasons behind that failing – is it due to a lack of resources, or absence of technical expertise, or disincentives unwittingly built into funding arrangements such as one-year funding agreements? Or is the problem rooted in aspects of system design such as relatively weak support for national coordination and planning?

As formulated by KPMG, the principle focuses a little more on problems of prioritisation. KPMG tends to locate strategic orientation and prioritisation of issues at the level of the Consumer Advocacy Panel rather than at the level of advocacy organisations individually or collectively. It has not been part of our task to assess the effectiveness of planning and prioritisation undertaken by the Panel. But, clearly, whether the work is done by the Panel or by advocates, an effective way to prioritise consumer advocacy towards the activities that will have the greatest impact is a key criterion for a future system, and this should be brought out more strongly in the principle.

2. The advocates act in consumers' interests based on a robust connection to energy consumers (whether through membership, casework, service provision, research or otherwise)

This principle was also strongly supported by respondents. As documented in Chapter 3, advocates report a range of effective strategies to understand consumer experience, and the fact that consumer advocacy currently provides a voice for consumer interests in relation to energy is widely perceived as a strength of current arrangements.

3. The advocacy system/network uses a principled approach to balance the long-term and short-term interests of energy consumers and the interests of different groups or classes of energy consumers

This principle was strongly supported by survey respondents. It was the principle most strongly supported by energy suppliers and industry bodies (a small group of only three respondents).

On the other hand, some respondents suggested that this principle is at such a high level of generality that it would be difficult to apply it to assist the making of hard decisions between alternative models. This concern is probably truer of the requirement to balance the long- and short-term interests of consumers than to balance the interests of different groups of consumers.

4. The advocacy system/network includes the capacity to support the informed voices of diverse energy consumer interests reaching decision-makers

Also well supported, this principle is related to but a little different from the problem raised under the previous principle. Here the focus is on the ability of the system to represent a diverse range of interests rather than its capacity to balance those interests. This principle was also rated highly by the small group of energy suppliers and industry bodies that responded to the survey.

The stakeholder survey and consultations endorsed a view put forward at the 2009 Consumer Advocacy Panel stakeholder forum that:

there can be value in having a diversity of views and approaches, and this may be lost within a single national advocacy organisation.¹⁵³

This view has received support from the Productivity Commission. In its 2008 *Review of Australia's Consumer Policy Framework*, the Commission considered but rejected a proposal for a single National Consumer Council model for consumer advocacy. In doing so the Commission noted that it was 'not convinced that making a single new publicly funded body primarily responsible for consumer advocacy would ensure that the full range of consumer perspectives continued to be adequately represented'.¹⁵⁴

A number of consultees advanced the view that the current arrangements work particularly well in managing the diversity of consumer views, or had worked well in the recent past, and that with some minor adjustments would continue to be effective. These consultees either explicitly or implicitly placed a high value on the benefits that flow from advocacy emanating from a wide number of different organisations of different types and/or from different geographic locations.

As noted in the discussion of the interests served by consumer advocacy in section 3.4, it is important not to overstate the difficulties faced by the system of energy advocacy in addressing diverse consumer interests. If energy advocacy was characterised by several consumer interests that were routinely sharply opposed, then that might dictate in favour of funding different organisations focusing on each of those interests. However, as argued in Chapter 3, there are in fact quite a large number of different consumer interests. It would not be efficient to fund an energy advocacy organisation representing each interest.

Further, to a large degree, the extent to which those interests are in conflict depends on the issue. On many issues, much of the time, most or all of those consumer interests are in alignment rather than being sharply opposed. One exception may be suggested by the international experience with fuel poverty campaigns. In the US and UK in particular, fuel poverty campaigns tend to be seen as a smaller, quite specialised field within the broader energy advocacy arena. This suggests that there may be a case for conceiving the interests

¹⁵³ Etrog Consulting Pty Ltd for the Consumer Advocacy Panel *Stakeholder consultation forum to identify current and emerging consumer energy issues 2009-14*, February 2010, p 21; at <http://www.advocacypanel.com.au/documents/StakeholderConsultationForum-EtrogConsultingfinalreport-2February2010.PDF>; see Appendix B for a summary of the issues raised.

¹⁵⁴ Productivity Commission, 2008, Vol 2 p 290.

of low-income and disadvantaged people as separate, but only in relation to a particular set of issues.

In Chapter 3 it was noted that it is widely agreed that Indigenous people and people from rural areas are not well served by current advocacy arrangements. It is likely they have particular interests that may not be adequately put forward to decision-makers. If fully applied, this principle would overcome that current apparent failing.

5. The advocacy system/network ensures a long-term strategic approach to consumers' interests in energy policy and regulation, including through possessing a strong corporate memory.

There is considerable overlap between this principle and principle 1 above (emphasis on strategic approach) and part of principle 3 (balancing long and short term interests). The remaining element – a call to maintain a strong corporate memory – can be adequately included under a proposed new principle that the advocacy system be efficient and effective.

6. The advocacy system/network is able to sustain expertise/interest/engagement in local-level organisations

The importance of this principle was emphasised by some NGO consultees who stressed the role of advocacy organisations informing and listening to networks of broader community organisations, and by some survey respondents, one of whom stated that 'interaction with local level organisations is crucial'. A capacity to do this is clearly one of the strengths of the current system. This principle was, however, rated somewhat lower by survey respondents than five other principles. Perhaps surprisingly, government departments, energy regulators and ombudsman bodies were *more likely* than other groups to think it important for the advocacy system to sustain interest in local level organisations. The lower rating by NGOs in the survey is at least to some degree at odds with strong feedback from some (other?) NGOs during consultations, and also with the finding (reported in Chapter 3 above) that consultation with community organisations is one of the primary ways in which a majority of advocacy organisations inform themselves about consumers' experiences and opinions.

This principle is closely related to principles 3 and 4 above and should be grouped with them.

7. The advocacy system/network includes or has effective access to expertise on technical energy issues, including engineering issues, regulatory economics and environmental issues

In its 2005 report to the MCE, KPMG identified three high-level principles for the system of advocacy, one of which was:

access to a high level of technical expertise to provide the standard of advice that is required to positively influence market regulation developments.

The need for increased advocacy on matters which require higher levels of technical expertise has also been an issue raised by the Panel and other stakeholders at times. By

‘technical expertise’ stakeholders refer predominantly to economics, engineering and environmental science, but also on occasion to legal expertise and regulatory expertise.

There were nevertheless a number of dissenters among survey respondents (15%) from the proposition that it was ‘important’ or ‘very important’ that ‘The advocacy system/network includes or has effective access to expertise on technical energy issues, including engineering issues, regulatory economics and environmental issues.’ This was as true of NGO respondents as government departments, energy regulators and ombudsman bodies.

Our consultations suggest that one possible reason for the less positive support for access to technical support by advocates may flow from a lack of specificity about what is meant by technical support, that it is only required for some areas of advocacy but not others, or from doubts about how increased access to some forms of support can be achieved in practice. Advocates generally felt it was easier (if costly) to get access to sufficient economic expertise – for example, in relation to contributions to market design issues considered by the AEMC – than on engineering issues.

The potential value of increased access to technical expertise was frequently mentioned in consultations. One issue where advocates felt they have insufficient technical expertise was in understanding the detail of energy infrastructure.

It is important to note that a number of consumer advocacy organisations have employed staff with expertise in economics, environmental science network regulation and engineering. Environmental advocacy organisations interested in energy issues (such as the Total Environment Centre and the Alternative Technology Association, ATA) in particular have access to strong technical skills.¹⁵⁵ ATA commented on the positive impacts of recruiting a staff member with engineering qualifications to undertake energy advocacy: ‘This allows a whole range of conversations to be had with for example regulators and energy companies, and has perhaps lead to invitations to participate in processes that may not have otherwise been issued.’¹⁵⁶ Advocates consulted acknowledged that general consumer advocacy benefits from the current strong links with the environment advocacy organisations. There is some similar experience overseas. Two of the most active member organisations of the Low-Income Energy Network in Ontario are environmental groups who have commissioned private consultants to design a low-income energy assistance scheme and taken the lead in negotiating with government on the establishment of the scheme.

Whatever the reason this draft principle was not supported by some survey respondents, there is no doubt that access to certain kinds of technical expertise can often increase the effectiveness of advocacy. That access may be provided through employing staff with relevant skills in one or more NGO advocacy organisations, establishing a system to engage consultants to support NGO-based advocates, or other ways. Some consultees noted, for example, that stronger relationships with university research centres might be one way to provide advocates with increased access to relevant technical expertise and/or technical research.¹⁵⁷

¹⁵⁵ CUAC

¹⁵⁶ ATA, consultations for this project.

¹⁵⁷ CUAC, CCCL.

Several people suggested that a system be designed to make available ongoing technical expertise relevant to distribution price reviews, noting that the cycle of reviews moving from one jurisdiction to another over a five-year period means that it is likely to be challenging for any one State/Territory-based organisation to maintain the staff that participate in one review for the next one.

8. The advocates have expertise in consumer advocacy

This principle was rated as ‘important’ or ‘very important’ by most respondents. Despite two respondents suggesting that this principle was not important, it is hard to see that consumer advocacy will be successful if advocates do not have the expertise and skills to be consumer advocates, including skills and knowledge relevant to advocacy, public policy, social justice and community services. Not being a field of study or professional qualification, the particular nature of consumer advocacy skills is perhaps under-recognised. Be that as it may, while the importance of such expertise should be recognised by the advocacy system, this principle is unlikely to help distinguish between alternate models for an advocacy system. It should be included in a list of principles to guide the operation of advocacy rather than among those that may help guide decision-makers towards the best model.

9. The advocacy system/network is able to build and maintain capacity in other NGOs to undertake energy consumer advocacy

This was the lowest-rated principle: 5 of 28 respondents did not think it important as a principle for advocacy. There is no doubt that there is some disagreement at the margins as to whether providing information to others (consumers or other NGOs) and building capacity in other ways is a proper function of advocacy. This issue is further considered in the discussion of functions below (6.2). The 2005 KPMG report to the MCE did identify as a principle for the system that it ‘build advocacy capacity’.¹⁵⁸ It is not clear whether the report had in mind building capacity in Panel-funded advocacy organisations or building advocacy capacity more broadly.

We suggest that given this ranking, the issue here is sufficiently covered by principle 6 above.

Additional principles

Additional principles were suggested in response to the survey, were raised directly or by implication in the course of consultations, or arose from a review of previous work on energy consumer advocacy.

10. The advocacy system provides incentives and support for effective collaboration among advocates

An undoubted strength of current arrangements is the existence of a strong network that collaborates on key national issues both formally and informally through the Roundtable. As noted by one survey respondent, ‘cooperative working arrangements between NGOs

¹⁵⁸ KPMG 2005.

engaged in energy advocacy, whether provided with resources by the Panel or not, is important and can be very effective’.

Perceived weaknesses in current coordination include that:

- > the Roundtable funding is too limited
- > there is insufficient resourcing for coordination between disparate consumer groups, and
- > advocates concentrate on their separate agendas without being accountable to the wider network.

Organisations funded to undertake energy advocacy by the Panel will need to work closely with other organisations undertaking energy consumer advocacy. Cooperation is required to increase both effectiveness (achieving results for consumers) and efficiency (doing so with the optimum use of limited resources). This suggests that a coordination mechanism similar to the Roundtable will continue to be required, no matter what model is adopted.

While coordination will be required in all models, it is possible that some models may be more effective in delivering that coordination than others.

11. The advocacy system supports advocates representing different interests to exchange views, explore common positions and, where appropriate, coordinate advocacy

As noted above, it strengthens the policy positions developed by advocates and ultimately by government when advocates representing different interests can engage in dialogue aimed at developing policy solutions which meet the needs of both or several interests or at least minimise the trade-offs required between positions. An example of this is the alteration in different advocates’ understanding of the best way forward on solar photovoltaic feed in tariffs achieved through dialogue between advocates interested in the long-term interests of consumers in diversifying energy sources and promoting sustainability and those concerned with the immediate impact on low-income consumers’ energy bills.

12. The advocacy system should be efficient, effective and accountable

Similarly, any system that disperses money ultimately derived from consumers (or taxpayers) needs to ‘deliver efficiency, effectiveness and accountability’, as noted by KPMG in 2005.

13. The advocacy system has capacity to generate, collate, store and retrieve relevant data and research

A perceived weakness in the current system is inadequate access to data, and lack of a research base on energy consumer issues. Different arrangements may make this issue easier or harder to address; it is nevertheless probably not a first order issue.

14. The advocacy system should ensure that consumer interests are represented by a credible, effective and responsive national voice where required

15. The advocacy system should ensure that necessary advocacy at a State/Territory level is supported

16. The advocacy system should ensure that relevant local and State/Territory specific issues that impact on consumers and energy markets are available to national decision-makers through consumer advocacy

These three principles are discussed together as they go, each pulling in different directions, to one of the core tensions in considering optimal models for energy consumer advocacy. Principles 3, 4 and 11 above are also relevant.

The question of a national voice is one of the key *apparent* points of tension in designing an effective system of energy consumer advocacy. In our view, the tensions arise at least in part due to a tendency to put forward a particular solution to a perceived problem (the lack of a national voice) rather than examining the underlying need in detail. The following therefore teases out the issues in order to derive the correct principles to address the perceived problem.

First, there is concern that it will be difficult to meet, on one hand, the expressed need to increase the ability of consumer advocates to participate in national processes with a national voice and, on the other, the several distinct perceived benefits of a local presence.¹⁵⁹ These benefits include:

- > improved ability to represent a diverse range of consumer interests (see principle 4 above)
- > improved ability to understand and advocate in relation to the particular interests of consumers whose issues may be more local, for example in relation to State government concessions, or the policies of a local energy retailer (see principle 15 above), and
- > the particular impact of the local environment on energy costs or reliability (see principle 16 above).

This debate involves a number of issues that interrelate and that are worth drawing out. Essentially there are explicit or implicit differences of opinion about:

- > the locus of decision-making now and in the near future (within Commonwealth institutions or within institutions operated by or significantly influenced by State governments)

¹⁵⁹ See for example The Allen Consulting Group, 2010, p 16. With the qualification that 'The governance arrangements for energy consumer advocacy' were not within their brief, the report provided a summary of views on this point: 'In summary, some stakeholders believed that a larger national energy consumer advocacy body is needed to effectively counteract the advocacy capacity of the energy industry. Conversely, some stakeholders noted that such an approach could result in a narrower range of perspectives being heard, as funding would be focused on issues considered a priority by such a body.'

- > the way in which an advocacy model can ensure the *local* interests of particular consumers can be advanced
- > the way in which an advocacy model can ensure that *diverse* consumer interests can be advanced
- > whether what is missing in terms of ‘national voice’ under current arrangements is:
 - > any adequate national voice
 - > a single national voice
 - > better coordination of multiple voices.

Appendix J includes a full account of survey respondents’ views on the energy advocacy issues that will have the most impact on consumers in the near and medium term. The most commonly cited issues were absolute and variable price issues, hardship and rebate policies, smart meters, climate change policy, and the impact and ongoing review of the NECF. A significant but not overly dominant theme was the impact of several changes that will see more decisions made at the national level:

Core consumer protections will be provided on an increasingly national basis, weakening the ability of consumer advocates to achieve outcomes by dealing directly with individual State/Territory governments.

The AER will soon take over the regulation of retail energy in most of Australia. This will require the formation of new relationships and links between advocacy organisations and the regulator in order to effectively monitor the development and implementation of these retail regulations.

While nationalisation, or at least centralisation, of decision-making has occurred and will continue, the rate of change appears to have slowed considerably. Many consultees pointed out that the public and the media continue to locate primary responsibility for the energy issues that they care about with State/Territory governments. Whether they like it or not, State governments have not yet been able to escape the public perception that they are responsible for energy issues. The impact of the Victorian controversy over smart metering during 2010 and the late 2010 campaign by the *Daily Telegraph* on energy prices in NSW are just two examples of this public concern. Moreover, there are a range of ways in which decisions by State and Territory governments will continue to have an important impact on consumers, both through their role on the MCE and in their administration of concessions and hardship programs in their jurisdictions.

While an increasing proportion of advocacy will focus on national decisions, the need to exercise influence at a State/Territory level in relation to those decisions is likely to continue.

Second, there is a view that jurisdiction-based organisations are more in touch with the interests of consumers. TasCOSS, for example, made a number of points in arguing that a locally based advocacy organisation was essential for two main reasons:

- > there continue to be many important energy decisions made by State-based decision-makers
- > there are many distinctive features of Tasmania that need to be taken into account in national decision-making on energy such as:
 - > energy efficiency issues related to the poor housing stock and the cool climate
 - > the absence of a gas alternative for energy customers
 - > social issues arising from the fact that Tasmania has the lowest average household income and a widely dispersed population.

One of the principles proposed in the stakeholder survey was that ‘the advocacy system/network is able to sustain expertise/interest/engagement in local-level organisations’ (see principle 6 above).

The points made here suggest two additional local-focused principles, one relating to the capacity to undertake advocacy directed to State/Territory decision-makers, including in their capacity as members of the MCE (principle 15), and the other recognising the value for national advocacy of advocates with a good understanding of the way particular local features affect consumers in relation to energy.

Finally, there is the question of what kind of ‘national voice’ is required as a matter of principle. As noted above, the need for advocates to speak with an effective and credible national voice when required is not doubted. Some of the ‘perceived weaknesses’ raised as part of the stakeholder survey were insufficient attention to national issues, an insufficiently strong national voice, and insufficient national coordination of advocacy.

But there is no strong case for a *single* national voice.¹⁶⁰ Only one person consulted in the course of this review advocated such a position. It has sometimes been suggested that some people involved with national policy development or regulation hold or once held a similar view, whether as a result of the KPMG report or otherwise. However, neither the AEMC nor the AER advanced this view during the current consultations.

Based on the circumstances of 2010 and the input to this review, an argument in favour of a single national voice cannot be sustained. Such an approach was not, during the course of the research for this report, advanced by any energy regulator, policy department or NGO currently engaged in energy advocacy in Australia.¹⁶¹

¹⁶⁰ The 2005 KPMG report to the MCE identifies as one of its three high level principles ‘[the capacity to] provide advocacy on behalf of consumers, *through one focused point*, to the Australian Energy Market Commission (AEMC) and the Australian Energy Regulator (AER)’ [p 1]. This may read as supporting the view that a single voice is needed, at least in relation to advocacy to the two main Commonwealth regulators. If so the view is not supported by strong argument in the report, and it is specifically qualified by a recognition later in the report of the need for State based advocacy where it qualified the ‘need to have a primary focus on national energy market arrangements’ by adding ‘but with the flexibility to address matters of significance to consumers that may fall within the States’ or Territories’ areas of responsibility, where this may be appropriate’ KPMG 2005.

¹⁶¹ One consultee with considerable expertise in energy advocacy strongly advocated that energy advocacy resources should be centralised into a single national body for a range of reasons, not just the possible need for a single voice.

The 2005 KPMG report contrasted a desirable national voice to the undesirable situation of many organisations with a diverse focus:

the number and diversity of focus of existing consumer organisations mean that there is not at present, one unified voice on consumer issues. The consultations we undertook to inform this report also suggest that current organisations collectively have neither the capacity nor coordination capability to meet the advocacy needs posed by energy market reform, in a streamlined and efficient manner.¹⁶²

Statements such as this may well have had some force in 2005. They are less compelling now, in particular because coordination capability is significantly greater than it was five years ago and could readily be further increased. More importantly, creation of a single national advocacy organisation is not the only way to ensure that a national voice can be heard. If that is right, then to insist on meeting the need for an effective and credible national voice with a single voice would risk losing significant current benefits for only some gain.

The 2005 KPMG report focused very much on the AEMC and AER as the objects of advocacy. While those bodies make many significant decisions, they do not make them all, and they in turn are influenced by others, including State/Territory governments and the Australian Government. For advocates to represent consumers well, they will need to participate in a wide range of processes. Some of those processes will operate at the State/Territory level or include important participation from State/Territory governments for many years yet.

In considering what kind of national voice is needed, and how to apply a principle that identifies the need for a national voice where required, it is useful to separate out a range of different purposes and audiences. The national voice may need to operate at any of the following levels:

- > agenda-setting
- > coordination
- > decision-making (e.g. among advocates on a national policy position)
- > speaking out publically
- > responding rapidly to requests for definitive input.

Issues related to how a national voice would operate include:

- > accountability, and
- > duty to represent the diverse consumer interests.

In summary:

- > There is no case for a *single* national voice.

¹⁶² KPMG 2005 p 1.

- > There has been and will continue to be an increase in decisions with significant impacts on consumers being taken at a national level, but State/Territory-based decisions and the ongoing responsibility of State/Territory governments for energy policy will be a feature of the advocacy landscape for some time.
- > On many but not all issues, and in many but not all national forums, advocacy is strengthened where consumer advocates are able to put forward a unified national position and if necessary speak with one national voice.
- > On most issues where there are competing consumer interests, both consumer advocacy and public policy outcomes are better served where advocates for those diverse interests have the opportunity to test their ideas and look for common ground (see principle 11 above).
- > There are a number of circumstances where local or at least jurisdiction-based organisations will have greater insight into the issues facing consumers in the jurisdiction; while there may be alternative ways to ensure that those consumers' voices are heard and those issues are taken up, it is not clear that those alternatives would be more efficient and effective in the abstract, and it would be an unnecessary waste of resources in undermining or abandoning the human and social capital represented in the experience, skills base and established networks of the existing jurisdiction-based advocacy organisations.

Principles that go to operation of an advocacy system rather than the model

A number of the suggestions point to valid principles about how an advocacy system should operate, but these may not be useful as principles to help determine the structure of the overall system. These include:

- > *Advocacy should be independent and free of conflict of interest* – That advocacy should be undertaken 'without conflict of interest'¹⁶³ and 'deliver independence'¹⁶⁴ is uncontroversial and should be included in the principles.
- > *The advocacy system and its elements should be sustainable* – A closely related principle is the need for any advocacy system (and its elements) to be sustainable. One of the perceived strengths of current advocacy is that there is a reliable and accountable source of funding (i.e. the Panel); perceived weaknesses include that Panel funding is (perceived to be) somewhat ad hoc and in any case insufficient to support the amount of proactive advocacy required. Whether or not this is so, some regard needs to be had for the ability to recruit and retain committed and skilled staff. In the course of its evaluation of two Panel-funded projects, Allen Consulting made a similar point:

Energy is a relatively complex area of public policy. Consequently, the capacity of advocates to represent consumers tends to develop over extended periods of time. In the case of both TasCOSS and CALC, significant energy advocacy expertise

¹⁶³ Survey respondent.

¹⁶⁴ KPMG 2005.

has built up due to several years of funding from the Panel. However, as this funding is directed towards salaries, it can be depleted quickly due to the departure of a key staff member. The expertise then needs to be rebuilt, which may take considerable time and requires further funding. Given the productivity benefit from funding continuity, funding for a longer period than one year could be considered where these criteria are met: Panel funding is being directed towards a salaried position; organisations have demonstrated good practice advocacy; and there is a clear and ongoing need for advocacy on behalf of energy consumers.¹⁶⁵

A principle that the advocacy system and its elements should be sustainable might impact on the minimum size of any advocacy project, matching advocate location to the labour market and ensuring that the timing and structure of funding is consistent with staff retention objectives.

- > *The advocacy system should promote interaction with other consumer advocates* – Survey respondents noted that ‘energy advocacy should not operate in a silo apart from other consumer advocacy needs’. Energy is just one of a number of issues that are the subject of consumer advocacy. Many analogous policy issues and policy processes face consumer advocates working in other fields (such as telecommunications, other utilities, financial services and health). There is likely to be a great deal that energy advocates can learn from policy development experiences in other markets and regulatory systems, and vice versa.
- > *The role of advocacy in promoting early engagement with consumer issues by government to ensure advocates are involved in all stages of the policy development process* – One of the perceived weaknesses of the current advocacy system is the failure to involve governments at a sufficiently early stage of the policy development process, an observation not limited to the energy field.

