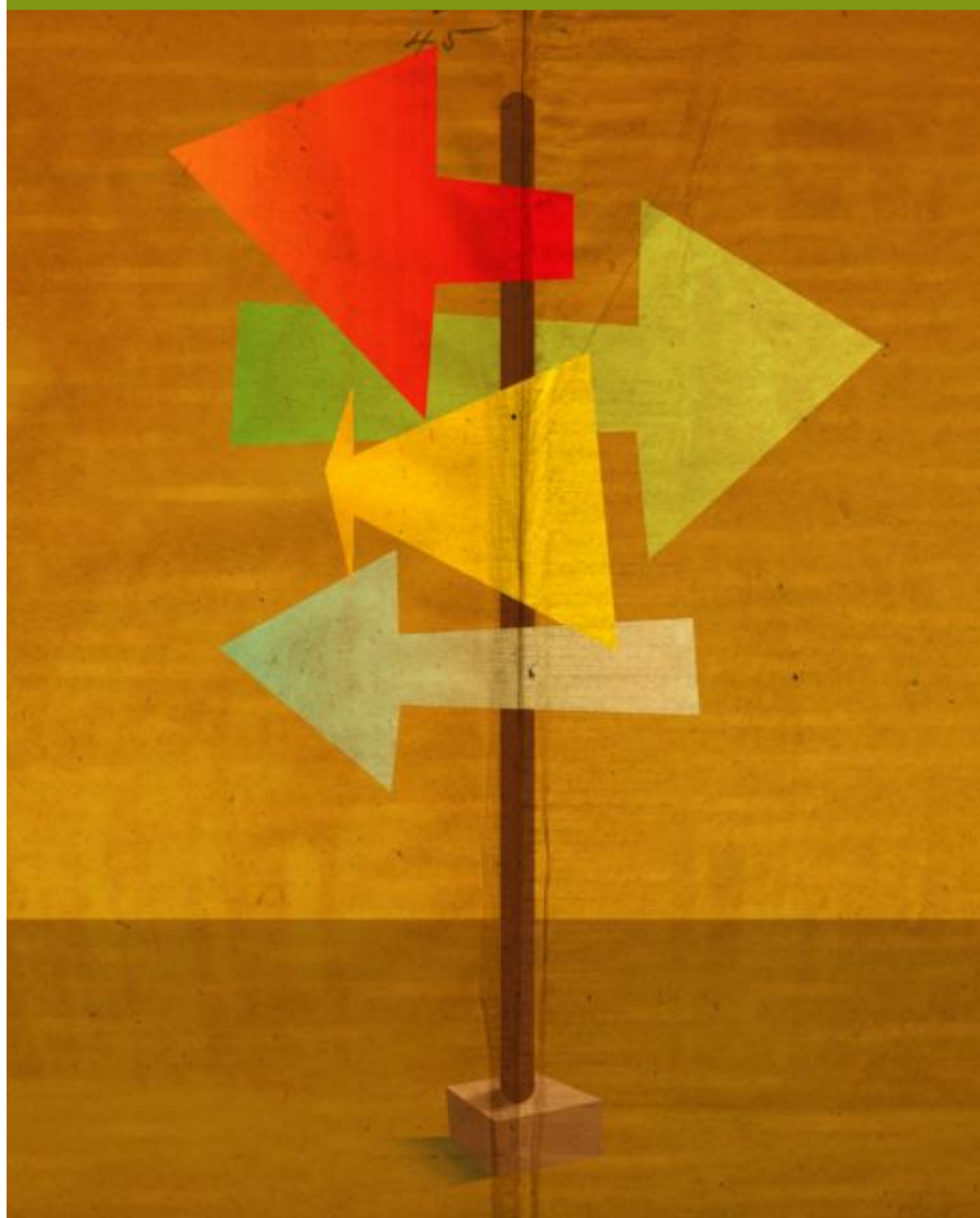


IMPROVING ENERGY MARKET COMPETITION THROUGH CONSUMER PARTICIPATION

A CUAC RESEARCH REPORT

December 2011



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Consumer Utilities Advocacy Centre Ltd (CUAC)

