

Consumer Safeguards Review Part B – Reliability of services Consultation Paper

21st January 2018

By email: consumersafeguardsreview@communications.gov.au

Consumer Safeguards Review
Department of Communications and the Arts
GPO Box 2154
CANBERRA ACT 2601
Dear ACMA peeps

Dear Secretariat,

We thank the Department for the opportunity to provide a submission to the Department's Consumer Safeguards Review Part B – Reliability of services consultation paper. We suggest the Department might give regard to our research into consumer decision-making and forthcoming consumer research in developing metrics relating to objectives relating to consumer experience and outcomes in energy markets.

The Consumer Policy Research Centre (CPRC) is an independent consumer research organisation which undertakes research to inform policy reform and business practice change. Our goal is to achieve a fair outcome for all consumers. We conduct research across a range of consumer markets, with a focus in 2018 on consumer decision-making, housing, consumer data and the online marketplace. We work collaboratively with academia, industry, government and the community sector.

CPRC welcomes the initiative to introduce formal safeguards for broadband services around the issues of installation, connection and fault repair. In 2016, the CAANZ Australian Consumer Survey found the time and out-of-pocket costs spent to resolve issues relating to products and services across the market totalled \$16.31bn, while issues relating to telecommunications, ISP, banking and finance, and utilities alone cost \$6.26bn.¹ This represents a significant loss to consumer welfare, and notably, predated the rollout of the NBN. As the Department has noted, complaints have increased, and the most common service reliability issues raised by consumers recorded by the TIO were delays establishing a service (12 per cent of complaints), no service (12.5 per cent), and intermittent service or drop outs (10.1 per cent).²

CPRC's recent report, "*But are they any good?*" (attached), examines the benefits of service quality information disclosure for consumers, and considers the impact of a lack of trusted, transparent information about the service quality consumers can expect from businesses in complex service sectors. The lack of this information often means consumers may rely on inappropriate proxies such as price, word of mouth or brand name recognition and marketing, which often favours incumbents and may in fact inhibit competition to provide good customer service to consumers.

If information asymmetry about service quality of providers creates ambiguity in the market and results in reduced consumer participation, as is suggested by the literature, it may also result in market inefficiencies.³ The absence of service quality information provides little incentive for suppliers

¹ EY Sweeney, *Australian Consumer Survey 2016* (The Treasury, on behalf of Consumer Affairs Australia and New Zealand, 2016), 63-66. EY Sweeney's estimated total average cost per person per year for resolving problems related to Banking or financial products/ services including insurance (\$91.99) Internet service provider (\$97.04) Telecommunication products or services (\$101.37) and Utility services such as water, gas and / or electricity (\$75.99) was \$366.39. Consistent with EY Sweeney's methodology, this multiplied by the number adults over the age of 16 (17.1 million at time of publication) giving the figure \$6.265 billion

² Telecommunications Industry Ombudsman, *Annual Report 2017-18*, October 2018, 36.

³ Consumer Policy Research Centre, "*But are they any good?*", November 2018, 21.

to compete on changing demands around service quality and improve their service offering, resulting in poor technical and dynamic efficiency.⁴ Where consumers perform only a limited search of the market, firms might compete to be the first to attract consumers, rather than competing to provide the best offer, or with quickest installation time.⁵ As noted by the UK's Office of Fair Trading, this potentially results in overuse of resources for marketing and advertising rather than providing a lower-priced or higher quality product.⁶ In their final report into energy markets, the ACCC noted that the cost of acquisition and retention - attributed to factors such as the cost of commission for different comparison websites, advertising, and call-back activities to retain customers- had increased from \$33 per customer in 2007–08 to a forecast \$48 per customer in 2017–18, an increase of around 45 per cent in real terms.⁷ Moreover, where product-environment information is ambiguous, consumers may choose not to switch to lower cost providers with equal/greater quality than their current provider, diminishing demand-side competition and ultimately resulting in muted price competition or *X-inefficiency* – whereby firms lack adequate competitive incentives to reduce unit costs of production, to invest in quicker installation costs or reduce outages.

Proposal 1—Mandatory rules will cover how consumers and small businesses are connected, and stay connected to, fixed telecommunications networks, including appointments.

Proposal 2—Providers must focus on keeping customers connected to a service if timeframes cannot be met

1. Are the proposed timeframes to connect or repair a service reasonable?
2. Will the proposed arrangements and penalties for missed appointments provide suitable incentives for industry?

The penalty for missed appointments need to be suitably high that businesses cannot simply absorb these as a “cost of doing business”. Where consumers are required to be present for an appointment, appointments may create significant costs borne by consumers if individuals are required to take annual leave from their employment or make other suitable arrangements in order to be home. Where appointments are missed by retailer or network provider staff, this cost to the consumer rises significantly, regardless of any compensation payment. If the consumer is a small business, further interruptions or delays can create a more significant cost, potentially through lost revenue, which is borne by the business.

