

22 April 2010

Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

By email: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

Dear Sir/Mdm,

**Submission to Inquiry into the Trade Practices Amendment (Australian Consumer Law) Bill (No.2) 2010**

The Consumer Utilities Advocacy Centre (CUAC) is an independent consumer advocacy organisation. It was established to ensure the representation of Victorian consumers in policy and regulatory debates on electricity, gas and water. In informing these debates, CUAC monitors grass roots consumer utilities issues with particular regard to low income, disadvantaged and rural consumers.

We thank the Senate Economics Committee for the opportunity to comment on its Inquiry into the Trade Practices Amendment (Australian Consumer Law) Bill (No. 2) 2010 (the Bill). We apologise for the delay in making our submission.

We note that the Bill fundamentally reforms consumer law by forming a single, national consumer law framework. We are pleased to see included the introduction of national unfair contract terms law, national legislative schemes for product safety and consumer guarantees, and new enforcement and remedies provisions in the national framework.

As consumer energy advocates, we are, however, very concerned with one particular aspect of the Bill which aims to carve out energy services from the new national legislative scheme for consumer guarantees. We note that section 65 of the Australian Consumer Law provides that guarantees relating to services do not apply to gas, electricity or telecommunications services that are of a kind specified in regulations. It is a basic consumer right that consumers are entitled to goods and services of an acceptable quality (including safety) and standard. We believe that consumer guarantees should apply across all products and services. As a matter of principle, we strongly oppose any carve out for specific industries, especially for energy which is an essential service. Consumers are entitled to security and reliability of energy supply. Industry may have argued that consumer guarantees should not apply on the basis that there are factors affecting energy services outside the control of the energy supplier. We acknowledge that there are instances affecting energy services outside the control of the energy supplier. However, we note that consumer guarantees would only be breached if the energy supplier has not exercised due care and skill or failed to provide safe goods and services.

We would also point out that the proposed National Energy Customer Framework (NECF) does not contain any standards for energy products or services. In many areas such as unfair energy contracts and marketing of energy products and services, general consumer protection law is to apply.

We strongly support the submission made by the Consumer Action Law Centre, in particular their comments on pages 20-22 of their submission, which is related to consumer guarantees. We submit that section 65 of the Australian Consumer Law must be removed so that there is no carve out for utilities.

If you have any queries on the above, please contact the undersigned.

A handwritten signature in black ink, appearing to read 'Deanna Foong', is written over a light blue rectangular background.

Deanna Foong  
Senior Policy Officer