172 Flinders Street
Melbourne VIC 3000
P (03) 9639 7600
F (03) 9639 8966
www.cuac.org.au

ACN 100 188 752

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List of abbreviations

ACCC	Australian Competition and Consumer Commission
ABS	Australian Bureau of Statistics
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
CAP	Consumer Advocacy Panel
COAG	Council of Australian Governments
CUAC	Consumer Utilities Advocacy Centre
ERAA	Energy Retailers' Association of Australia
ESC	Essential Services Commission (Victoria)
kWh	Kilowatt hour
MCE	Ministerial Council on Energy
NECF	National Energy Customer Framework
OECD	Organisation for Economic Cooperation and Development
Ofgem	Office of Gas and Electricity Markets (UK)
PPIS	Price and Product Information Statement
SCER	Standing Committee on Energy and Resources
UK	United Kingdom
UTS	University of Technology, Sydney

About CUAC

The Consumer Utilities Advocacy Centre Ltd (CUAC) is a specialist consumer organisation established in 2002 to represent Victorian energy and water consumers in policy and regulatory processes. As Australia's only consumer organisation focused specifically on the energy and water sectors, CUAC has developed an in-depth knowledge of the interests, experiences and needs of energy and water consumers.

Our work is guided by strong principles. Energy and water services are essential for health, wellbeing and social participation. Therefore, we believe that consumer interests – particularly those of low income, disadvantaged and rural and regional consumers – must be a primary consideration in the development and implementation of energy and water policy and in service provision. CUAC's advocacy maintains a focus on the principles of affordability, accessibility, fairness and empowerment through information and education. CUAC supports informed consumer participation in energy and water markets.

CUAC's advocacy encompasses both responses to government, regulatory and business consultation processes and the proactive identification of emerging consumer issues. We take an evidence-based approach to advocacy, informed by the knowledge and expertise we have built over nearly a decade of involvement in energy and water reform. To further develop our policy positions, each year CUAC undertakes and supports research into topical electricity, gas and water issues. We stay abreast of community needs through regular contact and work with non-government agencies, service providers and business organisations.

Executive summary

The project

This report documents the findings of research into the operation and functioning of competitive retail markets for energy and the Victorian retail market specifically. The aim of the research was to examine retail market function from a consumer perspective to assess how the Victorian market was serving consumers and whether there were any significant barriers to their effective participation. This was part of an effort to evaluate the state of the Victorian retail energy market with regard to a wider variety of indicators than the rate of switching, which is typically used as a rather inadequate proxy for retail market health. Specifically, the research aimed to assess whether Victorian consumers were finding it easy to participate in the market and whether they were actively engaged in decision-making. The active engagement of the consumers in a particular market is key to the maintenance of competitive pressure and its absence will undermine the market's effectiveness.

The analysis and research of Victorian consumer participation in the retail market was conducted with regard to a body of literature on consumer behaviour and decision-making in competitive markets. This informed the analysis of policy recommendations and the design of a consumer survey that sought evidence on the experience of Victorian energy consumers and also highlighted a range of factors that are likely to impact on consumer participation. A range of approaches to improving consumer outcomes in the presence of search costs and common consumer behavioural traits were examined to assist in the development of policy recommendations.

Research was also conducted into the quality of information provided to consumers in the market, particularly in relation to online switching websites as this is a crucial factor in determining whether consumers are able to make effective market choices.

Key findings

The research found a variety of factors likely to impact on the effectiveness of consumer participation in energy markets. The most important factor impacting on consumer participation is limited consumer capacity. Individual consumers, unlike firms, cannot bring specialised resources to bear on their consumption decision-making in a particular market. Constraints on consumers' ability or willingness to engage with, and process, complex information about their available choices impact on the effectiveness of their market participation. This is reflected in studies that clearly indicate that consumers are more likely to engage in a market where there are limited, rather than abundant, options. Other factors likely to impact on the effectiveness of consumer participation include search costs and the ways that consumers respond to bonuses and discounts based on their inconsistent approach to time. The likely impact of these factors, where they are present, is to reduce the effectiveness of consumer decision-making. Consequently, the effectiveness of competition and the discipline that this imposes on retailers is also reduced.