It is evident – for example from the NECF case study (section 4.2) and from anecdotal information about other controversial issues – that advocates do not have sufficient resources to maximise the pressure on governments to ensure that their starting point in developing policy is to include consumer advocates in their initial thinking/agenda-setting. The effectiveness of consumer advocacy is influenced by the *policy development and implementation procedures* put in place by decision-makers. A number of government reviews, including the Business Regulation Task Force and the Productivity Commission Review, have identified failings in these decision-making processes, including failing to consult, failing to consult in an effective or meaningful way, consulting too late in the decision-making process, and providing too short timeframes for responses.¹⁶⁶ All things being equal, an advocate is usually likely to get a better outcome in a negotiated process if the interests that are represented are strongly taken into account in the way in which an issue is initially framed.

¹⁶⁵ The Allen Consulting Group, *Evaluation of 2008-09 Consumer Advocacy Panel Grants*, Report to the Consumer Advocacy Panel, 2010, p 15

¹⁶⁶ Report of the Taskforce on Reducing Regulatory Burdens on Business 2006; Productivity Commission *Review Of Australia's Consumer Policy Framework* Vol 2 p 278.

This is no doubt an important problem faced by advocates from time to time, and it may well be an issue that they should take up both at a systemic level and as required, but it does not obviously give rise to a principle that will help to design and evaluate the most effective system of funded consumer advocacy.

Principles for an energy consumer advocacy system – conclusions

The following set of principles for an energy consumer advocacy system has been prepared on the basis that each principle captures *one* key idea (unlike some of the draft principles proposed at the time of the stakeholder survey); where there are related but distinct ideas they have been included as a sub-principle. The first list includes principles potentially relevant to the design of an advocacy system. The second list includes those principles that would apply more or less equally regardless of the system design. The numbering of principles has changed from that in the discussion above in response to the alterations made to the principles in light of the discussion. The principles have been listed in what seems a convenient order; the ordering does not suggest priority among them.

System design principles

P1. The advocacy system is strategic: that is it is able to allocate resources to the activities most likely to advance energy consumers' interests, including proactive and responsive advocacy as required.

P2. Advocacy is based on a robust connection to energy consumers (whether through membership, casework, service provision, research or otherwise).

P3. The advocacy system is able to build and sustain expertise, interest and engagement in local-level organisations.

P4. The advocacy system includes the capacity to support the informed voices of diverse energy consumer interests reaching decision-makers:

- The advocacy system uses a principled approach to balance the interests of different groups or classes of energy consumers;
- The advocacy system supports advocates representing different interests to exchange views, explore common positions and, where appropriate, coordinate advocacy.

P5. The advocacy system has a credible, effective and responsive national voice where required.

P6. The advocacy system ensures that necessary advocacy at a State/Territory level is supported.

P7. The advocacy system ensures that relevant local and State/Territory issues that impact on consumers and energy markets are available to national decision-makers through consumer advocacy.

P8. The advocacy system includes or has effective access to expertise on technical energy issues, including engineering issues, regulatory economics and environmental issues

P9. The advocacy system is efficient, effective and accountable:

- The advocacy system includes incentives and support for effective collaboration among advocates;
- The advocacy system has the capacity to generate, collate, store and retrieve relevant data and research;
- The advocacy system possesses a strong corporate memory.

Good practice principles for an advocacy system

GP1. Advocates work in consumers' interests, are independent and free of conflict of interest.

GP2. The advocacy system ensures a long-term strategic approach to consumers' interests in energy policy and regulation.

GP3. The advocacy system uses a principled approach to balance the long-term and short-term interests of energy consumers.

GP4. Advocates have expertise in consumer advocacy.

GP5. The advocacy system (and its elements) is sustainable.

GP6. The advocacy system should promote interaction with and learning from other consumer advocates and other areas of consumer policy.

GP7. The advocacy system promotes early engagement with consumer issues by government to ensure advocates are involved in all stages of the policy development process.

6.2 Functions of consumer advocacy

In a broad sense, the function of advocacy is clear: to improve consumer welfare in relation to energy. A key way to do this is by ensuring consumers' interests are given sufficient weight in decisions made by regulators, policy-makers and energy suppliers. Many advocates and others believe that advocates can and should also play a role in enhancing consumer welfare by working to ensure energy consumers are able to influence outcomes directly through their individual decisions as purchasers and users of energy.

What is less clear, and possibly contested, is how advocates could best perform these overarching functions. Some conceptions of advocacy focus on engagement in formal policy development processes – submission writing in particular. Others point out that working directly with decision-makers in both formal (working group) and informal (information exchange and lobbying) settings can be equally or more effective.

As the case studies in Chapter 4 show, sustained proactive advocacy around long-term consumer goals has played an important role in the success of consumer advocacy to date. Proactive advocacy often uses campaigning approaches to highlight the particular concerns of consumers. This may involve effective use of the media or, as shown in the NECF case study in Chapter 4, advocates may feel that a resort to direct action may be the only, or at least the most effective, way to sufficiently advance important consumer interests.

Functions or activities of an advocacy system

The system of energy consumer advocacy should ensure that all the desirable *functions of advocacy* are supported. The following identifies a set of ideal functions that should be undertaken as part of the system of advocacy, again drawing on responses to the stakeholder survey, information and views provided by consultees and past reports.

Survey respondents were invited to consider the importance of activities or functions to be undertaken in an ideal advocacy model – and rank these from 1 to 5 (5 being most important) (Q40). Table 6.2 presents the results ranked according to average rating.

Table 6.2: The relative importance of specified functions/activities for energy consumer advocacy

Function or activity	Avg rating
(i) Participation in the review and development of legal, policy, regulatory and market reforms, and industry practices and codes	4.3
(ii) Participation in formal regulatory review processes (e.g. distribution price reviews)	4.19
(iv) Monitoring industry practices and policies and the services provided to consumers	4.11
(v) Researching and analysing trends and emerging issues that have an impact on energy consumers	4.11
(vi) Informing consumers and other stakeholders of energy consumer advocacy issues through the media and otherwise	4
(viii) Participation in regulator or industry consultative fora	3.78
(vii) Training and/or other support provided to consumers and to consumer organisations to build capacity to represent energy consumer interests	3.73
(xi) Engagement with industry ombudsman processes	3.67
(v) Creating or advocating systems or tools to make it easier for consumers to navigate the market	3.61
(iii) Monitoring the effectiveness of regulators	3.58
(x) Legal action to advance energy consumer interests	3.31

Appendix I includes an analysis of how these ratings varied according to respondent type; however, as there is not a very wide range of net ratings between the activities, any variations are not considered in the main body of the report except to note the interesting finding that the government /regulator/ombudsman group rated the activity ‘Participation in regulator or industry consultative fora’ much higher than across all groups – it was this

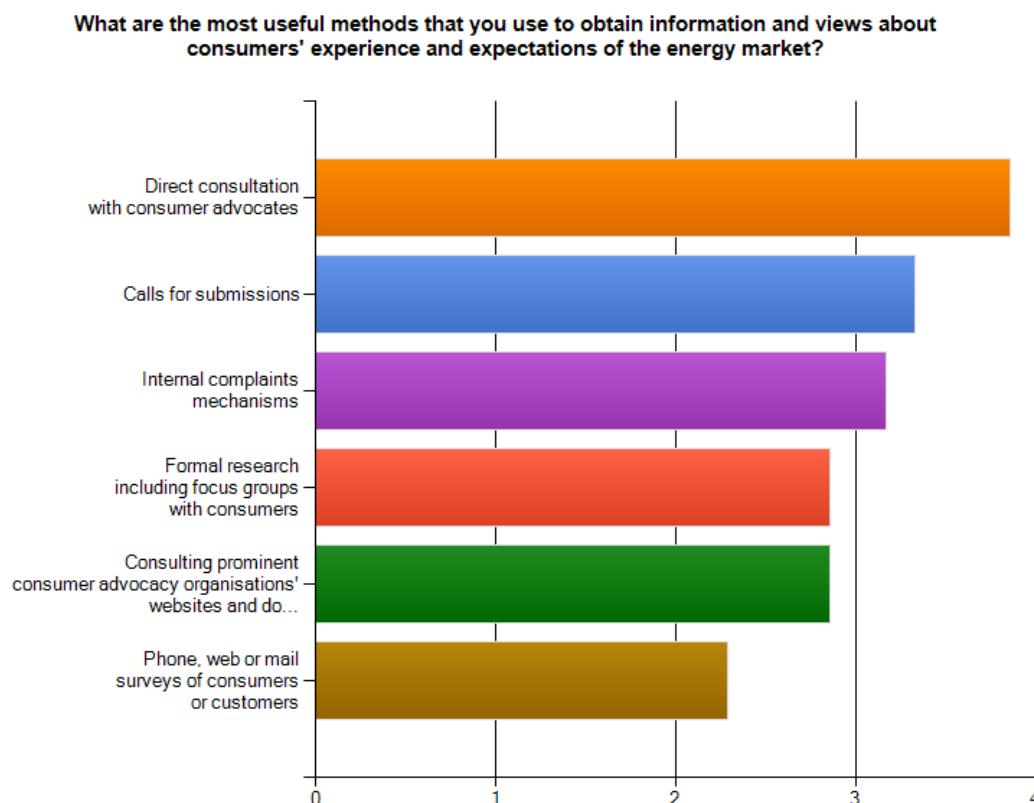
group's second highest rated activity, while it was equal second-last in the NGO group's ratings.

When comparing the activities currently undertaken by consumer advocates (Tables 3.3 and 3.4 above) and those that survey respondents believe are important in an ideal advocacy model (Q40 – as set out in Table 6.2 above), it is interesting to note the following:

- > Only 75% of consumer advocates currently participate in formal regulatory review processes, yet this was one of the most important activities in an ideal consumer advocacy model.
- > While 94% of consumer advocates participated in regulator or industry consultative fora, this was only rated the fifth-most important activity in an ideal advocacy model – suggesting that, if it came to a choice between attending a consultative committee meeting and (for example) writing a submission to a formal regulatory review process, survey respondents would consider the latter more important (although in fact the two would usually be mutually compatible). Respondents may distinguish between attending consultative for and participation in more issue-focused working groups, a choice they were not provided with as part of the survey. The increasing importance of this form of advocacy is noted in the discussion below.
- > Legal action is undertaken by very few consumer advocates responding to the survey (only the Tenants Union of Victoria indicated that they often took legal action), which is no doubt why this activity was ranked last of all activities in an ideal advocacy model.
- > While 62% of consumer advocates monitored the effectiveness of regulators, this was considered the second-least important activity in an ideal system by survey respondents overall, although unsurprisingly the NGO group did rate this higher than the government department/regulator/ombudsman group or the energy suppliers/industry body group.

It is also useful to look at the activities of decision-makers; clearly advocates need to track and respond to much of what decision-makers do. There were seven respondents to the stakeholder survey from decision-makers who are the subjects of advocacy. Question 29 sought their views on the usefulness of particular methods to 'obtain information and views about consumers' experience and expectations of the energy market.' Figure 6.1 charts the results.

Figure 6.1: Methods used by decision-makers to obtain consumer views of the energy market



Other methods of obtaining information and views from consumers put forward by decision-maker respondents were:

- > statistical analysis of key metrics for customer contacts and processes, e.g. customer payment methods (market participant)
- > consumer consultative committees regarding specific issues with consumer representatives (State-based regulator).

One conclusion is that the decision-makers that responded to the survey have a preference for direct consultation with consumer advocates over receiving submissions. This conclusion is consistent with the discussion of the importance of advocates' participation in working groups and similar processes, discussed below.

Other functions identified in consultations

The list of functions included in the stakeholder survey did not include several important advocacy functions, including:

- > participation in working groups and similar processes
- > some functions associated with proactive advocacy.

The need for formal advocacy is not limited to preparing submissions and participating in ongoing consultative committees. Rather, advocates need to take part in the working group processes as much as possible to ensure that consumer issues are recognised and stay recognised as policy solutions are developed and refined.

Advocates often need to spend time arguing that they should be invited to participate in working groups and similar policy processes, that a sufficient number and range of consumer representatives be invited, and/or that appropriate sub-processes be instituted to address the relevant consumer issues.

Funding for advocacy should recognise the importance of this advocacy function and ensure it is adequately supported.

The list of functions presented to survey respondents did not include functions that are central to proactive advocacy but which do not form an important part of formal responsive advocacy, such as submissions to formal processes. The case studies of proactive advocacy discussed in Chapter 4 suggest that it will often be effective to:

- > engage in lobbying
- > build coalitions of interest around an issue, and/or
- > highlight consumer issues in the public sphere by using the media.

Responses to the draft report suggested that the following functions of advocates were not included or sufficiently highlighted and the conclusions below have been adjusted accordingly:

- > building and maintaining links with consumers, and
- > fostering applied research.

Lessons from overseas

While broad-based community and grass-roots consumer campaigns around fuel poverty, or the equitable access of low-income people to energy, are a prominent feature of energy advocacy in the UK, Canada and the US, there does not appear to be a similar grass-roots movement in Australia.

Some energy consumer advocacy organisations (e.g. PIAC) are actively developing consumer engagement strategies. With the rapid rise in the costs of household energy bills, there may also arise new opportunities for consumer-based or community-wide campaigns. Overseas experience in energy and Australian experience in other fields of advocacy suggests that consumer engagement strategies and campaigns that facilitate consumer action have a number of benefits, including:

- > the expression of new and diverse perspectives
- > the capacity to empower a larger number of consumers

- > assisting a new generation of potential energy advocates develop their skills and tap into the passion that often only comes from direct experience of disadvantage.

Any model of energy advocacy should facilitate consumer engagement strategies by advocacy organisations and their capacity to support, advise and work with grass-roots campaigns.

Advocacy functions: Conclusions

The following core functions of energy advocacy have been identified through the research. Currently the functions undertaken by individual advocacy organisations vary according to the nature of the organisations or the priorities that they and/or their funding agencies have set. In a system of advocacy made up of several or many individual agencies, it is likely that not all will perform each identified function. The system as a whole should ensure that each function is undertaken to the degree necessary to achieve the priorities for advocacy as determined from time to time. It can also be an advantage to have consumer advocates undertaking different functions in concert with others to achieve advocacy goals.

Direct and indirect advocacy

1. Participate in the review and development of legal, policy, regulatory and market reforms, and industry practices and codes including
2. Informal consultation
3. Formal submissions
4. Participation in working groups and similar
5. Participate in formal regulatory review processes (for example, distribution price reviews)
6. Participate in regulator or industry consultative fora
7. Highlight consumer concerns with the functioning of the energy market or with particular policy proposals (for example in the media)
8. Take legal action to advance energy consumers' interests
9. Provide training and other support to consumer organisations to build their capacity to represent energy consumer interests.

Informing advocacy: Understanding the energy market and its impact on consumers

10. Researching and analysing trends and emerging issues that have an impact on energy consumers
11. Monitoring industry practices and policies and the services provided to consumers
12. Monitoring the effectiveness of regulators

13. Engagement with industry ombudsman processes
14. Building and maintaining links with consumers
15. Fostering applied research.

Ensuring consumers can take action to benefit from the energy market

16. Informing consumers of energy consumer advocacy issues through the media and otherwise
17. Creating or advocating systems or tools to make it easier for consumers to navigate the market.

6.3 Models for consumer advocacy

Overall approach

The terms of reference for this project suggest that this final report should include a recommendation on the best model for consumer advocacy in relation to energy. Early in the project, the Steering Committee formed the view that this was not appropriate and that instead the report should identify a number of options – that it should describe each of a number of possible models and to the extent possible identify the advantages and disadvantages of each.

Six models are set out below, organised in order of *least* change to the current system to *most* change. Making no change to the current system is included for reference purposes rather than as an option to be taken seriously. While many consultees were keen to identify important strengths of current arrangements, none advocated that there should be no change at all.

The final section comprises a table setting out an assessment of the degree to which each model conforms to the system design principles established at the conclusion to section 6.1 above.

Six Possible Models

The models are described under the following headings:

- A. Current arrangements (many jurisdiction-based advocates plus Roundtable)
- B. Current Roundtable but with a stronger secretariat and better coordination of existing groups
- C. A National Energy Consumer Advocacy Council
- D. A small national centre at the centre of a broader funded network
- E. A large national centre with commitment to State/Territory advocacy projects

F. A national centre with a mainly national focus.

Each of models B through F attempt to overcome the most commonly identified weaknesses with the current system, that is:

- > limited capacity to provide a national voice on energy issues
- > need for increased coordination of advocacy, particularly on national issues
- > insufficient access to technical support to undertake advocacy.

As noted above, it is important that any new model also retains the strengths of current arrangements.

A. Current arrangements (many jurisdiction-based advocates plus Roundtable)

The current operation of the National Consumer Energy Roundtable is described early in the report at section 3.7 above.

B. Current Roundtable but with a stronger secretariat and better coordination of existing groups

This model would involve continued funding by the Consumer Advocacy Panel of State/Territory-based advocacy organisations at the same or a higher level, but a substantially increased funding allocation to support a better resourced Roundtable Secretariat.

In addition to its current functions, the Secretariat would:

- > coordinate submissions on national issues more frequently than at present
- > in some cases prepare initial drafts of joint submissions as agreed by Roundtable members
- > in other cases prepare an issues paper or research paper with potential positions and supporting data for the purposes of informing the submissions of Roundtable members
- > have access to and manage funds to acquire technical expertise to assist with advocacy
- > coordinate research agreed by the Roundtable members and supported by the Panel or another funder
- > support professional development and skill enhancement among advocates at a higher level than at present.

Resourcing and technical assistance

This model would see increased resources allocated to the Secretariat, and resources allocated to a fund available to the Secretariat and possibly other consumer advocates to purchase technical assistance. Some attention would be given to building systemic capacity

to provide technical assistance to advocates through for example retainer arrangements with professional providers and/or formal links with appropriate university centres.

The model would maintain or increase the level of resources allocated to other consumer advocacy organisations (whether those currently funded or different organisations). Funding by the Panel of individual organisations would generally be provided on a three-year basis (rather than the current 12-month basis) to ensure existing consumer organisations have certainty of funding and can engage in more proactive advocacy.

It may be that in the future energy consumer advocacy priorities change in ways that lead the Panel to change the funding mix.

Governance and accountability

The Secretariat would continue to be hosted by an existing consumer organisation as determined by the Panel from time to time with input from advocacy organisations. While Secretariat staff would work closely with Roundtable members and make every effort to ensure the Roundtable functions effectively and is capable of contributing to and signing off on advocacy work, Secretariat staff would remain accountable to their host organisation.

C. A National Energy Consumer Advocacy Council

This model would see the secretariat established as an independent organisation accountable to a Council made up of consumer advocacy organisations interested in energy issues. Council would determine policy positions on some but not all issues. The Council would act through a small executive between meetings.

Funded advocacy organisations and other advocacy organisations that meet agreed membership criteria would become members of a new National Energy Consumer Advocacy Council. The Secretariat would have broadly similar functions to that in Model B. It would in addition need to service the Council and a smaller Executive group.

The Council would meet as a whole from time to time, perhaps two or three times per year. In between meetings the functions of the Council (including direction to Secretariat staff and sign-off on advocacy and public statements) would be undertaken by an Executive group of three or four people acting within the scope of broad strategy and principles agreed at least annually by the Council.

The Council would be able to undertake advocacy and make public statements more readily than the Secretariat under current arrangements or as proposed at Model B. This would flow from the fact that there is a formally agreed strategy and principles, a smaller executive group charged with decision-making and a Secretariat accountable to the Council.

Governance and accountability

Secretariat staff could be accountable to the Council in one of a number of ways considered below. The Secretariat staff accountability arrangements could be achieved through:

- > incorporating the Council and directly employing the staff

- > a memorandum of understanding between the Council and the host organisation employing the staff
- > a memorandum of understanding supported by conditions in the host agency's funding agreement with the Panel.

A small Executive would have responsibility and authority between meetings. In particular the chair would have an obligation to ensure the national focus of the Council. The chair's role would be significant and is likely to require some compensation for their employing agency. To ensure full confidence in the Executive, there may need to be agreement as to which interests should be represented; for example, there is probably a need for environmental groups to be represented.

The primary differences between this model and current arrangements (Model A) are:

- > the Council would be able to speak with one voice more easily, and
- > the Secretariat staff would be accountable to the Council and Executive rather than any host organisation.

Resourcing and technical assistance

This model would see increased resources allocated to the Council to operate the Secretariat and governance costs. Resources would also be allocated to a fund available to the Council to purchase technical assistance for itself and/or other advocates.

The model would maintain or increase the level of resources allocated to other consumer advocacy organisations (whether those currently funded or different organisations).

It may be that in the future energy consumer advocacy priorities change in ways that lead the Panel to change the funding mix.

D. A small national centre at the centre of a broader funded network

Under this model, a new relatively small National Energy Consumer Advocacy Centre would be established. This could be a completely new organisation or could be a division of an existing organisation¹⁶⁷ capable of operating a national consumer advocacy project. It would exist side by side with all or most of the existing Panel-funded consumer advocacy projects.

The model has elements in common with a model described in the plenary of the 2009 Consumer Advocacy Panel stakeholder forum as:

a hybrid model, which could establish new national technical expertise building on the existing strong jurisdictional networks.¹⁶⁸

The key roles of the small National Centre would be:

¹⁶⁷ Not necessarily one focussed on energy specifically or at all.

¹⁶⁸ Etrog Consulting Pty Ltd for the Consumer Advocacy Panel, *Stakeholder consultation forum to identify current and emerging consumer energy issues 2009-14*, February 2010, p 21; at <http://www.advocacypanel.com.au/documents/StakeholderConsultationForum-EtrogConsultingfinalreport-2February2010.PDF>; also see Appendix B.

- > to identify issues and act as an expert resource for other advocates
- > to coordinate and make a substantial contribution to national consumer advocacy on energy (variously on its own account and in partnership with other energy advocates)
- > to support information-sharing, issue identification and skill enhancement, and
- > to develop a research agenda after consultation with stakeholders, including advocacy organisations (Panel-funded and otherwise), submit that agenda to the Panel for approval, and then supervise and coordinate the approved research agenda.

Participants at the 2009 Panel stakeholder forum suggested that a permanent staff of 3-4 would be sufficient.¹⁶⁹ This model is conceived at a slightly higher level of about 5-6 EFT to ensure that is sustainable and efficient. This would allow for the following positions:

- > director
- > several staff members with policy development and advocacy roles who between them would have engineering, economics, legal and communications/advocacy skills
- > network support and administration officer,
- > finance officer (part time or contracted out), and
- > communications/publications/website management (may be part time or may also play a stronger communications role in support of campaigns, in which case may be full time).

Resourcing and technical assistance

This model would see increased resources allocated to the new small National Centre to undertake national-focused advocacy. Resources would also be allocated to enable the small National Centre to purchase additional technical assistance for itself and/or other advocates.

The model would likely maintain the level of resources allocated to other consumer advocacy organisations in the short and medium term (whether those currently funded or different organisations). It may be that in the future energy consumer advocacy priorities change in ways that lead to a change in the funding mix.

The key elements of the budget for a small National Centre working with other advocates would be:

- > Staffing costs
- > Pool for access to technical expertise
- > Pool for coordination, information sharing, professional development of all advocates

¹⁶⁹ Etrog Consulting, p 20; also see Appendix F.

Governance

There are numerous possible options for governance of such a centre. These include at least the following:

- > The Centre is established as a major unit of an existing organisation. That organisation might be an existing national consumer organisation, an existing energy advocacy organisation or an existing academic organisation. While the host organisation would be ultimately responsible, it would establish and generally act on the advice of an advisory committee made up of people with expertise in issues relevant to energy consumer advocacy.
- > The Centre is created as a new organisation. Governance is founded in a membership base made up of NGOs, or NGOs and individuals, interested in and committed to energy advocacy who do not have a conflict of interest. ACCAN has a similar model.
- > The Centre is created as a new organisation. Governance is undertaken by a small essentially self-perpetuating board made up of experienced consumer representatives and other people with necessary skills but no conflict of interest.
- > The Centre is created as part of a new organisation which has a brief that goes beyond energy advocacy to cover other utility functions such as telecommunications and water. This new organisation in turn would need to adopt either a wider membership or narrower expertise based structure for its managing body.

