

Senate Economics and Legislation Committee Inquiry into the *Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Bill 2018* – Response to Question taken on Notice at hearing on 5 February 2019

Answer

The Australian Competition and Consumer Commission's (ACCC) Retail Electricity Pricing Inquiry found that the market is not working for consumers. In the context of ongoing consumer concerns about electricity prices and issues around trust and confidence in the market, considered implementation of the package of recommendations in the report provides a way for governments, regulators and industry businesses to improve affordability outcomes for Australian households and small businesses.

Energy Consumers Australia participated in the Committee's review of the *Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Bill 2018* (Bill) as the national voice for residential and small business energy consumers.

The Bill incorporates provisions to prevent and remedy misconduct in the wholesale market, contract market and retail market. It also strengthens the information gathering powers of the Australian Energy Regulator (AER) in relation to retail prices. The Bill aligns with several ACCC recommendations:

- Recommendations which seek to address competition in the wholesale market:
 - Recommendation 1 – The National Electricity Law should be amended to prevent any acquisition or other arrangement (other than investment in new capacity) that would result in a market participant owning, or controlling dispatch of, more than 20 per cent of generation in any National Electricity Market (NEM) region or across the NEM as a whole.
 - Recommendation 3 – The NEL should be amended to provide the AER with powers to address behaviour which has the effect of manipulating the proper functioning of the wholesale market, together with the necessary investigation powers and appropriate remedies.
- Recommendations which seek to improve transparency and competition in the contract market:
 - Recommendation 6 – The NEL should be amended so as to require the reporting of all over-the-counter (OTC) trades to a repository administered by the AER. Reported OTC trades should then be disclosed publicly in a de-identified format that facilitates the dissemination of important market information without unintentionally revealing the parties involved.
 - Recommendation 7 – The Australian Energy Market Commission (AEMC) should introduce market making obligations in South Australia, which require large, vertically integrated retailers to make offers to buy and sell specified hedge contracts each day, in order to boost hedge market activity.
- Recommendations which seek to provide easier retail pricing for consumers:
 - Recommendation 30 – In non-price regulated jurisdictions, the standing offer and standard retail contract should be abolished and replaced with a default market offer at or below the price set by the AER.
 - Recommendation 32 – If a retailer chooses to advertise using a headline discount claim it must calculate the discount from the reference bill amount published by the AER.
 - Recommendation 49 – The ACCC's recommendation to abolish the standing offer and replace it with a 'default offer' at or below a price set by the AER (recommendation 30) should be extended to all generally available offers including for SME customers.

- Recommendation 50 – The ACCC's recommendation that all discounts must be calculated from a reference bill amount set by the AER (recommendation 32) should be extended to all generally available offers including offers for SME customers.

Contact

Ms Jacqueline Crawshaw, Associate Director Advocacy and Communications