



19 June 2017

By email: energycouncil@environment.gov.au

COAG Energy Council Secretariat
Department of the Environment and Energy
GPO Box 787
CANBERRA ACT 2601

Dear Secretariat

Australian Energy Market Commission Establishment (Governance) Amendment Bill 2017

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to comment on AEMC Governance Amendment Bill.

In summary, we support the increase in the number of AEMC commissioners from three to a possible five. However, the failure to require a commissioner with expertise in consumer issues means that a critical perspective will be missing AEMC decision making.

Our comments are detailed more fully below.

About Consumer Action

Consumer Action Law Centre is an independent, not-for profit consumer organisation based in Melbourne. We work to advance fairness in consumer markets, particularly for disadvantaged and vulnerable consumers, through financial counselling, legal advice and representation, and policy work and campaigns. Delivering assistance services to Victorian consumers, we have a national reach through our deep expertise in consumer law and policy and direct knowledge of the consumer experience of modern markets.

Appointment of consumer commissioners

Consumer Action was one of a number consumer advocacy groups that made a joint submission¹ to the Review of Governance Arrangements for Australian Energy Markets recommending the Energy Council undertake a number of governance reforms to develop more effective energy policy on behalf of residential consumers, especially low-income and vulnerable consumers.

¹ Consumer Action, Public Interest Advocacy Group, Total Environment Centre, Consumer Utilities Advocacy Centre, Queensland Council of Social Services, Tasmanian Council of Social Services, Uniting Care Australia, Ethnic Communities Council NSW, letter to Minister Frydenberg, 30 November 2015.

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The groups submitted that one of the most effective ways to better integrate consumer perspectives into the work of regulators was through the appointment of a consumer commissioner.

The submission noted the requirement under the *Competition and Consumer Act 2010* (Cth) for the Australian Competition and Consumer Commission (ACCC) to have one commissioner with knowledge in or experience with consumer protection. It also highlighted that that this had contributed to the ACCC's developing a deeper understanding of the consumer experience and had assisted it to work effectively to address aspects of regulations and business practice that may lead to consumer detriment. This has also been the experience of consumer representatives with the Australian Securities & Investments Commission, with the deputy chair having this expertise.

We highlighted that the appointment of a consumer commissioner for the AEMC was essential to:

- promote the diversity of the markets they regulate (including, consumers); and
- ensure appropriate accountability mechanisms, in particular to the objective of 'long term interests of consumers'.

Disappointingly, the governance review panel did not adopt this recommendation in its final report, but recommended that *'appointments of commissioners to the AEMC continue to be made on the basis of a publicly available statement of the required skills and experience'*².

We remain concerned that without a requirement for consumer protection-specific skills and experience in the law, consumer experience will continue to be sidelined in favour of more technical expertise.

The AEMC is bound by law to make all decisions in the long-term interests of consumers. Given the pace of change and emerging consumer welfare issues in the energy market—and the challenges this inevitably poses for the rule maker—it is essential that the AEMC be equipped to give effect to that legal obligation.

Accordingly, we recommend that as part of the expansion in the number of commissioners appointed to the AEMC, at least one position is reserved for an appointee with experience or expertise in consumer protection or consumer policy.

Please contact Jake Lilley on 03 9670 5088 or at jake@consumeraction.org.au if you have any questions about this submission.

Yours sincerely

CONSUMER ACTION LAW CENTRE



Gerard Brody
Chief Executive Officer

² COAG EC, Review of Governance Arrangements for Australian Energy Markets, 2015, p94.