The governance structure adopted would have an important bearing on the nature and success of any new national centre; in considering the pros and cons of particular models the available governance options and their likely benefits need to be close to top of mind.

Past experience suggests that the governance structure should align strongly with the purpose of the organisation (that is, to advance the interests of consumers). All things being equal this suggests that any national centre is likely to be best placed in an organisation (including a new stand-alone organisation) with consumer advocacy at its core.

At least one consultee noted the benefits of strong relationships between consumer advocates in a particular field (for example energy) with advocates in other areas of consumer policy. This suggests that a governance model that facilitates such interactions would be advantageous.

E. A large national centre with commitment to State/Territory advocacy projects

As in the previous model, a new National Energy Consumer Advocacy Centre would be established. In this case the Centre would be significantly larger and may be established at the expense of all or some currently Panel-funded advocacy projects.

This could be a completely new organisation or could be a division of an existing organisation capable of operating a national consumer advocacy project.

The larger National Centre would be the dominant recipient of Panel funding (an amount at least equivalent to the current level for environment-specific funding would likely be quarantined for environmental consumer advocacy). The larger National Centre would have a head office staff of 6-10 and in addition would employ advocates physically located in each of the States and Territories (perhaps at a lower level in those jurisdictions not in the NEM). State/Territory based workers would be responsible for identification of jurisdictional and local issues that may impact on national advocacy, including liaison with local community organisations and service providers. They may, for example, be housed by some of the organisations that are currently funded to undertake energy consumer advocacy.

The National Centre's key roles would be:

- > to undertake the vast bulk of national consumer advocacy on energy
- > to support information-sharing, issue identification and skill enhancement with remaining energy consumer advocacy organisations
- > to develop a research agenda after consultation with stakeholders, including advocacy organisations (Panel-funded and otherwise), submit that agenda to the Panel for approval, and then supervise and coordinate the approved research agenda.

Resourcing and technical assistance

This model would see an increase in total resources and a shift in resources from some or most Panel-funded advocacy projects to the new National Centre to undertake national-focused advocacy. Resources would also be allocated to enable the National Centre to purchase technical assistance generally for its own work. A National Centre of this size is likely to have some scope to cultivate its own internal experts, although it is likely to require external experts as well.

Governance

The governance options and issues raised are similar to model D, although there may be fewer relevant NGOs available and/or interested in membership if funding is diverted from existing organisations to create a larger new national centre.

F. A national centre with a national focus

This model is essentially the same as Model E except that there would be no requirement to employ advocates based in each State and Territory. This Centre would need to stay in touch with local concerns and local NGOs interested in energy advocacy would need to be met in a different way to that proposed in Model E.

It is difficult to see how a system based on this model could achieve compliance with the suggested principles as well as other models. For this reason it was not fully elaborated in the draft report. Neither of the responses to the draft report challenged the conclusion that this model is unlikely to be able to meet the system design principles as well as other models.

6.4 System design principles applied to the six models

In Section 6.1 a number of ‘system design’ principles were identified – principles that may be achieved to a greater or lesser degree according to the model of advocacy arrangements adopted. The section also sets out a number of other ‘good practice’ principles which, broadly speaking, may be complied with or not regardless of the model. How well they will be complied with depends for example on the practices of advocates or the behaviour of decision-makers.

Table 6.3 provides an initial assessment of the degree to which each model lends itself to implementing each of the system design principles (the more stars the better). This assessment, and the overall impression created, should be taken as a guide only; in addition to the preliminary nature of the assessment, each principle does not necessarily deserve to be given the same weight in decision-making.

Ratings used in table 6.3 are as follows.

- * least able to meet the principle
- ** neither least nor best able to meet the principle
- *** best able to meet the principle

Table 6.3: System design principles applied to the six models

	A Status quo	B Enhanced Secretariat	C Council	D Small national centre + existing orgs	E Large national centre – multi state offices	F Large national centre - one national office
P1. The advocacy system (as distinct from individual actors in it) is strategic: that is it is able to allocate resources to the activities most likely to advance energy consumers’ interests, including proactive and responsive advocacy as required.	*	** (b1)	** (c1)	*** (d1)	***	** (f1)
P2. Advocacy is based on a robust connection to energy consumers (whether through membership, casework, service provision, research or otherwise).	***	***	***	***	**	*
P3. The advocacy system is able to build and sustain expertise, interest and engagement in local-level organisations.	**	***	**	***	**	*
P4. The advocacy system includes the capacity to support the informed voices of diverse energy consumer interests reaching decision-makers, including balancing the interests of different groups or classes of energy consumers and promoting the exchange of views, development of common positions and coordination of advocacy where appropriate.	** (a4)	**	***	***	*	*

P5. The advocacy system has a credible, effective and responsive national voice where required.	*	**	** (c5)	***	***	**
P6. The advocacy system ensures that necessary advocacy at a State/Territory level is supported.	**	** 1/2 (b6)	**	*** (d6)	** (e6)	*
P7. The advocacy system ensures that relevant local and State/Territory issues that impact on consumers and energy markets are available to national decision-makers through consumer advocacy.	**	**1/2 (b7)	***	***	**	*
P8. The advocacy system includes or has effective access to expertise on technical energy issues, including engineering issues, regulatory economics and environmental issues	*	**	**	***	***	***
P9. The advocacy system is efficient, effective and accountable, including support for collaboration, capacity to generate and manage research and a strong corporate memory.	*	**	* (9c)	***	**	** (9f)

The notes to this table follow on the succeeding pages.

Notes to Table 6.2

b1, c1 – Models B and C have been rated as they are against this element because while the Council and enhanced Secretariat model will have strengths in that they strongly support or require (respectively) bringing together organisations to make strategic decisions, this strength is offset by concerns regarding efficiency in developing positions, particularly where a quick response is required.

d1 That this option is rated 3 despite the fact that its methods in achieving this principle will be similar to options B and C is based on its likely ability to quickly develop positions and statements, and take other actions on national issues.

f1 A national organisation with no state presence will need to work much harder to understand the impact of local and jurisdiction specific issues on strategy.

a4 Both the current system and Model B have been rated at ** as the exchange of views and exploration and where possible development of common positions are a feature of energy advocacy at present. The current system could clearly be enhanced, for example in its ability to develop common positions or coordinate across jurisdictions, and thus Model B will no doubt be superior.

c5 The Council model has been rated lower than Models D and E given concerns regarding its efficiency and therefore responsiveness. Model F has been rated lower as a result of concerns that relationships with state based advocates may not be sufficiently resourced to develop as credible a national voice.

b6, d6, e6 The two star rating for Model B indicates that Model D offers a slightly better ability to implement this principle through its access to additional expertise and focus, while maintaining the same number of jurisdiction based advocates. However Model B is seen as likely to be able to implement this principle more effectively than the status quo (Model A) or a national centre with local offices (Model E). The latter is seen to be likely to be less effective than Model B due to reduction in the allocation of state level funding which is likely to inhibit the ability of the national centre to build effective relationships with local organisations.

b7 While the addition of a stronger secretariat would bolster the ability of this model to coordinate information and views to undertake national advocacy with national decision-makers it will perhaps not do so as well as models with additional resources and national structures.

c9 – The Council proposal is likely to have a very high governance overhead. While accountable this is likely to undermine its efficiency and sometimes effectiveness.

e9, f9 – While likely to be efficient and often effective, a large national centre risks losing accountability to diverse consumer interests, in the absence of a sufficient number of other funded high-quality energy advocacy organisations.

f9 – In addition a national centre without a state presence may be less efficient in gaining access to local and jurisdiction specific perspectives.

6.5 Tentative Conclusions on Models for Energy Consumer Advocacy

This chapter has considered the principles that should underlie design of a system of energy consumer advocacy, the functions that energy advocacy undertakes and the available models for delivering energy advocacy in the future. In considering principles the chapter distinguished between system design principles and good practice principles, and in the final section attempted to consider how the system design principles might be applied in considering the relative merits of the identified models.

It is important to note that the models proposed are expressed at a relative high level of generality. The specific implementation of a model may well impact on how well it is able to comply with a given principle (often with some trade off in relation to another principle). For example each of Models D, E and F is subject to a great deal of potential variation in relation to the governance arrangements adopted.

The analysis suggests that Model A – the status quo – and model F – a single national centre – are least able to meet the principles. This conclusion is consistent with the views of the vast bulk of consultees. No consultee suggested that the current system could not be improved; only one consultee was a strong advocate for bringing all resources together into a single national centre.

The analysis also suggests that, regardless of how the principles are weighted, there is a lot to be said for the funding of a new national energy consumer advocacy centre in addition to the currently funded range of energy consumer advocacy services (or some very similar set of such services).

Finally, the analysis suggests that Models B, C and E would also offer improvements on current arrangements. The analysis in Table 6.3 (with its considerable limitations) suggests that of these there should be only a slight preference for Model B (enhanced Secretariat). It should be noted that Model B (like Model D) involves the least change from and disruption to current services, and given the strong feedback that energy consumer advocacy in Australia is highly effective at present, this is not an insignificant benefit and should be taken into account in designing any new system.

7 Appendices

- 7.1 Appendix A: Project Terms of Reference and Methodology**
- 7.2 Appendix B: Summary of Issues Raised at 2009 Roundtable Meeting**
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- 7.11 Appendix K: Detailed NECF Case Study**
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7.1 Appendix A: Project terms of reference and methodology

The consultant will undertake the following tasks.

1. Collect information on the nature and level of energy consumer advocacy currently undertaken by non-government organisations. The advocacy to be identified includes:
 - participation in the review and development of legal, policy, regulatory and market reforms, and industry practices and codes,
 - participation in formal regulatory review processes (e.g. distribution price reviews),
 - participation in regulator or industry consultative fora,
 - monitoring the effectiveness of regulators,
 - monitoring industry practices and policies and the services provided to consumers,
 - analysing trends and emerging issues that have an impact on energy consumers,
 - informing consumers and other stakeholders of energy consumer advocacy issues through the media and otherwise,
 - training and other support provided to consumers and to consumer organisations to build capacity to represent consumer interests, and
 - providing tools to consumers to participate in the energy market in ways which maximise their welfare.
2. Collect information on the current demand for energy-related policy input by governments (state, territory and Commonwealth), regulators and other stakeholders.
3. Collect information about models used to undertake consumer advocacy in energy and other sectors (for example financial services, public transport and communications) in Australia and overseas. This will include information about the relationship between advocacy and relevant non-advocacy consumer services (for example, the way in which advocacy on an issue is informed by and can make use of information gained through provision of services to individual consumers).
4. Assess the need for energy consumer advocacy taking into account issues such as:
 - the ongoing need for the energy consumer advocacy activities described at 1 above,
 - the legal, policy and regulatory framework that is planned to be introduced over the next few years including the implementation of the National Energy Customer Framework,
 - the work programs and work priorities of Commonwealth, state and territory regulators,
 - the likely impact of changes in the market (such as smart meters and time-of-use tariffs), changes in economic or environmental conditions, and possible changes to legal and administrative arrangements including reforms relating to climate change, and
 - the need for ongoing jurisdiction-specific advocacy due to differing legal and administrative arrangements and other jurisdictional differences such as climate, geographic density, proportion of population in regional/rural areas, infrastructure and customer type.
5. Consider the advantages and disadvantages of different models for energy consumer advocacy identifying how the range of issues listed above in relation to the expected need for advocacy will be dealt with, and describe in greater detail a small number of preferred options for future energy consumer advocacy arrangements in Australia.

7.2 Appendix B: 2009 Summary of Issues Raised at 2009 Roundtable Meeting

In 2009 the Consumer Advocacy Panel provided a grant to Etrog Consulting Pty Ltd to facilitate a stakeholder consultation forum to identify current and emerging consumer energy issues for the next five years 2009-2014. The forum was convened by the Panel and held on 12 October 2009 at Monash University Law Chambers. The purpose of the forum was. Etrog Consulting wrote a report on the forum proceedings which provides a good summary of the main issues affecting energy consumers.¹⁷⁰

The resourcing of consumers and consumer advocates was one of the main topics of discussion. The following are extracts of the report relevant to consumer advocacy.

2. Report of Forum held on 12 October 2009

Breakout group 2: Resourcing consumers and consumer advocates

Discussion points

Discussion in initial brainstorming in this session covered the following:

- Policy issues are many and complex, and it is difficult to keep up-to-date; there are different needs to service different jurisdictions, and electricity and gas are different from each other – both are markets in transition.
- The National Consumers' Roundtable on Energy has high value to consumer groups as a forum for sharing of learning between consumer groups.
- What is the best way to engage individual consumers and others who represent them? It is particularly difficult to engage with small business consumers – they have their own trade and business associations, with very limited resources for energy issues.
- Requirements on industry, government and regulatory bodies to consult with consumer groups are important.
- Linking energy consumers with other consumers can be advantageous.
- The use of web meetings, webinars, and technology for consumer consultation should be encouraged to increase communication among consumers, and should enable costs to be cut.
- There is need for more resources. The committed resources of consumer groups are small compared to the size and importance of the energy industry, and the changes that are constantly occurring. Consumers are generally responding rather than leading the debate. There is asymmetry of spending on regulatory processes between industry and consumers, and hence asymmetry in relevant influencing capabilities. There may be a role for a national consumer advocacy body, perhaps equivalent to the Energy Users Association of Australia (EUAA) for larger energy users.¹⁷¹

¹⁷⁰ Etrog Consulting Pty Ltd for the Consumer Advocacy Panel, *Stakeholder consultation forum to identify current and emerging consumer energy issues 2009-14*, February 2010, at <http://www.advocacypanel.com.au/documents/StakeholderConsultationForum-EtrogConsultingfinalreport-2February2010.PDF>

¹⁷¹ It was noted here that energy consumers in UK in contrast have an annual budget for research and advocacy of the equivalent of AUD 20 million, and have been much more effective in achieving changes

- There is lack of understanding among consumer groups of the MCE/SCO involvement in Panel funding.
- Consumer groups expect that there will be a reduction in State/Territory funding of advocacy in the move to national regulation.
- Training of new consumer representatives is important; perhaps there is a need to develop training tools.
- Sharing of resources (such as academics and international contacts) between consumer groups should be considered.

Focus on resourcing consumers and consumer advocates

After the brainstorming session, discussion turned to what should be the focus of resourcing consumers and consumer advocates, and the following matters were raised:

- Strong consumer groups are active and strategic.
- Due to underfunding, consumer groups and advocates are often just reacting to what is put in the marketplace via reports and regulations, and there is no time or funding left to be pro-active or to initiate research.
- The effectiveness of consumer groups and advocates is limited by insufficient resources when they are making representation on proposed legislation or rule changes. Industry groups have a much higher level of representation due to less funding constraints; therefore industry has a louder voice than consumer groups. The playing field is not level, and insufficient funding leads to an asymmetry in knowledge.
- Funding arrangements for consumer advocates need to be long-term, as twelve months is simply not long enough to gain knowledge and be effective.
- The current National Consumers' Roundtable on Energy is working well – should this model be continued? Are there alternatives?
- Will the States and Territories become less interested in funding consumer advocates if there is a national consumer advocacy body? This is an emerging concern.
- Can more information be posted on the Panel website, not long after decisions have been made, and with reasons for the decisions? This information would be valuable in understanding how and why decisions on funding are made. Panel funding is limited. Is the Panel spreading its resources too thinly? Should the Panel tie research funding and advocacy in future in order to bridge Panel research gaps?

2.5 Plenary Session: Wrap-up of Day and Discussion of Outcomes

Resourcing national energy consumer advocacy

- Many changes to the energy sector that are expected over the next five years were discussed in earlier sessions of this forum. Essentially, the national reforms are seen to be moving from a phase of creation and initial implementation to a phase of more sophisticated and complex development. There are also currently gaps in the

in law and other positive outcomes for consumers. See documentation of the final plenary session in section 2.5.2 for further discussion of the possible role of a national consumer advocacy body and related matters that were mentioned in this breakout group

Australian consumer energy advocacy model, compared with some of the consumer advocacy models internationally. Consideration should be given to the appropriate advocacy models that will meet world-class standards and provide the most benefit to Australian consumers in this new phase of reforms.

- In such a complex environment, consumer advocates need to be able to turn advocacy policy and research into information and education, to benefit consumers, and to assist them to participate effectively in the market.
- There is a gap in funding people to work in energy advocacy, which impacts on the expertise of advocates. Where funding of energy advocacy is committed only twelve months at a time, it is very difficult if not impossible to recruit, to train and to retain staff on a long-term basis.
- Consumers lack a national information research resource / database. If an organisation in a local jurisdiction loses funding and stops working in the area of energy advocacy, its intellectual property is lost, and consumer advocacy as a whole suffers a setback as a result. Under the current model, Australian consumers are missing out on the ability to draw information together and act on it and benefit from it, to build something better for consumers.
- On the basis of the above, the forum considered what models for consumer advocacy might provide more value in the coming years.
- A national Australian model could provide more centralised resources and “one loud voice”, which may be more effective than the current advocacy from smaller localised and under-resourced consumer organisations. A national consumer organisation may be able to communicate better and have a higher profile with its consumer representatives. Many policy matters now are national, and increasingly so with the NECF. This includes CPRS, RET, energy advertising, contracts, and billing.
- It was suggested that a national advocacy organisation could be run with a full-time staff of three to four people, with the capacity to bring others in as required. Two models for a national advocacy organisation were discussed:
 - A national advocacy organisation specifically to cover energy / utilities; and
 - Funding of energy staff within an existing national body. No particular existing national body was identified as having funding or capacity to accommodate additional energy staff at the moment.
- Other models were also discussed, recognising that there can be value in having a diversity of views and approaches, and this may be lost within a single national advocacy organisation. Besides the existing model where there are diverse jurisdictional organisations involved in consumer advocacy on energy matters, another model might be a hybrid model, which could establish new national technical expertise building on the existing strong jurisdictional networks.
- The Panel indicated it would welcome applications to research effective models for resourcing national consumer advocacy, but the Panel itself would not force any particular model.

7.3 Appendix C: List of consultees and survey respondents

Participants in the National Energy Consumer Roundtable

*+^TasCOSS
*+^Consumer Action Law Centre
*+Ethnic Communities' Council of NSW
+^Western Australian Council of Social Service (WACOSSS)
+^Victorian Council of Social Service
+^St Vincent de Paul
+^Brotherhood of St Laurence
+Consumer Utilities Advocacy Centre Ltd
+^PIAC
*^ACOSS
*Alternative Technology Association
NCOSS (ad hoc)
ACT COSS (ad hoc)
^QCOSS
*^CCCL QUT
^SACOSS
^Uniting Care Wesley Adelaide
^Total Environment Centre

* Receives capacity building or advocacy funding from the Panel for energy advocacy
+ Responded to online survey
^ Participated in consultations

Other NGOs that responded to survey

AFCCRA
Council on the Ageing NSW
Tenants' Union of Qld
Queensland Consumers Association
Financial Counsellors Association of Queensland
National Children's and Youth Law Centre
Tenants Union of Victoria

Round table participants by State¹⁷²

New South Wales

Australian Council of Social Service (ACOSS)
Public Interest Advocacy Centre (PIAC)
Total Environment Centre (TEC)
Ethnic Communities Council NSW

Victoria

Alternative Technology Association (ATA)
St Vincent de Paul Society
Victorian Council of Social Service (VCOSS)
Consumer Utilities Advocacy Centre (CUAC)
UnitingCare Kildonan
Consumer Action Law Centre (Consumer Action)

¹⁷² Consumer Action Law Centre 2009 Roundtable Summary.

Queensland

Queensland Council of Social Service (QCOSS)

CCCL Queensland University of Technology (CCCL QUT)

Tasmania

Tasmanian Council of Social Service (TASCOSS)

South Australia

UnitingCare Wesley Adelaide

South Australian Council of Social Service (SACOSS)

Western Australia

West Australian Council of Social Service (WACOSS)

ACT

ACT Council of Social Service (ACTCOSS)

7.4 Appendix D: List of consumer organisations that have made submissions to formal advocacy processes

See Appendix F, Table 4.4

7.5 Appendix E: Survey Responses: How services use advocacy techniques

This appendix lists the current advocacy activities reported by consumer advocacy NGOs that responded to the survey (Responses to Qs 15-25)

Monitoring the effectiveness of regulators – examples include:

- Regular Meetings with the Economic Regulation Authority
- Regular participation on regulators' Customer Consultative Committee/s (several organisations)
- In relation to marketing, for example, assessing the issues customers are experiencing and the approach of retailers in the market following several ongoing complaints to the regulator regarding a systemic market failure and how the situation may have changed. This also relates to the provision of published information, the enforcement powers etc. (CALC)
- We identify gaps in the regulators' processes including the need to improve industry monitoring and auditing. (CUAC)
- Where we consider that a regulator is not adequately serving the interests of consumers and affording consumer advocates an appropriate opportunity to represent the interests of consumers, we have, irregularly, written to the regulator or relevant Minister to express our concerns. In submissions to price determinations we have also referred regulators to the laws and regulations requiring them to perform certain functions. (PIAC)
- We had several complaints about gas bulk water heating costs and reviewed the regulators engagement and resolution of those problems. (TUVic)

Monitoring industry practices and policies and the services provided to consumers - examples include:

- Discussions with Aurora Energy regarding price increases for prepayment meter customers and tariff structure changes (TasCOSS)
- Participating in a utilities working group comprised of financial counsellors who provide updates on current industry practice in relation to financial hardship and marketing conduct (VCOSS)
- Participation in the review of retailer financial hardship policies; Analyse retailer performance reports; Regular meetings with retailers; Membership of Retailer Committees e.g. Synergy Consumer Advocacy Committee. (WACOSS)
- CUAC constantly seeks information and feedback on industry practices through our extensive networks with community and business agencies. We also monitor industry practices through participation on industry committees and informal links with energy businesses.
- We receive information from clients about their service from energy providers, particularly in relation to hardship programs, which we keep an eye on. (Brotherhood of St Laurence)
- We meet with NSW standard retailers to discuss the effectiveness of their hardship programs and question how they will enhance these programs when faced with increased demand following price increases. We are also a member of the AGL customer council (PIAC)
- We have analysed and publicised EOQ complaints and QCA per retailer complaints data and QCA disconnection data (Qld Consumers Association)
- We have had a number of complaints and seen examples of poor door to door selling techniques (TUVic).

Research and analysis of trends and emerging issues that have an impact on energy consumers – examples include:

- ABS data; Cost of Living analysis; Concessions / Rebates data; Energy Efficiency data (WACOSS)
- We undertook a small research project on the experience of emergency relief service users in relation to energy hardship (VCOSS)
- Practical experience of how hardship policies are working. We are planning to run a joint project with CCCL at QUT on energy onselling in the next 12 months (AFFCRA)
- CUAC funds research on emerging and important issues in the retail energy market. It also undertakes its own research and analysis on an extensive range of issues. In the past two years this has included work on the customer distributor relationship under the proposed NECF; work on barriers to distributed generation in the NEM; and impacts of time of use pricing.
- We recently employed a part-time Policy & Research Officer to undertake research of benefit to energy and water consumers. Some research projects have begun, for example monitoring levels of market competition, however part of the research agenda is yet to be finalised. We have also commissioned and will commission consultants to undertake research on our behalf. In 2008-09 we published a report on the experience of utility disconnections in NSW, predominantly to better understand how well utilities were responding to customers experiencing financial difficulty (PIAC)
- Through consultation to the Industry Associations and Migrant Resource Centres, ECC researches and analyses trends and emerging issues that have an impact on energy consumers. (Ethnic Communities Council NSW)
- In the context of submission to the Vic DNSP Price Review, we polled members on Time Of Use Tariff arrangements - this produced indicative results only but they were consistent with our views and understanding of the small business market (VECCI).