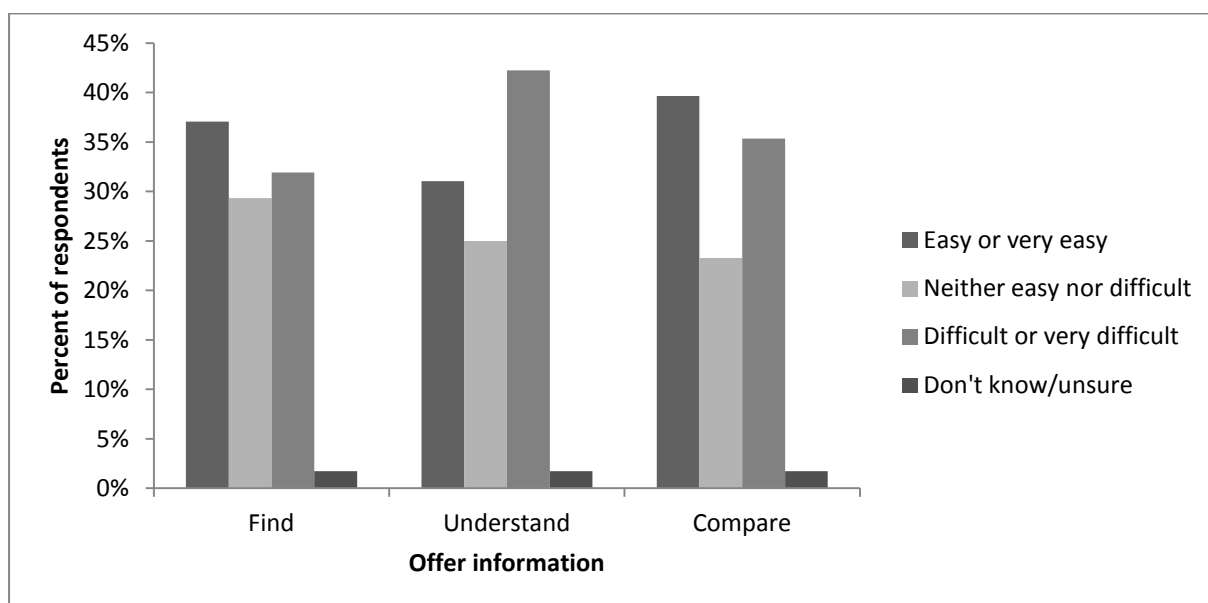
Research from the United Kingdom suggests that the effectiveness of consumer participation in the competitive retail energy market is particularly affected by the issue of limited consumer capacity.

One study found that the quality of choices made by UK energy consumers was no better than if the consumer had selected an energy offer at random. This outcome was attributed to the complexity of the market. Another study found that the UK market and some of the markets in Scandinavia have a growing divide between active and inactive consumer segments with associated effects on competition effectiveness. Issues such as consumer capacity and status quo bias (where consumers have a misplaced loyalty to a particular service provider) likely impact on the growth of this inactive consumer sector.

In the Victorian context, successive reports from regulatory bodies assessing competition effectiveness have found that consumers find it difficult to understand information about the offers that they could choose between. The Essential Services Commission (ESC) in both 2002 and 2004 followed by the Australian Energy Market Commission (AEMC) in 2007-08 found that many consumers found information related to offers in the market difficult to understand and compare. Despite further deregulation of the market, the consumer research conducted as part of this study still finds that consumer understanding of the market is far from optimal. The survey administered to 327 residential consumers for this study highlights some of the issues confronting energy consumers.

The Chart below reveals the proportion of consumers who find it easy or difficult to understand and compare offers based on the survey conducted as part of this research. The Chart clearly illustrates a high proportion of consumers who find it difficult to understand and compare offers. 42 per cent find it difficult to understand offers compared to the 32 per cent of consumers who find it comparatively easy. This high level of difficulty in understanding offers is despite the fact that market choice has been available to Victorian consumers since 2002. The high number of consumers experiencing difficulty in understanding offers would suggest a high potential for poorly informed consumer decision-making and market participation. There is an elevated probability of decisions being made with limited understanding of what is being agreed to.

Chart ES1: Ease of finding, understanding and comparing information in the energy market



Findings on consumer understanding of offers were complemented by data showing significant problems with the quality of information available to consumers. Mystery shopper research indicated that many of the widely used switching websites provided inaccurate information on the best offers available to consumers. Additionally, a range of other factors reduced the effectiveness of this potentially useful information source.

Furthermore, the research found a continued high reliance on door-to-door sales as a mechanism for accessing information and switching. The research also suggested high rates of mis-selling as well as dissatisfaction with this marketing technique. For example, 87 per cent of survey respondents indicated that they had been approached by a door-to-door salesperson. Of these, 31 per cent indicated that the most recent seller had told them that the whole neighbourhood was changing energy supplier and 11 per cent reported that the seller indicated that they had come as the representative of a government agency. Serious questions have to be asked about whether effective consumer choices can be made in the presence of such poor quality and misleading information.

