

Manager
MCE Secretariat
Department of Industry, Tourism and Resources
GPO Box 9839
Canberra ACT 2601

Your reference:
01 September 2006

Dear Madam/Sir

Re: Consultation – Draft Effective Competition Criteria

We are writing with regard to the Ministerial Council on Energy Standing Committee of Officials (MCE SCO) Consultation Paper *Phase Out of Retail Price Regulation for Electricity and Natural Gas* (the Paper). ACOSS is pleased to have had an opportunity to consider and respond to some of the issues raised by the Paper.

Initially we think it valuable to recall the text of Energy Market Reform Bulletin No. 64 issued by the MCE SCO on 07 June 2006 and particularly its assertion that amendments to the [Australian Energy Market Agreement] (AEMA) will “provide the basis for phasing out retail price regulation where regulation is no longer needed **to protect the interests of consumers**” [our emphasis]. Our view is that the single most important criterion for an assessment of whether retail price regulation should be removed is this: would the interests of consumers be advanced? And we are especially keen to reiterate our observation that there is no ‘everyman’ consumer; consumers are not an homogenous group and some consumers require higher levels of protection than others.

At Annexure 3 of the AEMA, Indicators of Competition in Retail Energy Markets, the first indicator is “customer experiences – for competition to be effective, customers must be aware of different retailers and perceive that they can make price comparisons”. The Annexure states that an assessment will be made using “data compiled from customer surveys”. The third indicator is “price and non price offers – evidence that suppliers are actively competing by offering innovative products that meet customer needs. The Annexure states that an assessment will be made using compiled from retailer surveys and ‘mystery shopper’ surveys.

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ACOSS supports wholeheartedly an indicator that assesses customer experiences

We note that anecdotal evidence would suggest that customer experiences

We will also recall these remarks included in a report of Productivity Commission regarding the regulation of competition in telecommunications: *[these] policy issues raise complex conceptual and practical problems. The goal of policy should not be to mimic outcomes that might be achieved in a purely competitive market or to determine a regulatory approach that purports to guide the industry over the long run. The limits to effective regulation and the speed of technological change make this an unachievable ideal. A more pragmatic and modest policy goal is to devise a set of arrangements that are workable, that improve efficiency over the medium term, that reduce some of the bigger risks of making regulatory errors and that promote the contribution... to Australia's future economic growth.*

The Paper cites the Australian Competition Tribunal: “competition expresses itself as rivalrous behaviour. In our view, effective competition requires both that prices should be flexible, reflecting the forces of demand and supply, and there should be independent rivalry in all dimensions of the price-product-service packages offered to consumers and customers.”

Competition is a process rather than a situation.

Our view is that

At clause 14.11(a)(iii) of the AEMA notes that “reviews will be conducted biennially, unless the AEMC recommends otherwise”. Our understanding is that the AEMC anticipates reviews might take somewhere between six and 12 months. We would suggest that less frequent reviews

At clause 14.11(b) of the AEMA

Yours sincerely
Australian Council of Social Service

Andrew Johnson
Executive Director

Productivity Commission 2001, *Telecommunications Competition Regulation*,
Report No 16, AusInfo, Canberra