Informing consumers and other stakeholders of energy consumer advocacy issues through the media and otherwise – examples include

- Media releases on - smart meters, energy concessions and the energy efficiency of rental properties. Various media comments. Articles in VCOSS bi-monthly newsletter, presentations to community group network meetings (i.e. Emergency Relief Victoria)
- We have an active media presence in the Victorian and Australian market and regularly issue media releases and provide statements to the media regarding energy issues for consumers, and for the attention of industry, regulators and the government (CALC)
- Preparation of media releases, radio and television news interview, Newsletters, Attendance and presentation of information to WACOSS Emergency Relief Forum and other similar forums/meetings, Publications, Website, Seminars (WACOSS)
- CUAC informs consumers and stakeholders through its formal reference group process as well as through capacity building/community engagement forums with agencies across Victoria. For example, in 2008, CUAC held a forum on improving energy supplies to your community and community engagement forums on changes to the national energy market. ...In 2009-10 visited rural agencies and indigenous groups.
- We employ the mainstream media to inform consumers and respond to government about policy, program and regulatory decisions. Where we once had to prepare media releases to elicit interest in our views, we now have relationships with

journalists who contact us for a response, especially to energy affordability issues. We also produce an energy and water specific newsletter, prepare news for a monthly PIAC e-bulletin, and write articles for the six-monthly PIAC Bulletin. These publications are distributed to a range of stakeholders including consumers.

- From time to time, ECC publishes articles on its own newsletters to inform the constituency of energy consumer advocacy issues.
- Numerous letters to the editor of Courier Mail on Q energy issues (Qld Consumers Association)
- Blog posts have been made on smart meters and the DNSP price proposals (VECCI)
- We ran media about the gas bulk water heating issue and are periodically in the media about standards of rental dwellings including energy efficiency. (TUVic).

Training and/or providing other support to consumers and to consumer organisations to build capacity to represent energy consumer interests – examples include

- WACOSS delivers workshops on essential service issues to community sector organisations.
- CUAC regularly provides advice, information and support to other agencies engaged in or interested in becoming engaged in the energy sector.
- We provide information and education sessions to consumers and other community agency workers which includes information about consumer rights re utilities (CALC)
- ECC has trained more than 20 bilingual educators who regularly run energy/environment related workshops in 8 community languages to provide support to the CALD communities; in the same time to get feedback and build ECC's own capacity to represent energy consumer interests.
- Organised 1 day energy forum with QCOSS and CCCL for financial counsellors to attend (FCAQ)
- Building awareness of the need to consider children and young people as consumers amongst consumer advocates and regulators and encouraging youth organisations to engage with consumer advocacy (NYCLC)

Participation in regulator or industry consultative fora – examples provided include:

- Active in consultative fora in both industry and regulators, providing direct advocacy input into broad and specific activities, for example workshops with regulators specific to the development of a price and product guideline or an electricity transfer code, as well as participation in general consultative committees. (CALLC)
- CUAC is on a number of consultative fora including: ESC CCC, AER CCG, SP Ausnet, Origin, AEMC Review of Demand Side Participation in the NEM, AEMC Review of NEM design in light of climate change, AER Victoria Electricity Distribution Price Review Committee
- We are a member and have attended meetings of the AER Customer Consultative Group; AGL Customer Council; NSW Climate Change Fund Advisory Committee; NSW Home Power Savings Program Working Group; Industry & Investment NSW Consumer Consultative Reference Committee; Industry & Investment NSW EAPA Working Group; and EWON Council. We also attend fora organised by regulators (IPART hearings and roundtables in response to price determinations and other regulatory reviews; AER workshops e.g. price comparisons) as opportunity permits. (PIAC)
- ECC has been actively involved in the National Smart Metering Program (re: both the "Regulation" and "Pilots and Trials" Working Groups) to make sure the views of small customers are represented.
- Member of EOQAC, QCACAC and Origin Energy NCC. Member of Q energy minister's retailer and consumers consultative committees (Qld Consumers Association)

- Submissions to regulator inquiries / issues papers; Participation in industry consultation processes i.e. financial hardship policy reviews; Membership of a statutory committee - Electricity Code Consultative Committee (ECCC). (WACOSS).

Creation of or advocate for systems or tools to make it easier for consumers to navigate the market - examples provided include:

- Provision of information through a consumer hotline and on the WACOSS website; Preparation of information sheets. (WACOSS)
- We have recently been funded to assess the information needs of Victorian non-government agencies in order to develop materials to assist them to inform their clients/members about smart metering.(CUAC)
- Most recently we were consulted by IPART on the development of an online comparator service; prepared a submission to the AER pricing guidelines process; were consulted by Industry & Investment NSW on the development of a Hardship Guide for community organisations. We also endeavour to prepare and present our submissions and other publications in a manner that would permit energy consumers to better understand the energy issues in question. (PIAC)
- ECC put in a submission to AER "Retail Pricing Information Guidelines Issues Paper" to advocate that there should be proper/enough pricing information provided by the retailers; therefore to make it easier for consumers to navigate the energy market.
- VECCI has developed an online 'solutions' resource (www.carboncompass.com.au) which includes publicly available tools on energy efficiency and enables businesses to rate the tools' usefulness.

Taking legal action to advance energy consumer interests – only one example was provided:

- We have run a number of cases mostly regarding tenant or resident liability for energy charges (TUVic)

Engagement with industry ombudsmen processes – examples provided include:

- Regular meetings with the energy ombudsman of WA; Receive regular reports from the energy ombudsman through our seat on the Economic Regulation Authority Consumer Consultative Committee; Occasional meetings. (WACOSS)
- Involvement in the EDR Forum, promotion of EDR generally
- A member of an ombudsman's case handling advisory committee - enables the provision of feedback to the ombudsman of consumer experiences with the service, outcomes of ombudsman handled cases and the effectiveness of the program (CALC)
- We receive quarterly updates from ombudsman policy staff on trends in complaints. We are also represented on the ombudsman council and finance sub-committee. (PIAC)
- CUAC is a member of the Energy and Water Ombudsman Victoria's Case Handling advisory Committee. We also have strong informal links with the Ombudsman schemes in Victoria and New South Wales.
- Member of EOQ AC (Qld Consumers Association)
- We have recommended that the Victorian ombudsman (EWOV) consider data capture to identify small business consumers from their activities (which they currently do not) (VECCI)
- We have been engaged in some projects with the energy and water ombudsman including a project targeting energy issues for public and social housing tenants (TUVic).

7.6 Appendix F: Formal Advocacy: Tables 4.1, 4.3 and 4.4

Table 4.1: Formal opportunities for energy advocacy from 1 January 2008 to 30 June 2010

Agency (alphabetical within jurisdiction)	Date of process (from most to least recent within jurisdiction)	Issue	Website	Individual processes within each issue; the consumer advocacy organisations that provided submissions; and (where possible) the number of other submissions (not from consumer advocates) provided to that process
<i>Cross Jurisdictional</i>				
CoAG Working Group on Climate Change and Water	July 2008	Consultation Paper - Expansion of the Renewable Energy Target (RET)	http://www.climatechange.gov.au/government/submissions/renewable-energy-target/coag.aspx	Submissions from ATA, PIAC and many others
Ministerial Council on Energy (MCE)	Feb-Sep 2009	Smart Meters	http://www.ret.gov.au/Documents/mce/emr/smart_meters/default.html	<p>Smart Meter Customer Protection and Safety Review – Draft Policy Paper One – Sept 2009 - Joint submission from CUAC, Consumer Action, ACOSS, PIAC and others</p> <p>Second Exposure Draft on Amendments to the NEM in Relation to Smart Meters and Draft Initial rule 6 - August 2009 – Submissions from ACOSS, CUAC, SACOSS</p> <p>Smart Meters NEL Amendments –Feb 2009 – Submissions from Ethnic Communities Council NSW and 9 non-consumer groups</p> <p>Regulatory Impact Statement for the Cost Benefit Analysis of Smart Metering and Direct Load Control: Phase 2 – May 2008 - Submissions from CUAC, CALC</p> <p>Cost Benefit Analysis of Smart Metering and Direct Load Control: Phase 2 – April 2008 – Submissions from PIAC, CALC, CUAC, TEC</p>

MCE Retail Policy Working Group (MCE RPWG)	July 2008 - Feb 2010	National Energy Customer Framework	http://www.ret.gov.au/Documents/mce/emr/rpwg/default.html	<p>Second Exposure Draft - Feb 2010 - Submissions from ACOSS, CALC, CUAC, PIAC, QCOSS, SACOSS, TASCOS, VCOSS, WACOSS, Uniting Care Australia and 33 others</p> <p>First Exposure Draft – June 2009 - Submissions from ACOSS, CALC, CUAC, TASCOS, VCOSS, WACOSS, QCOSS, PIAC, Consumers’ Association of SA, Ethnic Communities’ Council of NSW, FCAQ, St Vincent de Paul and 30 others</p> <p>Consultation Regulation Impact Statement – Oct 2008 - website says there are only 2 submissions: 1 individual and 1 energy company – however ACOSS in fact provided a submission dated November 2008 which was supported by all members of the Roundtable</p> <p>SCO Policy Response Paper ‘A National Framework for Regulating Electricity and Gas (Energy) Distribution and Retail Services to Customers’ – July 2008 - submissions from ATA, CALC, CUAC, PIAC, VCOSS, QCOSS, WACOSS, TASCOS, FCAQ, Kildonan UnitingCare and 30 others</p>
MCE RPWG	Dec 2009	Consultation Regulatory Impact Statement on Energy Bill Benchmarking	Targeted consultation rather than public submissions	PIAC, CUAC
MCE RPWG	March 2009	SCO policy response: ‘National Frameworks for Electricity Distribution Network Planning, Connection and Connection Charge arrangements’	Targeted consultation rather than public submissions	CUAC
MCE RPWG	Nov 2008	Retailer of Last Resort - Review of Current Jurisdictional Arrangements and Developments of National Policy Framework	http://www.ret.gov.au/Documents/mce/emr/rpwg/lastresort-submissions.html	Draft Report: Submissions Nov 2008 from CALC, VCOSS
MCE RPWG	March 2008	National Framework for Energy Community Service Obligations	Targeted consultation rather than public submissions	PIAC

Commonwealth				
Australian Competition and Consumer Commission	Feb 2008	Issues paper on the Trade Practices Act 1972 (Cth) (TPA) and carbon offset claims	http://www.accc.gov.au/content/index.phtml/itemId/807902	No information about submissions on the website; advised separately that PIAC made a submission
Australian Energy Regulator (AER)	June 2010	Retail Market Performance Reporting	http://www.aer.gov.au/content/index.phtml/itemId/737816	Issues Paper - June 2010 – submissions from QCOSS, Uniting Care Australia, TasCOSS, PIAC, SACOSS, CUAC, and 15 others
AER	May 2010	Approach to Compliance	http://www.aer.gov.au/content/index.phtml/itemId/736894	Issues Paper - May 2010 – submissions from QCOSS, CUAC, PIAC, CALC
AER	April 2010	Guidelines on National Hardship Indicators	http://www.aer.gov.au/content/index.phtml/itemId/736022	Issues Paper - April 2010 – submissions from CUAC, QCOSS, TasCOSS, PIAC, SACOSS, FCRC, Uniting Care Australia, Financial Counsellors Association of Qld, CCCL Program at QUT
AER	April 2010	Retailer Authorisation Guidelines	http://www.aer.gov.au/content/index.phtml/itemId/734866	Issues Paper - March 2010 – submissions from CUAC and 12 others
AER	March 2010	Retail Price Information Guidelines	http://www.aer.gov.au/content/index.phtml/itemId/734869	Issues paper - March 2010 - submissions from Brotherhood of St Lawrence, CALC, CUAC, Ethnic Communities Council of NSW, PIAC, SACOSS, VCOSS, 13 others
Australian Energy Market Commission (AEMC)	2008 - ongoing	<p>AEMC Market Reviews</p> <p>There were 11 market reviews completed between 01/01/2008 and 30/06/2010, and an additional 5 market reviews ongoing as at 30 June 2010</p> <p>8 of these AEMC market reviews (3 ongoing, 5 completed) to date have received no consumer advocates submissions - these were mostly relating to transmission issues: Transmission Frameworks Review (initiated April 2010), Request for Advice on Cost Recovery for Mandated Smart Metering Infrastructure (initiated Nov 09), Review Into the Use of Total</p>	http://www.aemc.gov.au/Market-Reviews/Open.html	See below

		<p>Factor Productivity for the Determination of Prices and Revenues (initiated November 08), Congestion Management Review (completed June 2008), Determination of Schedule for the Administered Price Cap (completed May 2008), National Transmission Planner (completed July 2008), Establishment of First Compensation Guidelines (completed June 2009), Review into the Role of Hedging Contracts in the Existing NEM Prudential Framework (completed July 2010)</p> <p>The remaining market reviews received submissions from consumer advocates: these are listed below</p>		
AEMC	May 2010	Review of the Effectiveness of NEM Security and Reliability Arrangements in light of Extreme Weather Events	http://www.aemc.gov.au/Market-Reviews/Completed.html	Second Interim Report and Consultation Paper: submissions from CUAC
AEMC	Dec 2009	Review of Demand Side Participation in the National Electricity Market	http://www.aemc.gov.au/Market-Reviews/Completed.html	<p>Stage 2 Draft Report - June 2009 - submissions from ECCNSW, CUAC, TEC</p> <p>Stage 2 - Issues Paper - June 2008 - submissions from CALC, CUAC, TEC</p> <p>Stage 1 - March 2008 - submissions CUAC, ECCNSW</p>
AEMC	Oct 2009	Review of Energy Market Frameworks in light of Climate Change Policies	http://www.aemc.gov.au/Market-Reviews/Completed.html	<p>2nd Interim report, submissions Aug 09 from CUAC, SACOSS, TEC, TASCOS, Stakeholder responses to forums/panel: CUAC, WACOSS</p> <p>First interim report, submissions Feb 2009, CUAC, UnitingCare Kildonan, FCRC TEC</p> <p>Scoping Paper, submissions November 2008, from CUAC, ATA, TEC and 33 others</p>

AEMC	Sept 2009	Review of National Framework for Electricity Distribution Network Planning and Expansion	http://www.aemc.gov.au/Market-Reviews/Completed.html	April 2009: submissions on Draft Report from CUAC, ATA and TEC
AEMC	Nov 2008	National Electricity Rules - Proposed Rule Change: Parameter Values, Equity Beta and Gamma (proposed by Energy Users' Association of Australia)	http://www.aemc.gov.au/Electricity/Rule-changes/Completed/Parameter-Values-Equity-Beta-and-Gamma.html	Joint submission by CUAC, CALC and PIAC in support of the EUAA proposal
AEMC Reliability Panel	2008-ongoing	AEMC Reliability Panel Market Reviews: Between 01/01/08 and 1/07/2010 there were 15 completed and 2 ongoing reviews by the AEMC Reliability Panel. These reviews generally related to transmission issues e.g. reliability of supply, the level of the Market Price Cap (VoLL). Examples of review topics are Reliability and Emergency reserve Trader Guidelines (Nov 2008), Review of the Reliability Standard and Settings (April 2010), and the Annual Market Performance Reviews.	http://www.aemc.gov.au/Market-Reviews/Completed.html	No consumer advocacy organisations provided submissions to these 15 reviews by the Reliability Panel, although ATA and TEC did on some occasions.
Department of Climate Change	April 2008	Garnaut Climate Change Review		Many submissions including PIAC Consumer Action Law Centre
Department of Climate Change	Sept 2008	Carbon Pollution Reduction Scheme Green Paper	http://www.climatechange.gov.au/government/submissions/cprs-green-paper.aspx	Thousands of submissions: consumer advocacy submissions from ACOSS, ATA, CALC, CUAC, FCAQ, PIAC, QCOSS, St Vincent de Paul, TasCOSS, TEC, VCOSS, WACOSS
Department of Resources, Energy and Tourism	May 2009	Energy White Paper	http://www.ret.gov.au/energy/facts/white_paper/list_of_submissions/Pages/default.aspx	Many submissions, mostly environmental. Consumer advocacy orgs PIAC, TEC, CUAC, TasCOSS, Uniting Care Wesley Adelaide, ATA
Infrastructure Australia	August 2009	Development of a National Energy Grid – Stakeholder Consultations (by ACIL Tasman for IA)	Final report http://www.infrastructureaustralia.gov.au/files/Development_of_a_national_energy_grid.pdf	CUAC was the only consumer advocacy organisation consulted in the preparation of the report (there were 19 others consulted)
Prime Minister's Task Group on Energy Efficiency	April 2010	PM's Task Group on Energy Efficiency Discussion Paper	http://www.climatechange.gov.au/government/submissions/pm-task-group/paper.aspx	197 submissions received. Consumer advocacy orgs: TasCOSS, QCOSS, VCOSS, ACOSS, TEC, ECCNSW, TUV, CUAC
Productivity Commission	May 2008	Review of Australia's Consumer Policy Framework	http://www.pc.gov.au/projects/inquiry/consumer	PIAC, CALC, TasCOSS

Senate Select Committee on Climate Policy	April 2009	Inquiry into policies relating to climate change including CPRS	http://www.aph.gov.au/senate/committee/climate_ctte/submissions/sublist.htm	Over 8,000 submissions, thousands of form letters, many environmental orgs, many individual letters. Consumer orgs submissions from PIAC, Choice, CUAC (possibly more in non-searchable format)
Senate Standing Committee on Economics	April 2010	Inquiry into the Trade Practices Amendment (Australian Consumer Law) Bill (no. 2) 2010		CUAC
The Treasury	July 2009	Consumer Voices: Sustaining Advocacy and Research in Australia's New Consumer Policy Framework – Issues Paper	http://www.treasury.gov.au/contentitem.asp?NavId=037&ContentID=1532	Submissions to Issues Paper by about 50 consumer organisations – those relevant to energy include CUAC, CPSA, Brotherhood of St Laurence, FCRC, PIAC, TASSCOSS, WACOSS
South Australia				
AER	Feb 2010 - July 2009	SA electricity distribution determination 2010-2015	http://www.aer.gov.au/content/index.phtml/itemId/730272	Draft Decision and revised regulatory proposal - Feb 2010 – submissions from SACOSS, TEC, UnitingCare Australia ETSA Utilities Regulatory Proposal - July 2009 – submissions from Uniting Care Australia, SACOSS, COTA Seniors Voice
AEMC	Dec 08	Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in SA	http://www.aemc.gov.au/Market-Reviews/Completed.html	Second Draft Report: submissions from Uniting Care Kildonan, UnitingCare Wesley Adelaide First Draft Report: joint submissions from COTA SA and SACOSS Issues Paper: submissions from COTA SA, Uniting Care Wesley
Essential Services Commission of South Australia (ESCOSA)	June 2010	AGL SA Pass through application: Expanded Renewable Energy Target	http://www.escosa.sa.gov.au/projects/140/agl-sa-pass-through-application-expanded-renewable-energy-target.aspx	SA Minister for Energy only
ESCOSA	June 2010	Review of Energy Industry Guideline No 4 – 2010 (Compliance Systems and Reporting)	http://www.escosa.sa.gov.au/projects/136/review-of-energy-guideline-no-4-2010.aspx#stage-list=0	Of the 2 submissions, none were from consumer organisation

ESCOSA	May 2010	2010 Electricity Standing Contract Price Path Inquiry	http://www.escosa.sa.gov.au/projects/143/2010-electricity-standing-contract-price-path-inquiry.aspx#stage-list=1	SACOSS (separately advised that Uniting Care Wesley Adelaide made a submission)
ESCOSA	May 2010	Review of Credit Support Provisions of SA Electricity Co-ordination Agreement	http://www.escosa.sa.gov.au/projects/124/review-of-credit-support-provisions-of-sa-electricity-co-ordination-agreement.aspx	Of the 6 submissions, none were from consumer organisation
ESCOSA	May 2010	2010 Wind Generation Licensing	http://www.escosa.sa.gov.au/projects/15/2010-wind-generation-licensing.aspx#stage-list=1	No consumer organisations submitted to any stage 8 others submitted to first stage, 10 others to second stage
ESCOSA	Nov 2009	Energy Retail Code - Proposed Amendments to Hot Weather Disconnection	http://www.escosa.sa.gov.au/projects/62/energy-retail-code-proposed-amendments-to-hot-weather-disconnection.aspx#stage-list=1	Submissions from SACOSS, 8 others
ESCOSA	Sept 2009	Residential Energy Efficiency Scheme (REES) Code Amendment - Lighting Activity Specification	http://www.escosa.sa.gov.au/projects/64/rees-code-amendment-lighting-activity-specification.aspx#stage-list=1	Of the 3 submissions, none were from consumer organisations
ESCoSA	Aug 2009	Amendments to Electricity Metering Code	http://www.escosa.sa.gov.au/projects/76/amendments-to-electricity-metering-code.aspx	No submissions from consumer organisations,
ESCoSA	March 2009	REES Code Amendment – Hardship	http://www.escosa.sa.gov.au/projects/41/rees-code-amendment-hardship.aspx#stage-list=1	Targeted consultation with energy suppliers only, no public submissions
ESCoSA	Dec 2008	Residential Energy Efficiency Scheme (REES) Code	http://www.escosa.sa.gov.au/projects/105/rees-code.aspx#stage-list=1	No consumer organisation submissions on website (but separately advised that SACOSS and Uniting Care Wesley Adelaide made submissions to REES Guidelines)
ESCoSA	October 2008	Regulatory Arrangements for Reticulated LPG Networks	http://www.escosa.sa.gov.au/projects/77/regulatory-arrangements-for-reticulated-lpg-networks.aspx	Of the 3 submissions, none were from consumer organisation

ESCoSA	August 2008	Amendments to Energy Price Disclosure Code	http://www.escosa.sa.gov.au/projects/152/amendments-to-energy-price-disclosure-code.aspx#stage-list=1	COTA
ESCoSA	May 2008	Amendments to Electricity Guideline No 3 – Transmission and System Control	http://www.escosa.sa.gov.au/projects/11/amendments-to-electricity-guideline-no-3-transmission-and-system-control.aspx#stage-list=1	Of the 3 submissions, none were from consumer organisation (all energy companies)
ESCoSA	March – July 2008	Electricity Distribution Service Standards 2010 to 2015	http://www.escosa.sa.gov.au/projects/85/electricity-distribution-service-standards-2010-to-2015.aspx#stage-list=3	Draft Decision: COTA, 3 others Issues Paper – no consumer submissions
ESCoSA	Jan-May 2008	2008 Gas Standing Contract Price Path Inquiry	http://www.escosa.sa.gov.au/projects/43/2008-gas-standing-contract-price-path-inquiry.aspx#stage-list=3	Of the 5 submissions, none were from consumer organisation
Sustainability SA	Can't find date	Climate Change	Can't find website	Advised that UnitingCare Wesley Adelaide provided submission
Department of Transport, Energy and Infrastructure	2008-2009	Review of tariffs for communities supplied with electricity under the Remote Area Energy Supplies (RAES) scheme – New tariffs to apply from 1 October 2009	http://www.energy.sa.gov.au/rebates_and_grants/remote_areas_energy_supplies/new_tariffs	No information about consultation
<i>New South Wales</i>				
AER	Feb 2010	Jemena Gas Networks Ltd's access arrangement proposal for the period 1 July 2010 to 30 June 2015	http://www.aer.gov.au/content/index.phtml/itemId/736190	Draft Decision – submission from PIAC and 13 others
AER	Aug 2008 – Feb 2009	NSW electricity Distribution Network Service Providers 2009-2014 Regulatory Proposals	http://www.aer.gov.au/content/index.phtml/itemId/720331	Draft decision and revised proposals – Feb 2009 – Anglicare Sydney, PIAC, TEC and 8 others Proposals – August 2008 - submissions from PIAC, TEC and 8 others (there were also submissions regarding public lighting proposals which were mostly from local councils)