Other key findings from the survey are that:

- 33 per cent of survey respondents indicated that they thought that the price of energy is set by the government in Victoria;
- 52 per cent of respondents who had changed electricity or gas retailer indicated that they switched provider to seek lower prices;
- 37 per cent of consumers who had not changed energy providers indicated that the reason was that it is “too hard to choose”, “not worth the effort”, or “could not be bothered”;
- 75 per cent of respondents to a voluntary, open-ended question about any energy market issue used this opportunity to comment negatively about door-to-door sales;
- 30 per cent of respondents indicated that there was a likelihood they would switch retailer in the coming year, compared with 54 per cent who indicated that this was unlikely;
- 74 per cent of respondents who had changed providers reported a degree of confidence in their switching decision;
- 61 per cent of respondents expressed support for a competitive market model.

Remarkably, of the 26 survey respondents who had switched retailer as a result of their last interaction with a door-to-door salesperson, 6 indicated that they had been switched despite not accepting the offer that had been presented to them at the door.

Overall, while survey responses indicated a level of satisfaction with the availability of choice and the decisions made in the market, the survey data and other research highlighted significant problems with the consumer experience of the market and the quality of, and engagement with, the information upon which decisions were based. The research findings provide substantial evidence to support policies and regulations to improve consumer understanding of the market and ability to make effective choices.

Literature reviewed as part of this research, including the *OECD Consumer Policy Toolkit*, materials from the UK regulator Ofgem’s Retail Markets Review, academic papers on consumer participation

and feedback from research participants provided a range of approaches that could be applied to the Victorian market to improve its operation in the consumer interest. Recommendations to support effective consumer participation in the Victorian market have consequently been developed with regard to the research evidence and CUAC's specialist knowledge of Victorian issues. A number of recommendations made as part of this research relate to the regulation of energy offers and the terms and conditions associated with them. The report recommends that a number of regulations be introduced and others considered for introduction. Specifically, it is recommended that:

- fixed term contracts should have fixed prices for the duration of the contract;
- evergreen and standing offer contracts should have regulated fixed charges with competition occurring on the basis of the variable kWh charge, mirroring reforms in the UK; and
- consideration be given to restricting discounts, bonuses and rebates in order to improve offer comparability.

In order to improve consumer awareness and knowledge of the market, a number of initiatives are recommended in the report. First and foremost, it is recommended that government resource a broad and multifaceted information campaign on the energy market, how to participate and how to get the best deal. This should include the dissemination of basic messages through mass media as well as participatory education through community groups and similar mechanisms. Such a campaign would help to overcome some of the ongoing issues with consumer understanding and participation.

To supplement an information campaign, the report has recommended the establishment of a retailer rating scheme that provides consumer information on retailer performance based on a variety of non-price criteria. This would allow consumers to quickly access additional information about retailer performance on aspects of service quality that they may not have considered when trying to find the lowest price.

In order to improve the quality and availability of information on switching websites, the report recommends that a regulatory code be established to govern the integrity of their operations. This code, as is the case in the UK, could be a voluntary industry code administered by an independent third party. In addition to improving these privately operated comparison services, it is recommended that regulators further resource their own price comparison and information services as a truly independent source of information for consumers. This resourcing should aim to improve the quality and useability of these services and to improve their prominence and standing in comparison to less independent private sites.

A further recommendation relates to the improvement of retailer communication with consumers at the end of fixed term contracts in order to prompt market search. It is also recommended that the possibility of bricks and mortar energy brokerages/retailers should be explored. A large section of the consumer base may be more likely to engage if they were able to interact with an energy retailer or information service face to face. Australia Post is identified as a potential base for such a retailer. The effectiveness of any such venture would be enhanced by the impartiality of the provider.

Finally, given the clear and ongoing consumer dissatisfaction with door-to-door marketing and evidence of poor behaviour among its practitioners, it is recommended that Australian Consumer Law regulators and the ESC substantially increase their compliance and enforcement activities in relation to direct marketing and door-to-door sales in particular. Additionally, it is recommended that research is undertaken into the experience of consumers with door-to-door energy sales in order to establish a baseline set of data against which to assess the performance of the recently established Energy Assured scheme. At the conclusion of the three year authorisation period for Energy Assured, the role of door-to-door sales should be revisited with regard to community opinion and the availability of alternative, less invasive marketing practices.

A clear message for policy makers, rule makers and regulators from this research is that it is absolutely essential to get the market design and other prerequisites right for the implementation of full retail competition with price deregulation. Inactive, unmotivated and poorly informed consumers are not likely to impose effective market discipline on competitive retailers. Despite nine years of competition in the Victorian electricity market, many consumers are still in a poor position to participate effectively and are confronted with often unreliable information when they engage with the market (either passively or actively). It is also clear that many consumers are not currently, and are not likely to be, the omniscient and rational beings envisaged by the neoclassical architects of competitive retail energy markets. This needs to be factored into market design and consumer education. Although there is significant pressure to move to a price deregulated and competitive national retail energy market in Australia, the findings of this report should give all concerned pause to think about the design and desirability of such an outcome.