3. Are there other options that could help maximise service continuity for people with a diagnosed life threatening medical condition?
4. Should providers be able to seek approval from the ACMA to offer services with different reliability timeframes on a product by product basis (which if approved would then become binding)? If so, what process and criteria would best support this?
5. Should consumers be given the option to exit their service contract without penalty where frequent or recurring faults occur?

Where frequent or recurring faults occur, consumers should be given the option to exit their service contract without a penalty. The threshold for this should be developed through consumer research, looking at the value of reliability. Should the Department adopt this protection, consumers need to be made aware that this protection exists. In the Victorian retailer energy sector, some consumers are not aware that exit fees have been banned and still perceive there are significant costs to switching providers mid contract.⁸

⁴ Consumer Affairs Victoria, “Designing Quality Rating Schemes for Service Providers”, 2006, 2.

⁵ Office of Fair Trading, *What does Behavioural Economics mean for Competition Policy?*, March 2010, 19.

⁶ *Ibid.*

⁷ Australian Competition and Consumer Commission, *Restoring electricity affordability and Australia's competitive advantage Retail Electricity Pricing Inquiry—Final Report*, June 2018, 222.

⁸ Consumer Policy Research Centre, *Five Preconditions of effective consumer engagement*, 2018, 40.

- Proposal 3—Network infrastructure providers that support the supply of retail services to consumers will be required to publish network reliability metrics and to report to the ACMA on network performance.**

1. What information on network reliability is most meaningful and valuable to consumers?

CPRC is currently conducting a research project in partnership with RMIT's Behavioural Business Lab, with support from the Essential Services Commission (ESC), the Department of Energy, Land, Water and Planning (DELWP), and the Energy and Water Ombudsman Victoria (EWOV) - to explore the kinds of non-price attributes that consumers value when choosing energy providers, and how these measures affect consumer decision-making. The project will then develop a prototype measure, developed through a subsequent consumer research and will be trialled in both a lab setting and in a field experiment.

In our view, measures that draw from consumers own understanding and experiences and tested with consumers are likely to be more effective than measures developed without consumer input into the design. We note examples of consumer testing in the energy industry where information disclosure tools designed by regulators have not been entirely effective in improving consumer comprehension.⁹ This itself demonstrates the value of consumer testing and we commend the Australian Energy Regulator for conducting the research.

2. How should network reliability information be made publicly available, and how often should providers be required to report to the ACMA?

Information should be made available at the points where consumers make decisions about purchases - if it is not easily found during a consumers' research process it may not be considered when consumers make decisions. Again, this requires consumer research and in particular, journey mapping – which identifies the series of decisions that consumers make in identifying and choosing and product or service. It is also important to recognise that consumers are not a unified group – different segments will take different journeys, rely on different mediums and methods to identify preferred providers. Ideally, information around non-price attributes would be consistent across different mediums to avoid unnecessarily complexity and confusion – instead offering easy comparison for consumers. CPRC would refer the Department to our *Five Preconditions of Effective Consumer Engagement* report, which outlines where and when information should be made available to ensure consumer can make informed decisions in complex markets.

3. If and how should consumers be advised of major outages and timeframes for remediation?

Key to well-functioning markets is consumer trust. If there is significant ambiguity about the quality of service – due to limited information around outages and timeframes for remediation – consumer trust in both firms operating in the market and the market itself may be reduced, resulting in consumers disengaging in the market. Again, how consumers should be advised of significant outages should be informed with consumer testing – developing mechanisms that do not draw on consumer testing and insights are likely to be limited in efficacy.

⁹ Behavioural Insights Team, *Review of Basic Plan Information Document - Final Report*, April 2018, https://www.aer.gov.au/system/files/Review%20of%20Basic%20Plan%20Information%20Document%20-%20Final%20Report%20-%20April%202018_0.pdf

- Proposal 4—The ACMA will be responsible for the collection of data relating to fixed connections, repairs and appointments, with reporting obligations applying at both wholesale and retail level. The ACMA will publish the results.**

Issues for comment

1. What industry data should be provided to the ACMA for analysis and reporting, and how often should this be provided (for example, monthly, quarterly)?
2. How often should the ACMA publish reports and analysis (for example, monthly, quarterly or half yearly)?

The industry data provided to the ACMA for analysis and reporting should be informed by the information sought by consumers to inform their decision-making. There may be also value in collecting more detailed information to provide regulators and policymakers a clearer understanding on the market outcomes for consumers.

If, as the Department proposes, network reliability metrics should inform consumer decision-making, this information needs to be relatively current – on a monthly or quarterly basis. If a new entrant has significant teething issues but soon resolves them, delayed updates to data might unnecessarily characterise their service. More detailed information considered less relevant for consumer decision-making might then be provided on a yearly basis.

CPRC would like to highlight the benefit of closer consultation with consumer organisations on the finalisation of metrics. There are several insights we'd be happy to share from our consumer research program in relation to information disclosure, transparency, comprehension and product choice.

If you have any questions about our research, please contact Research & Policy Officer Ben Martin-Hobbs on ben.martinhobbs@cprc.org.au or (03) 9639 7600.

Yours Sincerely,



Lauren Solomon
Chief Executive Office
Consumer Policy Research Centre