IPART	May 2010	Retail price disclosure guideline - Gas	http://www.ipart.nsw.gov.au/submissions.asp?industry=1&inquiry=227	Draft Guideline May 2010 – submissions from Choice, 10 others
IPART	May 2010	Retail price disclosure guideline - Electricity	http://www.ipart.nsw.gov.au/submissions.asp?industry=2&inquiry=228	Draft Guideline May 2010 – submissions from Choice, 10 others
IPART	Nov 2009 - April 2010	Review of regulated gas retail tariffs and charges for 2010 to 2013	http://www.ipart.nsw.gov.au/submissions.asp?industry=1&inquiry=205	Draft Report April 2010 - PIAC Issues paper Nov 2009 – submissions from PIAC and 9 others
IPART	July - Dec 2009	Review of regulated electricity retail tariffs and charges for small customers 2010 to 2013	http://www.ipart.nsw.gov.au/investigation_submissions.asp?industry=2%20&sector=3%20&inquiry=196	Draft Report and Draft Determination December 2009 - submissions from COTA, PIAC , Toronto Assistance Centre, CPSA, and 113 others, mostly private individuals Draft Methodology Paper Aug 2009 - submissions from Choice, PIAC, and 11 others Issues Paper July 2009 – submissions from NCOSS, PIAC, 13 others
IPART	June 2009	2009 Annual Review of market-based electricity price purchase cost allowances	http://www.ipart.nsw.gov.au/submissions.asp?industry=2&inquiry=185	Draft Report - Market-based electricity purchase cost allowance – submissions from CPSA, PIAC, COTA (NSW), and 40 others, mostly individual emails/letters
IPART	Feb 2008	2008 Annual review of market-based electricity purchase cost allowances	http://www.ipart.nsw.gov.au/submissions.asp?industry=2	Draft Report – no submissions from consumer orgs (all 5 submissions are from energy companies only)
(Department of) Industry & Investment	July 2009	Draft NSW hardship regulatory amendments to <i>Electricity Supply (General) Regulation 2001</i> and the <i>Gas Supply (Natural Gas Retail Competition) Regulation 2001</i> informed by the Customer Assistance Policy	http://www.industry.nsw.gov.au/energy/customers/protection/submissions-draft-hardship-regulatory-amendments	Submissions from NCOSS, PIAC, 3 others
(Department of) Industry & Investment	Jan 2009	NSW Solar Feed-in Tariff Taskforce	http://www.industry.nsw.gov.au/energy/sustainable/renewable/solar/solar-scheme/sustain-renew-fit-submissions	Submissions from ATA, PIAC, TEC and hundreds of mostly environmental orgs and individuals
Department of Water and Energy (now Industry & Investment NSW)	Feb 2008	A Consultative Reference Committee, chaired by former Premier Barry Unsworth, established to test the impacts of the proposed privatisation of the NSW electricity industry.	No longer available if published.	Others from PIAC

Queensland				
AER	Aug 2009 – Feb 2010	Queensland electricity distribution determination 2010-2015	http://www.aer.gov.au/content/index.phtml/itemId/727400	Draft decision and revised regulatory proposals - Feb 2010 – submissions from QCOSS, TEC and 7 others Regulatory proposals Aug 2009 – submissions from QCOSS and 9 others
Queensland Competition Authority (QCA)	May 2010	Review of Electricity Retailer and Distributor Credit Support Arrangements	http://www.qca.org.au/electricity/RevCSA/	Consultation Notice – May 2010 – no submissions from consumer orgs, 10 from others
QCA	Oct - Nov 2009	Review of Electricity Pricing and Tariff Structures Stage 2	http://www.qca.org.au/electricity-retail/RevEPandTS/stage2rev.php	Draft Report – Nov 09 – submissions from Queensland Consumer’s Association, QCOSS, 11 others Request for comments – Oct 09 – submissions from Queensland Consumer’s Association, QCOSS, 8 others
QCA	Oct - Dec 2009	Notified electricity prices 2010 – 2011	http://www.qca.org.au/electricity-retail/NEP1011/intconsnote.php	Draft Decision – Dec 2009 – submissions from FCA, QCOSS, Qld Consumers Assoc, QUT CCLP, 11 others Interim Consultation Notice Oct 2009 – submissions from QCOSS, Qld Consumers Association, QUT CCLP, 6 others
QCA	Aug - Oct 2009	Review of Code Reporting Requirements Electricity and Gas Codes	http://www.qca.org.au/electricity-retail/industry-code/RevoCRepReq.php	Draft Decision - October 09 – submissions from FCAQ, Queensland Consumers Association, QCOSS, 4 others Interim Consultation Notice – August 2009 - submissions from QCOSS, FCAQ, Qld Consumers Assoc, 9 others
QCA	July - Aug 2009	Review of Electricity Pricing and Tariff Structures Stage 1 – methodology	http://www.qca.org.au/electricity-retail/RevEPandTS/stage1rev.php	Draft Report - Aug 09 – submissions from Queensland consumer’s Association, QCOSS, 11 others Request for comments paper– July 09 – submissions from FCAQ, QCOSS, 13 others
QCA	June -Dec 2009	Review of Minimum Terms and Conditions for Retail Contracts – Requiring Prior Notice for Price Changes	http://www.qca.org.au/electricity-retail/industry-code/RevMinTCRetailCon.php	Draft Decision – December 2009 – submissions from QCOSS, FCAQ, Qld Consumers Assoc, CCCLP (QUT), and 4 others Interim Consultation Notice – June 2009 – submissions from QCOSS, FCAQ, 5 others

QCA	May – Aug 2009	Review of GSL Claim Procedures under the Electricity Industry Code	http://www.qca.org.au/electricity/service-quality/RevGSLClaimProEIC.php	Draft Decision – Aug 09 – submissions from FCA, QCOSS, Qld Consumers Assoc, 2 others Discussion Paper – May 09 – submissions from QCOSS, 2 others
QCA	July 2008 – May 2009	Notified Electricity Prices 2009-10	http://www.qca.org.au/electricity-retail/NEP0910/ConsulPapNEM.php	Consultation paper re NEM load – May 2009 – submissions from Qld Consumers Assoc, 3 others Draft Decision re BRCI – December 2008 – submissions from QCOSS, Qld Consumers Assoc, 7 others Interim consultation notice re BRCI – July 2008 – submissions from QCOSS, Qld Consumers Assoc, 7 others
QCA	July 2008	Severe Tropical Cyclone Larry Cost Pass-Through Application from Ergon Energy	http://www.qca.org.au/electricity/cost_pass-through_applications/Cyclone_Larry_pass-through.php	Draft decision July 2008 – submissions from QCOSS, 2 others
QCA	July 2008 – Jan 2009	Review of Minimum Service Standards and Guaranteed Service Levels	http://www.qca.org.au/electricity/service-quality/RevMinServStandLevel.php	Draft Decision – Jan 09 – submissions from FCAQ, QCOSSA, Qld Consumers Assoc and 3 others Discussion Paper – July 08 – submissions from Qld Consumers Assoc, QCOSS, 6 others
QCA	May - Sept 2008	Review of Small Customer Gas Pricing and Competition in Queensland	http://www.qca.org.au/gas-retail/RSCGPComp/index.php	Draft Report Sept 2008 – no submissions from consumer organisations, all 3 submissions are from gas companies Issues Paper May 2008 – submissions from St Vincent de Paul, QCOSS, Qld Consumers Assoc, and 4 others
QCA	April-Nov 2008	Full Retail Competition Cost Pass-Through Application from Energex	http://www.qca.org.au/electricity/cost_pass-through_applications/frc-energex.php	Draft decision April 2008 - no consumer submissions, all 4 submissions are from energy companies
Queensland Department of Employment, Economic Development and Innovation – Resources and Energy (DEEDI)	June 2010	National Energy Customer Framework - Queensland Implementation – Discussion Paper	http://www.dme.qld.gov.au/Energy/submissions.cfm	Submissions from QCOSS, Qld Consumers Assoc, and 13 others

Qld Parliament – Environment & Resources Committee	May 2010	Parliamentary Inquiry into Growing Queensland’s Renewable Energy Electricity Sector	http://www.parliament.qld.gov.au/view/committees/ERC.asp?subarea=renewableenergy_submissions	Issues Paper released May 2010 – None of the 64 submissions were from consumer organisations
Qld Parliament – Environment & Resources Committee	June 2009	Parliamentary Inquiry into Energy Efficiency Improvements	http://www.parliament.qld.gov.au/view/committees/ERC.asp?subarea=EElI_submissions	Issues Paper released June 2009 – submissions from QCOSS, Ipswich Regional Tenants Group, and 48 others
Office of Climate Change	Sept 2008	Review of the Queensland Government’s climate change strategy – Issues Paper – September 2008	Submissions not online	QCOSS and many other groups, mostly environmental
Victoria				
AER	Feb – June 2010	Victorian Electricity Distribution Price Review 2011 - 2015	http://www.aer.gov.au/content/index.phtml/itemId/732017	Draft determination - June 2010- submissions from CUAC, CALC, VCOSS and 24 others Proposals - Feb 2010 - submissions from CALC, CUAC
AER	Sept 2009	Victorian advanced metering infrastructure review, 2009-2011 AMI budget and charges applications	http://www.aer.gov.au/content/index.phtml/itemId/730746	Draft determination - September 2009 – submissions from CUAC, CALC, St Vincent de Paul, and 4 others
AER	March 2009	Demand Management Incentive Scheme for Victorian DNSPs	http://www.aer.gov.au/content/index.phtml/itemId/727109	Submissions from CUAC, TEC and one other (an additional 7 submissions received during the Framework and approach process also discussed DMIS)
AER	Dec 2008	Framework and approach process for Victorian DNSPs	http://www.aer.gov.au/content/index.phtml?itemId=727242	Preliminary positions paper – Dec 2008 - Submission from VCOSS and 11 others
AEMC	Feb 2008	Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in Vic	http://www.aemc.gov.au/Market-Reviews/Completed.html	Final Draft Report: Submissions from ATA, QUT (Centre for Consumer Law), CALC, CUAC, PIAC, St Vincent de Paul, VCOSS 2nd Draft Report: Submissions from CUAC, CALC, ATA Issues Paper, June 2007, submissions from CUAC, CALC, Footscray Community Legal Centre, St Vincent de Paul, Tenants Union of Vic, VCOSS

Department of Climate Change and Energy Efficiency	Sept 2009	Victorian Government's Climate Change Green Paper	(submissions not on website)	CUAC, No information about others
Department of Primary Industries – Energy	January 2009	AMI Home Area Network (HAN) Functionality Guideline – January 2009	http://new.dpi.vic.gov.au/energy/projects-research-and-development/smart-meters/ami-consultation	None of the 5 submissions were from consumer organisations
Department of Primary Industries – Energy	Sept 2008	Proposed Victorian Energy Efficiency Target Regulations 2008	http://new.dpi.vic.gov.au/energy/energy-policy/energy-efficiency/victorian-energy-efficiency-target-scheme-regulatory-impact-statement	Submissions not published on website
Essential Services Commission (ESC)	Feb-Aug 2010	Smart meters regulatory review	http://www.esc.vic.gov.au/public/Energy/Consultations/Smart%20meters%20regulatory%20review/Submissions.htm?docName=Regulatory%20review%20of%20smart%20meters	Draft Decision July 2010- submissions from CUAC, St Vincent de Paul, VCOSS, CALC, 15 others Issues paper April 2010 - Submissions from CUAC, CALC, FCRC, VCOSS, TUV, 27 others Open letter Feb 2010, Submissions from CUAC, FCRC, VCOSS, ATA, 14 others
ESC	January 2010	Energy retailers financial hardship policies guideline development	http://www.esc.vic.gov.au/NR/exeres/0365B775-CD7E-4005-85FD-4231C5EC18A8.htm	Comparative Performance Report – Energy Retailers: Survey of Financial Hardship Programs - Submissions April 2010 from CUAC, FCRC, 7 others Open letter - submission Feb 2010 from CUAC
ESC	Oct 2009 – Jan 2010	Victoria's wrongful disconnection payment review	http://www.esc.vic.gov.au/public/Energy/Consultations/Victorias+wrongful+disconnection+payment+review/	Open letter – Oct 2009 - Submissions from CUAC, FCRC, VCOSS, CALC and 6 others Draft Report – December 2009 - submissions January 2010 from CUAC, FCRC, VCOSS, CALC, Qld Consumers Association, and 6 others
ESC	Oct 2009	Charter of Consultation and Regulatory Practice (2009 edition)	Targeted consultation rather than public submissions	CUAC
ESC	October 2009	Electricity customer transfer code proposed amendments	http://www.esc.vic.gov.au/public/Energy/Consultations/Electricity+customer+transfer+code+proposed+amendments/	Submissions November 2009 from CUAC and 7 others

ESC	Nov 2009	Electricity Distributors' Communication During Extreme Supply Events	http://www.esc.vic.gov.au/public/Energy/Consultations/Electricity+Distributors+Communications+in+Extreme+Supply+Events/	Final Decision and Draft electricity distribution code Dec 2009: no submissions from consumer orgs, 6 from others Draft Decision Nov 2009: submissions from CUAC and 7 others Issues Paper September 2009: submissions from CUAC and 13 others
ESC	Sept 2009	Amendments to the energy retail code	http://www.esc.vic.gov.au/public/Energy/Consultations/Amendment+to+the+Energy+retail+code/	Draft Decision - submissions October 2009 from CUAC, CALC, FCRC , 6 others
ESC	August 2009	Electricity retailers of last resort (local retailer failure)	http://www.esc.vic.gov.au/public/Energy/Consultations/Electricity+retailers+of+last+resort+%28local+retailer+failure%29/	None of the 5 submissions were from consumer organisations
ESC	July 2009	Electricity distribution code proposed amendments 2009 – 3 July 2009.	http://www.esc.vic.gov.au/public/Energy/Consultations/Electricity+distribution+code+proposed+amendments+2009/	Submissions from CALC, 2 others
ESC	March 2009	Energy price and product disclosure Draft Decision and Draft Guideline 19	http://www.esc.vic.gov.au/public/Energy/Consultations/Energy+price+and+product+disclosure/	Submissions from CALC, VCOSS, 4 others
ESC	Dec 2008	Advanced metering infrastructure review – Revised framework and approach		None of the 4 submissions were from consumer organisations
ESC	August 2008	Application for exclusions from financial incentives for supply reliability 2008	http://www.esc.vic.gov.au/public/Energy/Consultations/Application+for+exclusions+from+financial+incentives+for+supply+reliability+2008/	Supply interruptions due to the 2 April 2008 storm: Submissions Sept 2008 from CUAC and 12 others
ESC	Feb 2008 – Oct 2009	Energy regulatory instruments review	http://www.esc.vic.gov.au/NR/exeres/9E509EF2-583E-41EC-AB6E-98E8C6C442E6.htm	Final Decision/Amendments to Electricity Customer Transfer Code - October 2009 – joint submission from CUAC/CALC Merger of Guidelines – submission Feb 2009 from CUAC Final Decision – submission Nov 2008 from CUAC

				Draft Decision August 2008 – joint submission from CUAC/CALC Open letter February 2008 – joint submission from CUAC/CALC/St Vincent de Paul
ESC	July 2008	Gas distribution system code amendment	http://www.esc.vic.gov.au/public/Energy/Consultations/Gas+distribution+system+code+amendments/	Of the 5 submissions, none were from consumer organisations
ESC	May 2008	Interval Meter Reassignment	http://www.esc.vic.gov.au/NR/exeres/55BE9EEF-12FB-4FD7-B6E0-45F33D1A879D.htm	Consultation Paper May 2008: submissions from ATA, CALC, and joint submission from CUAC/St Vincent de Paul
ESC	Feb 2008	Retailer of Last Resort Customer Charges	(submissions not on website)	Draft Decision – submission from CALC No information about others
Parliament of Victoria - Family & Community Development Committee	April 2010	Inquiry into the Adequacy and Future Directions of Public Housing in Victoria	http://www.parliament.vic.gov.au/fcdc/article/875	Submission from CUAC
Tasmania				
Office of the Tasmanian Economic Regulator (OTTER)	June 2010	Fallback Contract Approval	http://www.energyregulator.tas.gov.au/domino/otter.nsf/8f46477f11c891c7ca256c4b001b41f2/2fab06ae4ac274fca257089001dc132?OpenDocument	Draft Decision – June 2010 – one submission received (not a consumer organisation)
OTTER	Sept 2009 - May 2010	2010 Electricity Retail Price Investigation	http://www.energyregulator.tas.gov.au/domino/otter.nsf/8f46477f11c891c7ca256c4b001b41f2/2da6a8f97e8a7947ca2576f0001a639d?OpenDocument#The%20Regulator%20has%20engaged%20Intel	Draft Report – submissions from Salvation Army Tasmania, St Vincent de Paul Devonport, TasCOSS, and 23 others (many individuals) Terms of Reference – May 2010 – submissions from TasCOSS and 2 others Consultation Paper – Sept 2009 - only one submission (from Tasmania’s energy company Aurora)

OTTER	March – June 2010	2010 Frequency Control Ancillary Services Investigation	http://www.energyregulator.tas.gov.au/domino/otter.nsf/8f46477f11c891c7ca256c4b001b41f2/97e4adbb60232f0ca2576f0001a0fd4?OpenDocument	Draft Report June 2010 – none of the 3 submissions were from consumer organisations Terms of Reference – March 2010- none of the 2 submissions were from consumer organisations
OTTER	March 2010	Tasmanian Electricity Code Change Proposals (March 2010)	http://www.energyregulator.tas.gov.au/domino/otter.nsf/8f46477f11c891c7ca256c4b001b41f2/21c650ca0ba21786ca256e16000359eb?OpenDocument	Consultation Paper – March 2010 – submissions from TasCOSS, Anglicare Tasmania, 6 others
OTTER	Nov 2009	Dissolution of the Reliability and Network Planning Panel and the proposed Reliability Review Procedure	http://www.energyregulator.tas.gov.au/domino/otter.nsf/8f46477f11c891c7ca256c4b001b41f2/d5b3cb521e151f4dca2576c00009b891?OpenDocument	None of the 5 submissions were from consumer organisations
OTTER	October 2009	Revised Code change process for the Tasmanian Electricity Code	http://www.energyregulator.tas.gov.au/domino/otter.nsf/8f46477f11c891c7ca256c4b001b41f2/d5b3cb521e151f4dca2576c00009b891?OpenDocument	None of the 3 submissions were from consumer organisations
OTTER	Oct - Dec 2009	2009 Reliability Review	http://www.energyregulator.tas.gov.au/domino/otter.nsf/8f46477f11c891c7ca256c4b001b41f2/4d532082b729cb48ca2577b30000d0f2?OpenDocument	Draft report – December 2009 – None of the 5 submissions were from consumer organisations Term of Reference – October 2009 – 2 submissions, neither from consumer organisations
OTTER	Sept 2009	Aurora Pay As You Go 2009 Review	http://www.gpoc.tas.gov.au/domino/otter.nsf/elect-v/28	Draft Report – Sept 2009 – submissions from TasCOSS, Anglicare Tasmania, and 5 others
OTTER	March 2009	Performance and Information Reporting Guideline	http://www.energyregulator.tas.gov.au/domino/otter.nsf/8f46477f11c891c7ca256c4b001b41f2/586119af6594ed01ca2571f4000f2596?OpenDocument#The%20Regulator%20issued%20an	Consultation Paper – March 2009 – submissions from TasCOSS and 3 others

OTTER	May 2009	Consultation Policy and Procedures of the Regulator	http://www.energyregulator.tas.gov.au/domino/otter.nsf/8f46477f11c891c7ca256c4b001b41f2/20f4f80c310b6a27ca2575bc0009f1a4?OpenDocument#The%20Regulator%20has%20released%20a	None of the 5 submissions were from consumer organisations
OTTER	Nov – Dec 2008	2008 Reliability Review	http://www.energyregulator.tas.gov.au/domino/otter.nsf/8f46477f11c891c7ca256c4b001b41f2/1ded964380001126ca257635000979f6?OpenDocument	Draft Report – Dec 2008 - None of the 2 submissions were from consumer organisations Terms of Reference - Nov 2008 - None of the 3 submissions were from consumer organisations
OTTER	July 2008	Public Benefit Assessment into Full Retail Competition	http://www.gpoc.tas.gov.au/domino/otter.nsf/elect-v/28	Draft Report May 2008 – submission from TasCOSS and 9 others
Tasmanian Department of Infrastructure, Energy and Resources – Office of Energy	Nov 2008	Feed-In Tariffs discussion paper – November 2008	http://www.dier.tas.gov.au/_data/assets/pdf_file/0020/33851/feed_in_tariff_draft_discussion_paper.pdf	No evidence of nature of consultation on website, TasCOSS made private submissions
Western Australia				
Energy Regulation Authority (ERA)	May 2010	Compendium of Gas Customer License Operations	http://www.erawa.com.au/3/462/51/codes__gas_customer_code.pm	Submissions from WACOSS and 2 others
ERA	Feb 2010	Clear Energy's Draft Standard Form Contract	http://www.erawa.com.au/2/248/51/electricity_licensing_public_submissions.pm	Submissions from WACOSS and 3 others
ERA	Feb 2010	2009 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers	http://www.erawa.com.au/3/689/51/electricity_licensing_codes_review_of_the_code.pm	Second Round in response to 'Decision re ECC Final Review Report 2009' – 29 Sept 2009 - submissions from WACOSS and 3 others First Round in response to the Electricity Code Consultative Committee's Review of Code of Conduct Final Report August

				2009 - submissions from Gosnells Community Legal Centre, Salvation Army WA, St Vincent De Paul, WACOSS (2 different submissions – a general one and one on financial hardship), Uniting Care West, and 19 others
ERA	Sept 2009	Customer Service Charter Guidelines	http://www.erawa.com.au/248/51/electricity_licensing_public_submissions.pm	Submissions from WACOSS and 2 others
ERA	June 2009	2010 Code Amendments - Pre-Payment Meters	http://www.erawa.com.au/3774/51/electricity_licensing_codes_code_amendments_pr.pm	Discussion Paper 1 – June 2009 – submissions from Consumer Credit Legal Service, WACOSS, 9 others
ERA	May 2009	Draft audit guidelines for electricity, gas and water licensees	http://www.erawa.com.au/248/51/public_submissi.pm	None of the 7 submissions published July 2009 were from a consumer organisation
ERA	Feb 2009	Draft incident reporting manual for Western Australian electricity, gas and water licensees	http://www.erawa.com.au/248/51/electricity_licensing_public_submissions.pm	None of the 13 submissions published May 2009 were from a consumer organisation
ERA	January 2009	Gas Marketing Code of Conduct 2008 and new gas customer protection provisions	http://www.erawa.com.au/3461/51/codes_gas_marketing_code_consultative_committee.pm	Submissions from WACOSS and 1 other
ERA	May 2008	Draft Gas Customer Code	http://www.erawa.com.au/3462/51/codes_gas_customer_code.pm	Submissions January 2009 from WACOSS and 6 others
Office of Energy (WA)	Dec 2009	Energy 2030 Strategic Energy Initiative's Issues Paper – December 2009	http://www.energy.wa.gov.au/2/3438/3312/submissions_to_.pm	Submissions from WACOSS and 66 others
Northern Territory				
The Utilities Commission of the NT	March 2010	Review of Options for the Development of a Retail Price Monitoring Regime for Contestable Electricity Customers	http://www.nt.gov.au/ntt/utlicom/electricity/electricity_retail_pricing.shtml	Issues Paper – March 2010 – none of the 3 submissions are from consumer organisations

Utilities Commission	March 2010	Review of Options for the Implementation of a Customer Service Incentive Scheme for Northern Territory Electricity Customers	http://www.nt.gov.au/ntt/ut/ilicom/electricity/standards_of_service.shtml	Issues Paper – March 2010 – none of the 4 submissions are from consumer organisations
Utilities Commission	Aug 2009	Review of Full Retail Contestability for NT Electricity Customers	http://www.nt.gov.au/ntt/ut/ilicom/electricity/market_iss_ues.shtml	Issues Paper Aug 2009 - Submission from Sommerville Community Services (with Uniting Care Australia) and 8 others
Utilities Commission	Feb-Aug 2008	2008 Review of Electricity Ring-fencing Code	http://www.nt.gov.au/ntt/ut/ilicom/electricity/ring_fencing_code.shtml	Revised Draft Code – August 2008 - neither of the 2 submissions received were from consumer organisations Draft Code – May 2008 - neither of the 2 submissions received were from consumer organisations Consultation paper - proposed variations of the ring-fencing code – Feb 2008 – neither of the 2 submissions received were from consumer organisations
<i>Australian Capital Territory</i>				
AEMC	March 2010 - ongoing	Review of the effectiveness of competition in the electricity retail market in the ACT	http://www.aemc.gov.au/Market-Reviews/Open.html	Issues Paper: submissions from PIAC First Draft Report: submissions from ACTCOSS, joint submission from Uniting Care Australia /ACTCOSS/Care Inc

Table 4.3: Major regulator-instituted standing and ad hoc consultative processes

Jurisdiction	Regulator or Agency	Title	Membership
Australia	Australian Energy Regulator	Consumer Consultative Group of AER	ACOSS, Consumer Utilities Advocacy Centre, Public Interest Advocacy Centre, Consumer Action Law Centre
Queensland	Queensland Competition Authority	Consumer Advisory Committee of Queensland Competition Authority	QCOS, Queensland Consumers Federation, Financial Counsellors Association of Queensland, Tenants Union of Queensland
Western Australia	Economic Regulation Authority	Consumer Consultative Committee of Economic Regulation Authority	WACOSS, WACOSS Consumer Utilities Project, Consumers Association of WA, Consumer Credit Legal Services WA

Tasmania	OTTER	Customer Consultative Committee – OTTER	Hobart Community Legal Service, TasCOSS
Victoria	Essential Services Commission	Customer Consultative Committee of Essential Services Commission	Consumer Action Law Centre, Consumer Utilities Advocacy Centre, Financial and Consumer Rights Council, Tenants Union of Victoria, VCOSS
New South Wales	(Department of) Industry & Investment	Energy Accounts Payment Assistance Scheme (EAPA) Working Group	
	(Department of) Industry & Investment	Consumer Consultative Reference Committee	
	Department of Environment, Climate Change and Water.	Home Power Savings Program Working Group	Membership not listed on Department web site.
South Australia	ESCOSA	Consumer Advisory Committee for ESCOSA	SACOSS
	Department for Energy, Transport and Infrastructure	Energy Consumers Council ¹⁷³	SACOSS <i>Consumer Association of South Australia</i> <i>Electricity Consumers Coalition of SA</i> <i>COTA Seniors Voice</i>

¹⁷³ <http://www.dtei.sa.gov.au/ECC/>

Table 4.4: List of organisations that provided submissions identified in Table 4.1

Main jurisdiction the organisation works in	Organisation
Australia	Australian Council of Social Service (ACOSS)
	Brotherhood of St Lawrence
	CHOICE
	St Vincent de Paul Society
	Uniting Care Australia
Australian Capital Territory	ACT Council of Social Service (ACTCOSS)
	CARE Inc (Financial Counselling Service)
New South Wales	Anglicare Sydney
	Combined Pensioners and Superannuants' Association (CPSA)
	Council of the Ageing (COTA) NSW
	Ethnic Communities Council NSW
	Public Interest Advocacy Centre (PIAC)
	Toronto Assistance Centre
Northern Territory	Sommerville Community Services (NT)
Queensland	Financial Counsellors' Association of Queensland (FCAQ)
	Ipswich Regional Tenants Group
	Queensland Consumers Association
	QUT Centre for Credit, Commercial and Consumer Law
	Queensland Council of Social Service (QCOSS)
South Australia	Consumers Association of SA
	Council of the Ageing (COTA) - Seniors Voice
	SA Council of Social Service (SACOSS)
	Uniting Care Wesley Adelaide
Tasmania	Anglicare Tasmania
	Tasmanian Council of Social Service (TASCOSS)
Victoria	Alternative Technologies Association (ATA)
	Consumer Action Law Centre (CALC)
	Consumer Utilities Advocacy Centre (CUAC)
	Financial and Consumer Rights Council (FCRC)
	Kildonan UnitingCare Epping Victoria
	Tenants' Union of Victoria (TUV)
	Total Environment Centre (TEC)
Victorian Council of Social Service (VCOSS)	
Western Australia	Gosnells Community Legal Centre
	Salvation Army WA
	WA Council of Social Service (WACOSS)
	Uniting Care West

7.7 Appendix G: Survey Responses: Advocacy Opportunities

Informal advocacy opportunities
Energy consumer advocacy goes beyond responses to regulatory processes. Policy processes are also important. State and Commonwealth energy and environment departments of relevance to energy consumer advocates. Their demand for energy consumer advocacy needs to be considered.
MCE Communiqués & other material on MCE web site http://www.ret.gov.au/Documents/mce/default.html
Ministerial media releases. - PIAC follows up on public commitments made in media releases by Minister for Energy and I&I NSW too.
Other reports from regulators - especially once the AER is publishing 'retail market reviews'
Reports online or published by state regulators and, -ACCC, OFT etc <i>Are these formal/informal</i> <i>Are they opportunities for advocacy or the end result</i>
reports from smart grid and solar cities programs
reports from other pilots and trails that are occurring such as smart meters...
reports from other pilots and trails that are occurring such as VRET
reports from other pilots and trails that are occurring such as MRET
Reports from regulators abroad such as Ofgem provide information on standards and protections available elsewhere that can inform our own policy positions.
Compliance reports by IPART. No opportunity to submit to this process but the reports can reveal information that provide opportunities for advocacy.
The results of various Ombudsman reports, indicating consumer issues which need input from advocates Complaints data from ombudsman schemes would be useful in assessing the need for energy advocacy services -
Consumer affairs prosecutions of energy related cases could also be useful
Qld Residential Tenancies Authority Website and Annual Reports on number of bonds lodged relate to the number to tenancies in Qld could be useful as tenants may have different advocacy needs especially as they have very little or no control over energy efficient housing e.g. hot water systems, insulation
Information from Community Service Providers involved in direct advocacy, such as financial counsellors and emergency relief providers. Information from direct advocacy assists in the identification of systemic advocacy issues and enables more targeted advocacy.
Additional opportunities for advocacy
Disconnection data, payment and/or financial difficulties
Boards and Councils of Industry Ombudsman schemes
Various consultative processes on smart-metering from both DRET and DPI
IPART Stakeholder Briefings and Inquiries
meetings of the ministerial council of energy
Some opportunities for advocacy have arisen as a result of consumer research. Consumer research can examine issues that are not on the regulatory agenda but perhaps should be. CUAC funds such research in partnership with other community agencies
merit reviews of AER distribution revenue decisions
PIAC plans to develop, pilot and roll-out a consumer awareness and engagement strategy. It's anticipated this will generate awareness of previously hidden issues for NSW energy consumers.

7.8 Appendix H: International Energy Advocacy

This Appendix contains information about the advocacy models found in four English-speaking countries with roughly similar energy regulatory environments to Australia: the US, Canada, the UK and New Zealand. For each country, there is a quick sketch of its energy regulatory environment; the models of energy advocacy that exist at a national level and, in the case of the US and Canada, the models that exist at a state/provincial level.

Models of energy advocacy in the United States

Regulatory environment in the US

In the US, the responsibility for energy laws and regulations is split between the federal Government and state governments. The Federal Energy Regulatory Commission (FERC) is a United States federal agency (located within, but independent from, the Department of Energy) with responsibility for regulating national energy issues such as the interstate transmission of electricity, natural gas, and oil, proposals to build gas terminals, licensing hydropower projects, reviewing mergers and acquisitions relating to the electricity market (but not gas), monitoring and investigating energy markets, and overseeing environmental matters related to gas and hydroelectricity projects.¹⁷⁴

The federal Department of Energy is responsible for policy relating to energy. This includes the funding and administration of the Low-Income Household Energy Assistance Program (LIHEAP) which is provided to state and tribal governments; the federal government offers incentive payments to states that can “leverage” additional funds from either their own or other sources (private companies, charities) to supplement the federal LIHEAP dollars. State governments then disburse their total LIHEAP and other energy assistance funding to charities and Community Action Agencies¹⁷⁵ who distribute the assistance to households in need.

State Public Utility Commissions are responsible for regulating retail electricity and natural gas sales to consumers, and they also resolve individual complaints between consumers and energy companies. Decisions about rules and decisions are made through proceedings, and members of the public, advocates and advocacy organisations are usually able provide comments on proposed rules or decisions and/or to participate in proceedings before the commission. Many state commissions, including California, Maine, Idaho, and Minnesota, also have “intervenor compensation” schemes which allow individuals or groups that participate in proceedings to request compensation for the costs associated with that participation.¹⁷⁶

National energy consumer advocacy in the US

Energy consumer advocacy in the US has a strong focus on assistance for low-income people to afford energy, as well as advocacy in the broader public interest, for example diversity in the labour hire practices of energy companies, rules regarding smart meters, appropriate siting of new power plants, or the merging of energy companies.

¹⁷⁴ <http://www.ferc.gov/about/ferc-does.asp>

¹⁷⁵ Community Action Agencies (CAAs) are local non-profit organisations that carry out the Community Action Program, which was “established over thirty-five years ago by Congress as a centerpiece of the War on Poverty. The goal of the program ... is to reduce poverty, revitalize low-income communities, and empower low-income individuals and families to become fully self-sufficient. The program is carried out by a national network of over 1300 designated Community Action Agencies (“CAAs”), which provide a diverse array of services to and advocacy on behalf of low-income individuals and families.” At <http://www.capl原因.org/background-mission.html>.

¹⁷⁶ See for example Californian Public Utilities Commission, <http://www.cpuc.ca.gov/PUC/IntervenorCompGuide/>

As the federal level there are a variety of organisations advocating on national energy policy to Congress, FERC and the federal Department of Energy.

The **National Association of State Utility Consumer Advocates (NASUCA)** is an association of statute-created consumer advocates that “are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts”¹⁷⁷. NASUCA also has affiliate members which include non-legislated not-for-profit organisations (such as TURN from California, PULP from New York, and the Canadian organisation BC PIAC - all described below).

NASUCA formulates policy through a committee structure, with a series of standing committees including Electricity, Natural Gas and Consumer Protection. The committees meet regularly via conference calls (about every six weeks) and face-to-face at annual and mid-year member meetings, to “discuss and debate policy issues that have a state and national impact” and thereby develop the policy positions that guide NASUCA’s advocacy activities.

The **National Consumer Law Center** is a large (40+ staff), well-established non-profit legal centre located in Boston with a second office in Washington. The centre’s creed is “Advancing fairness in the marketplace for all”. The issues comprised under ‘Energy, Utilities and Telecommunications’ form one of the centre’s key areas of work. In addition it currently runs a special project called Climate Change Justice which is based on the principle that

[A]ny policy proposals to reduce greenhouse gas emissions must include provisions that protect vulnerable low and moderate income households and communities from economic hardship due to increases in the cost of energy, goods and services.¹⁷⁸

The centre engages in individual and systemic advocacy before Congress and in front of federal and state agencies, and also provides expert services in relevant consumer cases.¹⁷⁹ It trains other consumer lawyers and advocates, coordinates consumer lawyer symposiums, and publishes detailed manuals on consumer law. It receives funding from many different private corporations, government departments, and non-profit foundations.¹⁸⁰ The centre does not appear to be membership-based.

Public Citizen, based in Washington, is an activist, policy and legal non-profit organisation formed in 1971. It aims “to ensure that all citizens are represented in the halls of power.”¹⁸¹ One of Public Citizen’s five policy groups is Citizen Energy which:

works to combat climate change by promoting safe, affordable and environmentally sustainable energy. We fight to protect citizens from the dangers posed by nuclear power and champion market transparency and strong consumer protections to ensure that people are not plagued by market

¹⁷⁷ <http://www.nasuca.org/archive/about/index.php>

¹⁷⁸ http://www.nclc.org/index.php?option=com_content&view=article&id=71:climate-change-justice&catid=37:special-projects&Itemid=87

¹⁷⁹ National Consumer Law Center (undated), *Using Expertise to Write the Rules of the Marketplace: A Progress Report*, Boston, at http://www.nclc.org/index.php?option=com_content&view=article&id=46&Itemid=61

¹⁸⁰ http://www.nclc.org/index.php?option=com_content&view=article&id=94&Itemid=65

¹⁸¹ <http://www.citizen.org/Page.aspx?pid=2306>

manipulation. We also provide energy activists around the country with resources they need to secure a reliable and sustainable energy future.¹⁸²

Public Citizen undertakes litigation to achieve its aims. One example is action taken in 2005 when it, and several state attorneys general and consumer advocacy organizations, launched a lawsuit against the Federal Energy Regulatory Commission (FERC) asserting that the agency lacked statutory authority to allow public utilities themselves to set rates without prior public notice and review of the rates by FERC as required by the Federal Power Act.¹⁸³

Public Citizen is a membership-based organisation that encourages people to get involved in their campaigns, including signing online petitions, writing letters, emailing Congress members and so on. It capitalises on social media with e-alerts, pages on Facebook, Twitter, Linked-In and other social media sites¹⁸⁴ (in this sense it 's approach has some similarities with Australia's GetUp). It accepts no government or corporate money, but relies solely on foundation grants, publication sales and support from its 80,000 members.¹⁸⁵

The national **Campaign for Home Energy Assistance** runs the useful LIHEAP.org website which collates information about LIHEAP funding and programs in every state. The Campaign itself is an unincorporated network of "non-profit organizations that work together ... as advocates for the Low Income Home Energy Assistance Program."¹⁸⁶ Member organisations include the American Association of Blacks in Energy, the American Public Power Association, Catholic Charities USA, the Coalition to Keep Michigan Warm, The Crisis Assistance Ministry (North Carolina), The Energy Coordinating Agency (Philadelphia), Energy Outreach Colorado, Lutheran Services in America, The National Fuel Funds Network, Ohio Partners for Affordable Energy, and The Salvation Army.

State energy consumer advocacy in the US

In the US states have jurisdiction over retail electricity and natural gas sales to consumers, and so the majority of advocacy and campaigning in the US takes place at a state level. NASUCA describes the history of 'state utility consumer advocacy' as follows:

The history of state utility consumer advocacy began in the 1970s, when state agencies were created by state legislatures after natural gas and electric prices were driven up by the energy crises of the 1970s. Since the 1970s and early 1980s, the role of the state advocates was to challenge proposed rate increases by the electric, natural gas, telephone and water monopolies. This role was carried out largely by intervening in formal, economic regulatory cases before public utility commissions. In the 1990s and into the 21st century, the state advocates have been at the forefront of protecting consumers during the ongoing transition from monopolies to less regulated markets in which utilities and other firms increasingly compete with one another. Today, as the trend for competition and industry deregulation continues, state consumer advocates shift their focus to consumer protection issues, such as service quality, reliability, and price stability.¹⁸⁷

There are many different state models of energy consumer advocacy. Some states, such as California, have a large number of consumer and community organisations providing individual and systemic advocacy in the interests of energy consumers. Other states have very

¹⁸² <http://www.citizen.org/Page.aspx?pid=2326>

¹⁸³ <http://www.citizen.org/Page.aspx?pid=2372>

¹⁸⁴ <http://www.citizen.org/Page.aspx?pid=1326>

¹⁸⁵ <http://www.citizen.org/Page.aspx?pid=2306>

¹⁸⁶ <http://www.liheap.org/members.html>

¹⁸⁷ <http://www.nasuca.org/archive/about/index.php>

few. It has been argued that there is a more active energy consumer advocacy sector, and a more consumer-friendly energy policy environment, in those states that permit organisations to seek intervenor compensation in public utility commission proceedings.¹⁸⁸ This stands to reason: if organisations are funded to advocate for consumers then this ensures not only that the public utility commissions consider the impact of decisions on low-income consumers who would never otherwise be able to put their arguments to the commission, but it also ensures a reliable funding source for organisations who can then campaign in the broader political arena to put pressure on legislators to improve consumer laws and policies.

Following are three examples of energy advocacy models at a state level in the US.

California

California's consumer energy advocacy sector is one of the most interesting in the US as it has an active and participatory public utilities commission as well as a diverse and vibrant non-profit energy advocacy sector.¹⁸⁹

The Californian Public Utilities Commission (CPUC) has a wide range of mechanisms to allow the interests of consumers to be heard:

- > It houses an Office of the Ratepayer Advocate which is mandated to advocate for ratepayers to "obtain the lowest possible rate for service"¹⁹⁰ and can also intervene in CPUC proceedings;
- > It has a Low-Income Oversight Board, which includes representatives of low-income communities, to advise on low-income energy assistance programs and policy issues; the Board also has access to a Technical Advisory Committee;
- > It holds regular public meetings where commissioners meet to discuss and vote on proposed policies and rules; these meetings start with a public comment period at which any individual may speak (provided they sign-up just before the meeting); the public meetings are webcast;¹⁹¹
- > Consumers can lodge complaints about their energy provider online;
- > Documents for all proceedings are available on the internet for anyone to view;
- > It has a simple email-process for people to intervene in proceedings;
- > It provides intervenor compensation to facilitate low-income consumers and non-profit organisations to intervene in proceedings.¹⁹²

There are a wide range of organisations in the non-profit sector that advocate at the CPUC and/or to the Californian government, including "community action agencies, direct service providers, non-profit public policy, environmental justice, non-profit housing, and health organisations".¹⁹³

A San Francisco organisation called **The Utilities Reform Network** (TURN) is one of the largest energy consumer organisations in the state. Founded in 1973 by one consumer activist, TURN advocates at CPUC, assists individual consumers understand their bills, and campaigns on

¹⁸⁸ Roxanne de Lourdes Figueroa Aguilar, *Empowering Communities Through Comprehensive Community-Based Energy Advocacy: Assessing Energy Programs and Advocacy in California and New Mexico*, (2004), Masters Thesis, MIT, Massachusetts, at <http://dspace.mit.edu/handle/1721.1/30109>

¹⁸⁹ Aguilar (2004), p 50 and onwards.

¹⁹⁰ Aguilar (2004), p 50

¹⁹¹ Aguilar (2004), pp 55-57.

¹⁹² From various parts of the CPOUC website, at <http://www.cpuc.ca.gov/PUC/aboutus/>

¹⁹³ Aguilar (2004), p 54.

energy and phone issues.¹⁹⁴ Their communications director describes the organisation's funding and composition as follows:

TURN has an approximate income of \$4m per annum, The majority of that, about 85%, comes from attorney fees, which our Public Utilities Commission calls "intervenor compensation" and is awarded to parties that show financial need and make a "substantial contribution" to the case. Our next biggest source of funding is individual contributions, about 10%. The remaining 5% comes from grants. We don't take any money of any sort from industry; grants in the past have come from the Energy Foundation and Consumer Protection Foundation. The majority of our staff are lawyers (9) and a telecom policy analyst (1). We also have an executive director, a two-person communications team and a two-person organizing team, and 3 administrative/support staff.¹⁹⁵

TURN is an affiliate member of NASUCA and also engages in national energy policy through that forum.

Coalitions and partnerships between non-profit organisations around energy issues are also common. For example, in the 1990s and early 2000s a coalition between two organisations - the Latino Issues Forum and the Greenlining Institute (a "policy, organizing and leadership institute working for racial and economic justice"¹⁹⁶) intervened at CPUC and lobbied the government and energy companies, resulting in changes to energy policy particularly relating to black and Latino groups.

Illinois

The Illinois Commerce Commission (the state's public utility commission) does not have as many different processes as California's PUC by which the interests of consumers can be taken into account, however it does have a very simple email or phone process allowing any member of the public to comment on current cases, with the comments then provided to the ICC before they vote,¹⁹⁷ as well as public ICC meetings which members of the public can address.¹⁹⁸

Consumer interventions into proceedings of the ICC are limited to one organisation called the **Citizens Utility Board (CUB)**. This independent statutory watchdog organisation and advocacy service, established by the *Citizens Utility Board Act* 1985 after consumers supported the creation of such an organisation in a state referendum,¹⁹⁹ is charged with the responsibility to ensure the

effective and democratic representation of utility consumers before the Illinois Commerce Commission, the Federal Energy Regulatory Commission, the Federal Communications Commission, the courts, and other public bodies and by providing for consumer education on utility service price and on benefits and methods of energy conservation.²⁰⁰

CUB also has a Consumer Advocacy Department that can assist people to resolve disputes with utilities.²⁰¹ CUB's main source of funding (upwards of \$2m p.a.)²⁰² is from members,

¹⁹⁴ See www.turn.org

¹⁹⁵ Email from Mindy Spatt, Communications Director, The Utility Reform Network, 25 August 2010.

¹⁹⁶ <http://greenlining.org/about/>

¹⁹⁷ <http://www.icc.illinois.gov/docket/comment/> and <http://www.icc.illinois.gov/docket/comment/FAQ.aspx>

¹⁹⁸ <http://www.icc.illinois.gov/chiefclerk/publicparticipationrequest.aspx>

¹⁹⁹ <http://www.citizensutilityboard.org/CUBfaq.html#q1>

²⁰⁰ Citizens Utility Board Act, (220 ILCS 10/3), at http://www.citizensutilityboard.org/pdfs/CUB_ACT.pdf

²⁰¹ http://www.citizensutilityboard.org/cubServices_questions.html

²⁰² http://www.citizensutilityboard.org/pdfs/CUBInTheNews/20060116_STPD_MissouriConsumers.pdf

obtained through membership inserts in state mailings from state agencies such as vehicle registration forms and tax returns.²⁰³ It does not appear to be compensated for its ICC interventions.

There are other community groups in Illinois that are involved in campaigning on energy issues. For example, in 2004 the Illinois Association of Community Action Agencies launched the 'Illinois Affordable Energy Campaign'²⁰⁴. This campaign resulted in 2009 in the introduction by the Illinois legislature of a Percentage of Income Payment Plan (PIPP), whereby eligible households pay a set percentage of their income towards energy costs with their additional met by the LIHEAP.²⁰⁵

New York

The New York State Public Services Commission regulates energy utilities. The Office of Consumer Policy within the PSC focuses on consumer policy matters, including those issues raised in rate cases and proceedings, such as low-income programs, service quality, and Smart Grid. The office is responsible for outreach and education, metering, sub metering, and consumer advocacy.²⁰⁶

The PSC provides for interventions in their cases, although they do not appear to be compensable. One of the organisations involved in interventions is the **Public Utility Law Project** (PULP). PULP has three main purposes:

- To educate the public about its legal rights as consumers, and the policies, practices, services, rates and prices of utilities, regulated businesses, regulatory agencies, and energy corporations, and about energy in general
- To engage in research and to establish a resource centre on the legal rights of consumers, and on energy, public utilities, regulated industries and regulatory agencies
- To provide legal representation, including litigation in the public interest with a primary emphasis on the rights of poor and minority consumers.²⁰⁷

PULP receives funding from the New York Government, the New York Bar Association and private donations. PULP is also, like California's TURN, an affiliate member of NASUSCA.

Models of energy advocacy in Canada

Regulatory environment

As in the US, Canada's energy market is administered at both a federal and a provincial level. The National Energy Board is an independent federal agency that regulates international and interprovincial aspects of the oil, gas and electric utility industries in Canada, including safety, security, the environment, and efficient infrastructure and markets.²⁰⁸ Provincial or territorial utilities commissions regulate consumer electricity prices, generation, transmission and distribution; Ontario and Alberta have municipal authorities that fulfil this role.

²⁰³ <http://www.citizensutilityboard.org/funding.html>

²⁰⁴ www.icaanet.org/positionpapers/il_aff_energy_plan.pdf For details of the history of the campaign, see <http://liheap.ncat.org/dereg/states/illinois.htm> For details of the history of the campaign, see

<http://liheap.ncat.org/dereg/states/illinois.htm>

²⁰⁵ <http://liheap.ncat.org/dereg/states/illinois.htm> www.icaanet.org/positionpapers/il_aff_energy_plan.pdf

²⁰⁶ <http://www.dps.state.ny.us/directory.htm#ocp>

²⁰⁷ http://www.pulp.tc/html/about_pulp.html

²⁰⁸ Canadian Centre for Energy Information, at <http://www.centreforenergy.com/FactsStats/EnergyStrategies/CAN.asp>

Canada's energy market is only partly deregulated and provincial governments continue to supply much of the country's electricity and gas, although private companies are increasingly involved.²⁰⁹

Energy advocacy in Canada

There do not appear to be many national consumer advocacy organisations in Canada and certainly none dedicated solely to energy consumer issues.

The **Consumers Association of Canada** (sister to the Consumers Associations behind Australia's Choice and the UK's Which?) does deal with energy issues but mostly focuses on comparing the services of various energy companies. The **Consumers Council** is a national non-profit group that "works to improve consumer understanding and actual experience in marketplaces and issues important to everyday life" including advocacy relating to energy prices.²¹⁰

As in Australia, most state-based consumer advocacy organisations also engage in the national policy arena to some extent. **Option consommateurs** (based in Quebec) and the **Union des consommateurs** (also Quebec) perform similar roles to the national Consumers Association and Consumers Council and have energy as one of their foci.

There are also two Public Interest Advocacy Centres (PIAC) in Canada active in energy legal issues. The original **PIAC** in Ontario was formed in 1976 as a "non-profit organization that provides legal and research services on behalf of consumer interests, and, in particular, vulnerable consumer interests, concerning the provision of important public services."²¹¹ Although PIAC's policy work is often national in scope, most of its court work is limited to Ontario. One of PIAC's main clients is the Vulnerable Energy Consumers Coalition which is a coalition of older people and tenants. PIAC represents the group at proceedings of the Ontario Energy Board, usually funded through awards of costs.²¹²

The **British Columbia Public Interest Advocacy Centre** (BCPIAC) also engages in energy policy and litigation at the British Columbia Utilities Commission. They describe their energy work as follows:

Since its creation in 1981, BC PIAC has represented a coalition of low income British Columbians in relation to the regulation of utilities. Our clients include anti-poverty groups, seniors groups, and consumer groups. In many regulatory hearings, we are the only voice speaking for the interests of residential consumers, and almost always the only voice speaking for low income people. Our clients' priorities usually include support for keeping utilities public, fair rates for residential consumers, and measures that benefit everyone such as sustainable practices and safety programs.²¹³

In the past decade, the Canadian government has encouraged Canada's main consumer organisations – including the Consumers Council of Canada, the Public Interest Advocacy Centre (Ontario), Option consommateurs (Quebec) and the Union des consommateurs

²⁰⁹ <http://www.thecanadianencyclopedia.com/index.cfm?PgNm=TCE&Params=A1ARTA0002567>

²¹⁰ http://www.consumerscouncil.com/index.cfm?pagepath=Issues_Engagement&id=13928

²¹¹ <http://www.piac.ca/information/>

²¹²

http://www.piac.ca/energy/media_release_consumer_groups_appeal_ontario_energy_board_s_billion_dollar_giveway

²¹³ <http://bcpiac.com/wp-content/uploads/2007/06/bcutilitiescommissionfactsheetjune2005.pdf>

(Quebec)²¹⁴ – to work together on national consumer issues through the **Canadian Consumer Initiative**. The following explains the process:

In 2001, the Office of Consumer Affairs, Industry Canada, initiated a series of meetings aimed at increasing cooperation and communication among organizations serving consumers in Canada, leading to the creation of the Canadian Consumer Initiative (CCI).

Participants decided the objectives of the Initiative would be:

- to develop and advance a growing body of common consumer policy positions; and
- to share resources and expertise with other consumer groups to advance these positions.

In addition, CCI members work together:

- to increase the visibility and effectiveness of participating organizations and of the consumer movement as a whole;
- to contribute to an improved framework for developing the capacity of participating groups and the consumer movement as a whole; and
- to enhance groups ability to represent the interests of their members.

Members of the initiative work together to develop common policy positions. In addition to exchanging background information, members take the lead researching and developing written materials about specific issues of concern to consumers. These materials are circulated for discussion with a goal to finalize a common policy position and to devise strategies for:

- representing the consumer interest in this common policy to government,
- attaining public recognition and support for this initiative, and
- using these activities as part of each organization's ongoing strategies to increase their effectiveness.²¹⁵

Energy consumer advocacy is also undertaken at a provincial level by welfare organisations working with low-income people. A prominent example is the **Low Income Energy Network** (LIEN) of Ontario. LIEN was formed in 2004 in response to the impact of rising energy prices on low-income Ontarians.²¹⁶ LIEN has over 80 members from a broad range of environmental, legal, tenant/housing, and social service organizations across Ontario, with a steering committee consisting of five of its founding members.²¹⁷ The Advocacy Centre for Tenants-Ontario seeks and manages funding (mostly from Ontario's main government grants foundation) for the LIEN coordinator, employs the coordinator and provides office space.

LIEN's activities include developing low-income energy assistance policies and programs and promoting these to government, regulators and industry; educating the public about energy issues; building the capacity of its network members and others to become "experts" or

²¹⁴ <http://www.cbc.ca/technology/story/2010/06/16/copyright-reform-consumers.html>

²¹⁵ Consumers Council of Canada, at http://www.consumerscouncil.com/index.cfm?pagePath=About_Us/Canadian_Consumer_Initiative&id=18300

²¹⁶ Communication from Zeenat Bahnji, Coordinator LIEN, 2 September 2010; also see <http://www.acto.ca/en/community-campaigns/low-income-energy-network.html>

²¹⁷ Communication from Zeenat Bahnji, Coordinator LIEN, 2 September 2010; also at <http://www.lowincomeenergy.ca/members/>

"resource people" on low-income energy issues in their communities; as well as legal and systemic advocacy.

Being unincorporated, advocacy undertaken by LIEN is usually in the name of individual member organisations. For example, in 2004 the Toronto Environmental Alliance and the Canadian Environmental Law Association commissioned submissions on actions the government could take to assist low-income households cope with rising energy prices, and engaged in negotiations with government on the issues.²¹⁸ In 2007-2008, the Advocacy Centre for Tenants-Ontario took court action against the OEB²¹⁹ that led to the OEB establishing a rate affordability assistance program for low-income consumers.²²⁰

Models of energy advocacy in the United Kingdom

Regulatory environment in the UK

The Office of the Gas and Electricity Markets (Ofgem) regulates the gas and electricity industries in Great Britain; in its own words it protects energy consumers by promoting competition and regulating the monopolies that run the networks.²²¹ Ofgem is governed by the Gas and Electricity Markets Authority (GEMA) which is required to, amongst other legislative objectives, "have regard to the interests of individuals who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas."²²² Some of the activities Ofgem undertakes are decisions on gas and electricity licence applications, monitoring of prices paid by customers, regular reports on competition in the retail sector, (covering issues such as customer switching), regulating energy transportation companies through five-year price control periods, designing the regulatory regime for smart meters, and working with government to eradicate fuel poverty, including regulating to protect vulnerable consumers.²²³

Ofgem has a 'Consumer First' Panel which is a group of 100 domestic energy consumers which help Ofgem ensure policy developments are consumer focused. The Panel draws its members from 5 locations across Great Britain, and meets 3 or 4 times per year to discuss key issues impacting on their participation in the energy market, as well as other key issues related to energy.²²⁴ The UK's Office of Fair Trading is the country's consumer and competition authority. It has a "super-complaint" process, whereby systemic complaints made on behalf of consumers are fast-tracked by the Office of Fair Trading.²²⁵

Energy consumer advocacy in the UK

Energy consumer advocacy in the UK has two main focuses: firstly energy consumer rights in general, such as rights when changing energy suppliers, advocacy in relation to smart meters, regulation of monopolies; and secondly fuel poverty issues.

²¹⁸ <http://www.torontoenvironment.org/newsroom/reports/climate/LowIncomeEnergyEfficiencyProgram>

²¹⁹ <http://www.canadianenergylaw.com/2008/06/articles/regulatory/ontario-court-rules-regulator-may-consider-ability-to-pay-in-ratesetting/>

²²⁰ Communication from Zeenat Bahnji, Coordinator LIEN, 2 September 2010

²²¹ <http://www.ofgem.gov.uk/About%20Us/Pages/AboutUsPage.aspx>

²²² <http://www.ofgem.gov.uk/About%20Us/Authority/Pages/TheAuthority.aspx>

²²³ Ofgem, *Annual Report 2009-2010 Change, Challenge and the Consumer*, London, 2010, p 50.

²²⁴ www.ofgem.gov.uk/Sustainability/Cp/CF/Pages/CF.aspx, and also see Opinion Leader, *Ofgem Consumer First Panel – 2009/2010 Findings from third workshops (held in March 2010)*, at

www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=35&refer=Sustainability/Cp/CF

²²⁵ http://www.of.gov.uk/news-and-updates/press/2003/pn_99-03

Advice and support for energy consumers in the UK is currently available from Consumer Direct, which is a government telephone and online service offering information and advice on consumer issues and funded by the Office of Fair Trading;²²⁶ and Consumer Focus, which is the “national consumer advocate”.

Consumer Focus was created by the *Consumers Estate Agents and Redress (CEAR) Act 2007* which merged Postwatch, Energywatch and the Welsh, Scottish and National Consumer Councils. Consumer Focus is governed by an independent Board. Its annual funding of approximately £15m²²⁷ comes from the Department of Business, licences paid by energy suppliers/the postal industry, and through self-generated funding (consultancies etc).²²⁸ Consumer First has a range of functions/activities, including:

- > Identifying “issues of concern within various markets and services”, conducting research into those issues, and proposing changes
- > Providing information to consumers to allow them to choose energy suppliers
- > Investigating individual complaints
- > Lodging “super complaints” with the Office of Fair Trading to change market practice
- > Through its Extra Help Unit, providing representation to energy providers on behalf of vulnerable consumers facing disconnection or other problems
- > Providing support or advice on energy issues for staff at consumer advice agencies such as Citizens Advice Bureaux.²²⁹

When developing its first work plan for 2008-2010, Consumer Focus engaged in a comprehensive stakeholder consultation process resulting in “over 100 written responses, with 133 organisations and individuals attending [consultation] events in England, Scotland, Ireland and Wales.”²³⁰ The final work plan includes campaigns on fuel poverty, sustainability, the needs of consumers who are disadvantaged by their lack of access to the internet, and access to civil justice.²³¹ The work plan also emphasises the importance of “gathering consumer intelligence” through:

data provided by industry and by Consumer Direct; relationships with stakeholders such as Citizens Advice, Age Concern, Energy Saving Trust, Which? and the Trading Standards Institute; and commissioned research. This consumer intelligence will be shared across the organisation. We are also investigating how we can use the internet to understand and advise consumers, potentially through an online voting forum to allow consumers to draw our attention to their concerns.²³²

However in October 2010, as part of cost-cutting measures, the UK Government foreshadowed the abolition of Consumer Focus and the transfer of most its functions (and

²²⁶ <http://www.consumerdirect.gov.uk/>

²²⁷ Consumer Focus, *Forward Work Plan 2008/10*, London, 2008, p 9; at <http://www.consumerfocus.org.uk/about-us/work-planning>

²²⁸ <http://www.consumerfocus.org.uk/about-us>

²²⁹ Consumer Focus, *Who we are, what we do*, 2010, at

<http://www.consumerfocus.org.uk/assets/1/files/2009/06/Who-we-are-June-20101.pdf>

²³⁰ Consumer Focus, *Forward Work Program 2008/10: Consumer First's Response to Stakeholder Feedback*, undated, at <http://www.consumerfocus.org.uk/about-us/work-planning>

²³¹ Consumer Focus, *Forward Work Plan 2008/10*, London, 2008, at <http://www.consumerfocus.org.uk/about-us/work-planning>

²³² Consumer Focus, *Forward Work Plan 2008/10*, London, 2008, p 8 and p 11; at <http://www.consumerfocus.org.uk/about-us/work-planning>

the functions of the Consumer Direct phone line) to Citizens Advice, a body discussed further below.²³³

Other national consumer organisations in the UK include:

- > the **National Consumers Federation** - a “grassroots consumer organisation, representing local consumer groups nationally and campaigning to improve consumer rights for everybody”²³⁴ formed in 2001, which has an Energy Policy Group
- > the **Consumers' Association**, which publishes the magazine and website Which? (the UK Equivalent of Choice), provides legal advice and engages in some (limited) campaigns on consumer issues including energy - two current campaigns are on simplifying energy bills and explaining smart meters.²³⁵

UK fuel poverty advocacy

The fuel poverty advocacy sector in the UK appears to be a more grass-roots advocacy sector than the general consumer-rights sector.

A prominent voice in the fuel poverty sector is **Citizens Advice**. The Citizens Advice service consists of almost 450 independent Citizens Advice Bureaux across England, Wales, and Northern Ireland, plus the separate charity Citizens Advice which is the membership organisation that receives government funding then channels it to the member bureaux; provides training and support to member bureaux; and coordinates national policy work. Citizens Advice Bureaux make extensive use of volunteers to deliver advice, information and support to people throughout the UK, including on energy consumer issues. For example, the bureaux provide advice on debt, assist consumers to access various energy hardship schemes, provide advice on taking complaints to the Energy Ombudsman, and provide financial education.²³⁶ In 2009-10, the Citizens Advice service spent approximately £4.3m on policy work, around 7% of its total expenditure of almost £65m.²³⁷ Current energy policy work includes fuel poverty campaigns²³⁸ and increasing the government’s ‘Warm Front’ grants.²³⁹ With the recent announcement of the transfer of funding from Consumer First,²⁴⁰ Citizens Advice’s policy work in energy and other consumer issues is likely to increase.

Another key organisation in the UK’s fuel poverty sector is **National Energy Action**, a charity which “aims to eradicate fuel poverty and campaigns for greater investment in energy efficiency to help those who are poor or vulnerable.”²⁴¹ NEA activities include researching the causes of fuel poverty, developing policies to address it, submitting evidence to consultations initiated by Government, regulators and Parliamentary Select Committees, conducting an annual fuel poverty campaign aiming to raise awareness amongst politicians and members of the public, develops and promotes energy efficiency services (through its subsidiary Warm Zones Community Interest Company²⁴²), and producing educational resources to teach

²³³ <http://www.bbc.co.uk/news/business-11540624> also see www.citizensadvice.org.uk/press_2010141 and www.consumerfocus.org.uk/news/e-newsletter/e-newsletter-october-2010

²³⁴ <http://www.ncf.info/content/about-us>

²³⁵ <http://www.which.co.uk/campaigns/energy-and-environment/>

²³⁶ Gathered from information across their website.

²³⁷ Citizens Advice, *Annual Report and Accounts 2009-2010*, at www.citizensadvice.org.uk/publications, p 40

²³⁸ www.citizensadvice.org.uk/index/campaigns.htm

²³⁹ Citizens Advice Service, *Social Policy Impact Report*, London, 2009, at

http://www.citizensadvice.org.uk/index/publications/impact_social_policy.htm;

²⁴⁰ www.citizensadvice.org.uk/press_2010141

²⁴¹ <http://www.nea.org.uk/about-us-2/>

²⁴² NEA *Annual Impact Report 2009*, p at <http://www.nea.org.uk/nea-2008-200/>

people about the importance of energy efficiency.²⁴³ NEA is funded from a variety of sources: in 2008 their income was around £4.5m, 55% from the government, 22% from sponsorship by private companies and subscriptions, 18% self-generated including training fees, publications and research/consultancy fees.²⁴⁴

Models of energy advocacy in New Zealand

Regulatory environment

The Electricity Commission regulates New Zealand's electricity industry and markets “to ensure electricity is produced and delivered to all consumers in an efficient, fair, reliable and environmentally sustainable manner.”²⁴⁵ The Commission also promotes and facilitates the efficient use of electricity.²⁴⁶

The gas market does not have an equivalent regulatory body; instead it is self-regulated. The Gas Act 1992 required a gas industry body to be established “to ensure that gas is delivered to existing and new customers in a safe, efficient, fair, reliable and environmentally sustainable manner.”²⁴⁷ The Gas Industry Co was established to fulfil the Act’s requirement; if the Government believes the company is failing in its mandate it can move to establish a commission.

The Commerce Commission is New Zealand's primary competition regulatory agency; among other things it administers the law that prohibits misleading and deceptive conduct by traders.²⁴⁸

The Electricity and Gas Complaints Commissioner’s office provides a free and independent complaint handling service for electricity and gas complaints. The office is funded by member companies.

NZ Energy consumer advocacy

Consumer NZ is the New Zealand equivalent of the Australian Consumers Association / Choice and the UK Consumers’ Associations / Which?. Its energy work is mostly limited to running a website called Powerswitch which provides comparative information about the pricing plans of different energy providers. It does, however, engage in some limited energy advocacy work – for example, in 2009 it provided a submission to the Ministerial Review of Electricity Market Performance.²⁴⁹

There are very few (if any) other specific consumer organisations in New Zealand, but some energy advocacy is taken up by welfare services such as Citizens Advice Bureaux. CAB in New Zealand play a similar role to those in the UK, providing information, advice, advocacy and support to individuals²⁵⁰ and “a responsible influence on the development of social policies and services, both locally and nationally.”²⁵¹ The social policy role is largely taken by the **Association of Citizens Advice Bureau** and includes some advocacy on energy issues. For

²⁴³ <http://www.nea.org.uk/about-us-2/>

²⁴⁴ NEA *Annual Impact Report 2009*, at <http://www.nea.org.uk/nea-2008-200/>

²⁴⁵ <http://www.electricitycommission.govt.nz/>

²⁴⁶ <http://www.electricitycommission.govt.nz/>

²⁴⁷ <http://www.gasindustry.co.nz/pages/about/about-gas-industry-company>

²⁴⁸ <http://www.comcom.govt.nz/about-us/>

²⁴⁹ <http://www.consumer.org.nz/site-info/about/submissions/2009-submissions>

²⁵⁰ <http://www.cab.org.nz/about/index.html>

²⁵¹ <http://www.cab.org.nz/about/index.html>

example, in 2003 the Association argued that the policy statement for the newly-created Electricity Commission should include references to “electricity as an essential service, vulnerable customers and their inability to pay for electricity, and fuel poverty.”²⁵² In 2009 the Association made a submission to the Electricity Commission on proposed changes to its guidelines on arrangements for low-income and vulnerable consumers.²⁵³

Community Energy Action (CEA) is a charitable trust established in 1994 “to provide equitable energy efficient solutions to achieve good health, good environmental outcomes and the relief of fuel poverty in our community”.²⁵⁴ CEA appears to model itself partly on the NEA in the UK, particularly with its definition of fuel poverty and its use of self-generated income (social enterprise) to partly fund its work, however CEA does not appear to engage in systemic energy advocacy. In 2008 CEA’s income was almost \$2.5m, half from the New Zealand Government’s Energy Efficiency and Conservation Authority, 30% from customer payments (for heating/insulation installation), and about 10% for specific projects from energy suppliers, Lotteries, and local health authorities.²⁵⁵

²⁵² B Lloyd, *Fuel Poverty in New Zealand*, Social Policy Journal of New Zealand , Issue 27, March 2006, pp 142-155; pp 152-153, at www.sustainablecities.org.nz/wp-content/uploads/Fuel-Poverty-paper.pdf

²⁵³ <http://www.cab.org.nz/issues/index.html>

²⁵⁴ <http://www.cea.co.nz/about-us/>

²⁵⁵ Community Energy Action (2009), *Annual Report 2008*, Christchurch, at <http://www.cea.co.nz/about-us/>

7.9 Appendix I: Survey Responses: Advocacy Functions

This Appendix notes the variations in ratings by respondent type to Question 40 of the survey which invited survey respondents to rate the importance of various activities or function to be undertaken through an ideal advocacy model. See Table 6.2 of the main report and related text.

The three main groupings of respondents were NGO consumer advocates (16 respondents), market participants/industry body (3 respondents), and government department / regulator / ombudsman (8 respondents). The analysis shows some variations of the valuing of particular activities or functions between the three groups:

- The government department/regulator/ombudsman group also rated ‘Engagement with industry ombudsmen processes’ more highly than across all groups – this activity was equal second-last in the NGO group’s ratings
- The market participants / industry body group rated ‘Monitoring industry practices and policies and the services provided to consumers’ much higher than the other two groups – it was equally as important as ‘Participation in the review and development of legal, policy, regulatory and market reforms, and industry practices and codes’
- All three groups rated ‘Participation in the review and development of legal, policy, regulatory and market reforms, and industry practices and codes’ the highest of all activities
- All three groups rated ‘Legal action to advance energy consumer interests’ last (to clarify, not all respondents rated this category last but the average rating of this activity within each group of respondents made it the lowest ranked of all activities)
- The market participants / industry body group gave very low ratings to ‘Creating or advocating systems or tools to make it easier for consumers to navigate the market’ and ‘Engagement with industry ombudsmen processes’
- The NGO group gave a higher average ranking for three activities: ‘Informing consumers and other stakeholders of energy consumer advocacy issues through the media or otherwise’, ‘Researching and analysing trends and emerging issues that have an impact on energy consumers’ and ‘Monitoring the effectiveness of regulators’.

7.10 Appendix J: Survey Responses: Issues that will have impact in the near and medium term

Issues

Respondents were invited to identify the “3-4 major decisions” to be made by regulators, government, energy companies and other industry participants “over the next ten years that have the greatest impact on consumers (and are therefore some of the most important issues for advocacy)?” [Q32] and to comment on the impact of “currently planned changes to the regulatory environment, and any other likely changes to that environment or in the energy market,” Q33.

The issues reported were as follows:

Major decisions to be made by regulators, government and energy companies and other industry participants over the next ten years that have the greatest impact on consumers (and are therefore some of the most important issues for advocacy)
<p>Energy Tariff Increases Affordability Growing unaffordability Tariff determinations (distribution at this stage) The cost of energy Retailers’ tariff decisions including decisions on how network charges will be passed through.</p> <p>Price increases in essential utility services Tariff prices Consumer price 'smears' and the share of burden placed on small business through tariff structures WA State Government Review of Electricity Tariffs - Structure and concessions. Tariff structures and the implementation of Time of Use structures for distribution (and potentially retail).</p>
<p>Cost Reflective Pricing Pricing Retail price deregulation and moves to cost reflecting retail pricing Energy Price Regulation Price determinations Price setting Price - as prices rise there is a need for an understanding of issues of cross subsidies and the impacts of standing/variable charges</p>
<p>Metering Smart meters The introduction of smart meter policy and regulation across Australian jurisdictions. Expansion of Pre-Payment Meters in WA. Clear goals and principles to be utilised in the formulation of policies in regards to the use of Advanced Metering to address the possible disproportionate outcome of the application of TOU tariffs. Mandated smart meter roll-outs I don't understand smart meters but think that they may have an impact on</p>

<p>tenants/consumers. Introduction of smart meters, if govt. goes ahead with them Roll out of Smart Meters / Smart Grid</p>
<p>Additional scope of energy services and products Innovation and impact of new technologies. Consumer advocates need to carefully not to remove legitimate choices from small consumers - they need to focus their attention on how to set up regulatory frameworks that deliver the right outcomes. Energy sources</p>
<p>Climate change and CPRS CPRS - which we will eventually get Emissions Trading Scheme CPRS and Fuel Source Mix Decisions about implementation of carbon price Introduction of policies to reduce emissions that drive up the price of energy Final framework for dealing with CPRS Impact of emission trading or CPRS initiatives ETS Renewable energy and cleaner energy technology implementation affecting prices and driving (?) demand side responses (distributed generation, energy efficiency). Government decisions on CPRS/ETS CPRS or carbon tax or similar</p>
<p>Ongoing reviews of the effectiveness of competition in each jurisdiction and the associated decisions around deregulation. Jurisdictional responses to AEMC competition reviews AEMC review and decision on the effectiveness of competition in the NSW energy market and the response by the NSW Government.</p>
<p>Progress towards achieving national regulatory and policy harmonisation or otherwise.</p>
<p>NECF Move to a national consumer protection framework The move to a national regulator will require specific decisions that identify the responsibility of the different parts of the energy industry in terms of providing assistance to vulnerable customers. Currently assistance to vulnerable consumers is currently state funded therefore the decision as to how to address this disconnect will be of extreme importance. Passage of the National Energy Customer Framework (NECF) legislation Decision to apply NECF within jurisdictions Decisions on National Energy Customer Framework NECF - once it is in place - retailers will want to change it through the change process and consumer advocates need to be aware of how that process works and how to participate - there will be a need for a great deal more sophistication in the argument.</p>
<p>Change in market conditions that will result in price increases across all jurisdictions. This will require the identification as to where the responsibility lies for providing welfare for resulting vulnerable customers, and the promotion of shared responsibility across all industry participants (retailers, regulators, government, consumer advocates)</p>
<p>Promotion of hardship programs Hardship policies</p>

<p>Financial Hardship Policy Assessments Rebates to disadvantaged Concessions Hardship indicators Treatment of vulnerable customers and rural/regional services</p>
<p>Access to information on rebates, energy efficiency etc Notice of changes to consumers - should be done on a 1-to-1 basis, not just through the newspapers. For children and young people, any decision that provides greater access to information and understanding of energy and its impact on the environment and consumers. Consumer information requirements</p>
<p>Decisions to remove or impose price regulation</p>
<p>Decisions to update energy infrastructure (smart meters, smart grids etc) Network investment decisions especially regarding smart grid/HVDC linkages for large scale renewable energy.</p>
<p>Whether we get a national consumer energy advocacy body</p>
<p>Strategic policy in energy for Australia and Victoria (the continuation of the now suspended Commonwealth Energy Policy White Paper)</p>
<p>Distribution pricing determinations (including the impact of government decisions around bushfire risk mitigation) have high potential to affect the prices that consumers pay over the next ten years. Distribution prices</p>
<p>MCE initiated reviews of NEM rules and frameworks Ministerial Council on Energy decision on the content of the National Energy Customer Framework and NSW Government decisions on the local introduction of the NECF including timing, derogations, and content and form of remaining state based responsibilities.</p>
<p>Continued approach of the AER to economic regulation (especially using the 'propose/respond' framework in the Rules) AER cost of capital review</p>
<p>Decision by NSW Government on the sale and/or lease of energy utilities.</p>
<p>Hot water systems changes - tenants will not have a choice and lessors may choose options which increase costs of bills for tenants - hidden costs of renting.</p>
<p>Guaranteed continuous supply</p>
<p>Energy efficiency and demand management</p>
<p>Taxation</p>
<p>AER coming up to speed on consumer issues</p>

Customer Code provisions
The introduction of Full Retail Contestability
The introduction of the WA Strategic Energy Initiative 2030.

Survey participants were then asked to comment on the most important ways in which currently planned changes to the regulatory environment (and any other likely changes to that environment or in the energy market) will impact on consumer advocacy.

Most responses focused on the introduction of the National Energy Customer Framework and other changes that will see more decision made nationally:

- “Will WA adopt the national system? If so we will be required to navigate a different consumer protection framework.”
- “It is possible that pricing will move to the independent regulator from government. This will shift our advocacy strategy.”
- “increased scope from state to national” environment
- “will bring greater national level focus on customer rights and obligations in energy”
- “The AER will soon take over the regulation of retail energy in most of Australia. This will require the formation of new relationships and links between advocacy organisations and the regulator in order to effectively monitor the development and implementation of these retail regulations.”
- “National legislation will be abutting state based welfare creating inconsistencies”
- “Core consumer protections will be provided on an increasingly national basis, weakening the ability of consumer advocates to achieve outcomes by dealing directly with individual State/Territory governments”
- “Moves from state to national regulatory framework, e.g. NECF, will change the target of consumer advocacy”
- “More active marketing in a national market”
- going from state to national jurisdiction will mean less meetings for advocates to be involved in; also “maybe less money for advocates [if] states stop funding [them]”
- “ToU may make things even more murky in terms of price related advocacy”
- “dealing with the AER on consumer/retail matters will mean that State specific issues and concerns may be ignored”

Several responses noted that the sheer number of changes to the regulatory environment and the energy market were creating a more complex environment, making it harder for consumers to understand the issues and requiring greater skills from advocates.

- There is a growing need for “provision of adequate information on rebates, concessions etc”
- This complexity affects “the ability of consumers, especially those vulnerable, to understand and engage with the energy market (and the increasing reliance on consumer capabilities).”
- This increase in complexity requires “more skills” from advocates.
- “Consumer advocacy will become increasingly complex due to the number of government and regulatory institutions involved in energy decisions. Determining who to advocate to on particular matters will become more complex with governments, jurisdictional regulators, the AEMC and AER all potentially involved in decisions on a single issue.”

- “The NECF rule change process will require much more sophistication on the part of consumer advocates”
- The growing complexity “creates a barrier to entry for new advocates”
- “Lots of time and resources needed; research needed; capacity building in advocates needed; broad base in the community needed”

There was also a feeling that the rapid rise of energy prices meant consumer advocacy was increasingly going to have to deal with affordability issues:

- “From carbon pricing and elsewhere” the costs of energy are going up, “making the issue of affordability more important”
- “Upward pressure on energy prices will lead to an increase in the proportion of energy customers experiencing financial difficulty paying their bills which will in turn increase demand for consumer advocacy”
- “Protection from disconnection
- “financial hardship; create access barriers for certain consumers; shift of costs from landlords to tenants through more consumption charging”

One response took a wide perspective and asserted:

“One big challenge for governments and regulators (and hence where decisions are likely to have impact for consumers) is the continued balance of market and intervention - centralised decisions or market signals. This will be seen in relation to the CPRS, climate change, investment in generation, smart meter policy and so on.”

Only one respondent mentioned greenhouse issues as possibly changing consumer advocacy:

“[There is a] question about how advocates are going to combine greenhouse policy/initiatives with consumer protection (beyond calls for more CSO payments).”

One respondent said this

“AEMC review of market competition in both NSW and the ACT. The potential removal of price controls would likely impact greatest on otherwise vulnerable households, especially those who do not or cannot successfully participate in the market”

One respondent said this

“Retail price deregulation will make it more difficult to advocate on retail pricing matters due to the proliferation of pricing offers and tariff structures.”

Network connections and market management services for small scale energy generation

7.11 Appendix K: Detailed NECF Case Study

The National Energy Customer Framework (**NECF**) is a set of consumer protections that will apply to all retail consumers of energy in the national energy market.

The process of developing the NECF was commenced by the MCE in August 2006. A bill to bring the NECF into operation was introduced into the South Australian parliament on 27 October 2010. Similar legislation will follow in other jurisdictions.

The NECF is the result of four years of policy development. Consumer advocates have made significant contributions to the policy process and had a significant impact on the outcome. Consumer advocates assessment is that "Whilst no consumer protection bill is perfect, the NECF Bill does contain hard fought and vital protections for consumers with particular changes and improvements to most jurisdictions."-

Singularly and collectively throughout the process, in addition to participating in government process and submission writing as detailed below, consumer advocates met with federal and jurisdictional ministers and advisors, government departments and regulators. Guests were also invited to present at several Roundtables, guests included commonwealth representatives, state ministers and the federal minister.

Commonwealth government representatives included Departmental heads and those responsible for the legislation, in addition the lead drafter attended to provide a deeper understanding of the legislation. These presentations provided an opportunity for consumer advocates to advocate on the importance of some of the issues within the legislation that could be addressed through drafting.

Victorian energy minister, Minister Peter Batchelor, attended the National Consumers Roundtable on Energy in mid 2009 in a session that addressing consumer concerns with the NECF and providing an insight into Victoria's role in its development. The Minister encouraged consumer representatives to advocate strongly with their own ministers on particular issues to help to get them across the line.

Media campaigns were fought in jurisdictions, for example following the first exposure draft, the Herald Sun in Victoria picked up the debate on the changing of terminology from disconnection to de-energisation. The second exposure draft corrected this change so all consumer communication continued to refer to it as disconnection. The Victorian government also committed to maintaining consumer protections at existing levels for Victorian consumers, despite the final content of the NECF.

The Federal minister for Energy, Minister Ferguson attended one Roundtable and received approximately 10 consumer representatives in Melbourne at another time to discuss the NECF legislation, amongst other consumer concerns in more detail.

Letters were written jointly addressing a number of issues, including the objective which consumer representatives believe does not adequately provide for the long term interests of consumers, and does not have a sufficiently social or environmental focus. While disappointingly the objective remains reflective of that in the NEL and NGL, in the second exposure draft of the legislation additional obligations were placed upon the AER and the AEMC to carry out their functions "in a manner that is compatible with the development and

application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers".

At the 11th hour, consumer advocates from each NEM jurisdiction attended the June 2010 MCE meeting, in protest at some key consumer issues that were still not included within the NECF legislation. The sad-socket, or 'Fair Go - don't unplug Australians' campaign included media on TV, radio and in national newspapers, as consumer advocates continued to advocate for best practice consumer protections.

The NECF Bill is the result of four years of intensive consultation and effective joint consumer advocacy. Whilst no consumer protection bill is perfect, the NECF Bill does contain hard fought and vital protections for consumers with particular changes and improvements to most jurisdictions.

What follows is a brief summary of advocates interaction with government processed to arrive at these outcomes.

Consultation and Advocacy Timeline:

- **August 2006:** Peter Naughton, Chair of the Ministerial Council on Energy Standing Committee of Officials (**MCE SCO**) Retail Policy Working Group (**RPWG**) announces an outline for consultations to develop the NECF.

Mr Naughton indicates that the process would be driven by the Commonwealth Governments objectives to achieve:

- competitive retail and generation markets;
- efficiently regulated markets in distribution and transmission;
- reliable supply; and
- sound investment.

It is anticipated that the NECF Bill will be introduced into the South Australian parliament on **1 January 2008**.

- **November 2006:** Working Paper Number 1 (**WP1**) is released for comment. Importantly WP1 covers:

- retailer obligation to supply small customers;
- retailer - small customer market contracts; and
- retailer - small customer marketing.

WP1 also addresses issues related to the enforcement, and objects clause of the National Electricity Law (**NEL**) and the National Gas Law (**NGL**).

Consumer advocates remain uncertain of the strength of the proposed consumer protections in WP1, and lobby for the retention of existing state based consumer protections.

Submissions are made by:

- Consumer Utilities Advocacy Centre (**CUAC**) and the Consumer Action Law Centre (**CALC**), in a joint submission on behalf of a range of Victorian organisations);
- Public Interest Advocacy Centre (**PIAC**);
- The Tasmanian Council of Social Services (**TasCOSS**); and
- The Centre for Consumer and Credit Law, Griffith University (**CCCL**).

- **December 2006:** Working Paper 2 (**WP2**) is released, and covers three topics:

- distributor obligation to provide connection services;
- distributor interface with retailers; and
- distributor interface with embedded generators.

Consumer advocate concerns focus on point one and three, and submissions are made by:

- CALC;
- PIAC; and
- the Total Environment Centre(**TEC**); and
- the Alternative Technologies Association (**ATA**).

- **Early 2007:** Working Papers 3 and 4 are released (**WP3**), (**WP4**), and elicit submissions from CALC, TEC, CCCL, amongst others.

- **Early 2007:** The first legislative delay is announced, pushing the proposed implementation date from 1 January 2008, to **1 July 2008**. This is done to ensure stakeholder comments are fully considered in the development of the NECF.

- **May 2007:** Two more working papers are released, focusing on "customer transfer and metering", and "enforcement and objectives" respectively.

Consumer advocates express concern that the proposed objective for the new national framework is too narrowly focused on efficiency, without any concern for who benefits from the gains of efficiency. A focus on efficiency, expressed as a good in itself, would remove state based objectives related to social and environmental outcomes.

Submissions are made by CALC and the TEC, amongst others.

- **Mid 2007:** The **second legislative delay** is announced, setting the proposed date from 1 July 2008, back to **30 September 2009**.

- **June 2007:** A Composite Consultation Paper (**CCP**) is released by the RPWG, in an attempt to draw together the consultation that had occurred to that stage.

Thirty-five submissions were made to the CCP, including thirteen from community sector and consumer organisations.

Many community and consumer organisations worked together to comment on the CCP in a large joint submission. The joint submission particularly emphasised the need for:

- a robust obligation to supply, applicable to both distributors and retailers;
- standing and market retail contracts to include appropriate consumer protections; and
- strong consumer protections to apply to the marketing of retail energy.

In addition to the various submissions to the CCP, CALC provided the RPWG with a detailed comparison table comparing retail consumer protections across the NEM jurisdictions, and indicating best practice.

The table was prepared with funding from the Advocacy Panel.

- **June 2008:** Following lengthy consideration of consultation to that stage, the MCE released the policy paper, *A National Framework for Regulating Electricity and Gas (Energy) Distribution and Retail Services to Customers (MCE Policy Paper)*, including a table of recommendations.

This significant document attempts to harmonise the varying non-price consumer protections across the NEM jurisdictions into one coherent framework.

Protections covered by the MCE Policy Paper include:

- retailers and distributors obligation to supply energy;
- regulation of contractual terms and conditions;
- consumer protections relating to billing, payment and collection;
- obligations of energy retailers to assist consumers experiencing financial difficulties;
- consumer protections relating to marketing; and
- compliance and enforcement of regulatory obligations by the regulator.

Consumer advocates were generally pleased with the principles guiding the MCE Policy Paper, but expressed concern that a lack of detail could undermine the practical impact of resulting legislation.

Proposals relating to consumers in financial hardship elicit particular concern.

The MCE Policy Paper prompts a wide range of submissions from the community sector, including:

- CUAC;
- CALC;
- ATA;
- TasCOSS;
- Kildonan UnitingCare Epping Victoria;
- Queensland Council of Social Services (**QCOSS**);
- Victorian Council of Social Services (**VCOSS**); and
- the Financial Counsellors Association of Queensland.

- **October 2008:** The MCE releases a Regulatory Impact Statement (**RIS**) based on the proposals in the MCE Policy Paper. Consumer advocates provide a joint submission to the RIS.
- **Late 2008:** The **third legislative delay** occurs. The release of draft legislation scheduled for December 2008 is postponed until late February 2009, meaning that the September 2009 deadline for introduction to parliament would not be met.
- **February 2009:** The **first exposure draft** of the NECF legislation is released. This is a lengthy document of over two hundred pages. The consumer response is co-ordinated by allocating sections to different organisations, and then compiling those into a single joint response.
- **November 2009:** The **second exposure draft** of the NECF legislation is released. Consumer advocates remained concerned that the proposed objective is flawed. The draft objective continues to emphasise efficiency over other factors, stating at s113:
"The objective of this Law is to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy."

The objective continues to use "efficiency" as a mechanism for achieving social outcomes, rather than prioritising social outcomes as an objective in themselves - to be achieved by whatever means necessary.

This remains the central sticking point between consumer advocates, government and industry.

The second exposure draft generates over forty submissions in response. Key consumer organisations repeat the process undertaken in relation to the first exposure draft, and generate a joint response by farming out sections to different groups, and then compiling those contributions into a joint submission.

Key consumer concerns raised throughout this process include:

- the need for provisions for fair billing and payment collection practices.
 - minimum requirements for policies concerning customers in hardship;
 - inadequate enforcement mechanisms inconsistent with other consumer laws and inadequate civil penalties; and
 - undeveloped retailer of last resort provisions.
- **June 2010:** Consumer advocacy around the NECF culminates in a street protest outside the June MCE meeting, held in Melbourne. T-shirts and novelty power plug masks are made up, to support the campaign slogan - "**Fair Go - Don't Unplug Australians**".

The protest is co-ordinated by CALC and attended by representatives from:

- CALC;

- VCOSS;
- QCOSS;
- the South Australian Council of Social Services (SACOSS);
- PIAC;
- St Vincent De Paul; and
- Uniting Care.

At the protest, fact sheets are handed directly to Ministers.

The fact sheets contain a list of consumer requests for the NECF. These include:

- a ban on late payment fees;
- commitment to a consumer focused objective;
- the scrapping of shortened collection cycles;
- the banning of disconnections during a heatwave;
- the limiting of back-bills for undercharging to 6 months; and
- the introduction of a wrongful disconnection payment.

The "Fair Go - Don't Unplug Australians" campaign generates media interest through ABC radio and television, and print coverage in the Australian Financial Review and The Australian newspaper.

- **October 2010:** The **Draft NECF Bill** is introduced into the South Australian parliament, and includes provisions directly attributable to strong consumer advocacy, and potentially to the "Fair Go - Don't Unplug Australians" protest.

These include:

- increased commitment to hardship provisions
- commitment in Victoria to no disconnections in heat waves and no reduction in protections for Victorian consumers

Conclusion

The NECF Bill is a good example of sustained consumer advocacy, and the need for consumer advocates to adopt a long term view in the face of repeated government delays.

Although consumer advocates operated within (and complied with) the government process for much of the consultation period, the joint advocacy effort culminated with a direct action featuring consumer advocates from across the country in a morning protest outside the June 2010 MCE meeting.

This final push was instrumental in gaining a few final - and very important - concessions, and demonstrates that effective consumer advocacy requires a long term commitment. It also demonstrates that sometimes, advocates need to step outside of the process to achieve the best outcome.

Other lessons to be learnt from the NECF process are that effective co-operation between consumer advocates often allows responses to be made that could not be otherwise achieved. This was most notable in relation to the joint submissions developed for the two

exposure drafts based on their size and the detail in each, but remains true of other phases as well.

Finally, the process demonstrates the need to remain persistent in lobbying for your position. Saying it once, and appealing to reason, is never enough. Consumer advocates across the country also engaged in meetings with state and federal ministers, departmental bureaucrats and regulators. Success in advocacy comes from relentlessly repeating the message, (for years if necessary) and escalating the urgency with which that message is communicated. When the time is right, and consultation has been exhausted, then direct action may be necessary.

7.12 Appendix L: Further Survey Responses

A. Adequacy of the current provision of energy consumer advocacy?

This section presents the responses to **question 36: Do you think the current provision of energy consumer research, analysis and advocacy is adequate?** grouped by topic:

No 27 (90%)

Yes 3 (10%)

Those who said yes were a regulator, an ombudsman and an energy supplier.

If no, what activities ought there to be more of?

Research in general, particular types of research, data collection and access to information (4), analysis of that data, analysis of strategic trends/build internal expertise through greater research

6. There needs to be more world class consumer focussed research into energy policy and regulatory decisions in Australia.

Central repository of information (2) / overview of situation (1)

4. would like to be able to call on a central repository of current information on national energy policy issues -

Potential for more co-ordination with central repository for maintaining all information.

10. one significant shortfall is a capacity for advocates to maintain surveillance of the energy market and the policy debates ...some advocates are not full time or don't have other resources, some advocates are combining energy with other issues and other sectors, some advocates are representing very different groups of 'consumers' the result is that a lot of debates and even 'policy signals' (strategic level stuff) are missed by advocates who then find themselves forced to catch-up
11. Whilst some financial resources for research are available, namely via the Consumer Advocacy Panel, advocates can be too pressed for time responding or reacting to government and regulator consultations, to apply for funding and undertake strategic research projects.
13. Funding permitting, organisations that have internal research officers generally build up a level of expertise that enables them to respond quickly to a range of proposals. The build up of internal expertise is likely to be beneficial in the long term.
7. No, current consumer analysis is not systematically retrieved from relevant organisations to be able to accurately assess the impacts of different aspects of the energy industry.
15. collection and analysis of info on consumer behaviours, energy needs etc.

Analysis of industry and regulator performance.

24. I haven't seen [sic] much evidence of credible research or analysis
23. More energy consumer research should be focused on what actual household customers actually want and expect from energy industry, including price/service willingness to pay research to establish an empirical basis for advocacy.
22. Better and more detailed analysis and policy development.

17. more research, formal papers on consumer issues from a consumer advocacy perspective

18. Better informed advocacy.

Better use of experienced consultants.

Better research and evidence.

Better capacity building of organisations linked to consumers

Consumer information and education/consumer empowerment/small business info (4)

There needs to be resources provided for consumer information and education to improve consumer knowledge and experience in the market as occurs overseas. Whilst advocates are skilled at acting in the interests of consumers, there often appears to be an inadequate focus on empowering consumers to undertake direct advocacy.

20. Information for ordinary consumers including children and young people.

And, if at all possible, a really user-friendly tool that compares options for small business (and doesn't disguise things).

National voice

3. There has to be a national voice.

Training of advocates and others/Advice from full time advocates to others and to be able to seek advice from full-time national advocates/policy analysts.

19. capacity building for volunteers

Capacity building for existing workers

More work in new areas

Focus on distribution tariffs and the impact of these on the community.

Extend to needs of particular consumer groups

8. There needs to be greater engagement with and research undertaken on the needs of ATSI and CALD consumers, and those in regional, rural and remote areas.

Innovative solutions

9. There could be more undertaken in relation to innovative ways in which challenges in the energy market can be addressed - i.e. through agencies and retailers working together perhaps

Better public communication of advocacy/community engagement

Actions (re: Press release and media conference)

16. broad community engagement strategy

Better communication by regulators about what reviews are about

21. Simply shared data and information.

The AEMC and AER sending out emails that don't actually say anything about what a particular review is or what it intends to do is failing us all...they could learn a lot from OFGEMs approach to communication.

Better understanding of tradeoffs e.g. between price and supply, price and ETS

Better reconciliation of broad aspects of consumers desire around energy as citizens (for example, a customer opposed to increased energy prices may actually support an ETS, or higher reliability standards).

Effective Advocacy Strategies

Question 38: Are there any particular advocacy strategies or actions that organisations other than your own undertake that you think are particularly effective? They might be organisations within the energy consumer sector or from another advocacy sector. Answered question: 15

1. CALC and CUAC - because of their extraordinary depth of talent and ability to specialise
2. The size of ACCAN (including funding) ensures that they have a more comprehensive advocacy strategy.
3. Direct contact with advocacy organisations, either formally or informally, providing different perspectives and allowing the identification and understanding of current issues and emerging trends to allow for considered business change.
4. Engagement with Migrant resource centres, ethno-specific agencies and ATSI agencies
5. More targeted campaigning on particular issues.
6. Advocacy groups which have a form of 'partnership' with the energy industry (for example, being expert advisers to energy retailers when they develop hardship policies) seem particularly effective as they are addressing issues at the source.
7. networking with jurisdictions and regulators
Consumer Utilities Action Centre: Small grants program.
8. Combined Pensioner and Superannuants Association: Use of membership base for letter writing campaigns.
Vinnies: Recent good research base for advocacy.
9. N/A
10. NA
Do not Knock stickers from CALC
11. Sitting on relevant govt or industry committees (CALC, CUAC)
Do not Call Register
12. coalitions are an important means of sharing resources and workload.
13. advocates in Victoria are a good example of what can be done if you have funding but even they are limited by lack of funds
14. The 'your choice' website with ESC is now just information; it doesn't actually assist people to make a choice.
15. Better ongoing and non-combative collaboration with the energy industry would likely serve as an effective way for end user consumer groups to proceed.

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The views expressed in this document do not necessarily reflect the views of the Consumer Advocacy Panel or the Australian Energy Market Commission.

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Queensland University of Technology
Brisbane Australia