List of recommendations

While the majority of the recommendations made in this report are directed at the Victorian Government and ESC, the oversight of the recommendations may need to change as market governance arrangements move to national institutions. Similarly, the AER, other state governments and the Commonwealth Government should closely consider whether there are any particular recommendations that would be applicable in their own areas of responsibility.

Building knowledge

1. That the Victorian Government initiates an annual survey, with publically available results, of consumer experience of the energy market from which inferences can be drawn on the effectiveness of consumer participation and competition. This would also allow for the analysis of emerging trends and risks. (See page 81)

Improving retail regulation

2. That the ESC introduce regulation to compel retailers to provide specific information at the conclusion of a fixed term contract to encourage consumers to engage in an active search for the best energy offer available. (See page 82)
3. That the Victorian Government and ESC introduce, and in some instances, further consider regulatory controls around the number and expression of energy offers. Specifically, the

Victorian Government should seek to introduce reforms to enhance competition through increased simplicity and comparability of offers. (See page 84)

4. That the Victorian Government should regulate the level of fixed charges (cents per day) for standing offers and evergreen offers with price competition occurring on the basis of the variable usage (kWh) charge alone. (See page 84)
5. That the ESC introduces regulation that removes the ability of retailers to vary prices during the course of a fixed term contract. (See page 84)
6. That the Victorian Government and ESC review the role of discounts, bonuses and rebates. Consideration should be given to limiting their type and number to ensure offers remain comparable on the basis of price. (See page 84)
7. That the Victorian Government considers restrictions on the number of offers per retailer to ensure that consumers are not overwhelmed by choice and remain actively engaged in the market. (See page 84)
8. That the ESC work with retailers to achieve a more meaningful approach to expressing energy offers. The expression of offers should allow consumers to easily identify if an offer is right for them. (See page 85)
9. That the ESC and AER develop a common metric for offer comparison such that all offers can be easily compared against a benchmarked consumption level. This metric should have a consistent approach to the treatment of discounts and other variations from standard expressions of price. (See page 85)

Improving price comparison services

10. That the Victorian Government, potentially in collaboration with the State and Commonwealth regulators, should move to establish a regulatory framework for price comparison services that aims to ensure that all switching websites achieve high standards of quality, accuracy and transparency. This regulatory framework could be a voluntary code of practice as is the case in the United Kingdom, in which case the role of Government would be as both initiator and facilitator. (See page 87)
11. That the Victorian Government should ensure that appropriate resources are provided to the Essential Services Commission for the maintenance of the *Your Choice* Website. (See page 87)
12. That the ESC should review the approach it takes to presenting offers on its *Your Choice* website. The ranking of offers in order of price would make it easier for consumers to assess the different offers. Other improvements to the website should occur in close consultation with consumer groups. (See page 97)
13. That the ESC should be proactive in maintaining its website ensuring that offers from all retailers are included and that links to PPIs are up to date. Appropriate resources should be allocated for this purpose. (See page 88)

Alternative information sources

14. That the Victorian Government provides resources for a comprehensive consumer education campaign that uses a variety of communication channels and draws upon, expands and improves existing information sources. (See page 89)
15. That the Victorian Government and energy retailers explore options for developing retail outlets that would allow consumers to seek face to face advice on the best energy offer for their needs. As part of this, the viability of using Australia Post's network of retail outlets as an independent energy supermarket for consumers should be explored. (See page 90)
16. That an energy retailer rating scheme is developed, which assesses retailer market performance against an array of non-price attributes including regulatory compliance and customer service.¹ (See page 90)
17. That significantly increased resourcing for regulator operated (ESC or AER) independent market information sources should be provided with the resources sourced through increased licence fees. (See page 92)

Door-to-door sales

18. That a baseline data set on consumer experience of door-to-door marketing is collected by the ACCC in order to assess the performance of the Energy Assured scheme. (See page 93)
19. That Australian Consumer Law regulators substantially increase their compliance and enforcement activities in relation to direct marketing. (See Page 93)
20. That, at the end of the three year Energy Assured Scheme, the question of the future of door-to-door marketing should be revisited with a view to curtailing this invasive practice in favour of other more consumer driven sales approaches. (See page 93)

¹

CUAC will commence the development of an independent rating tool for consumers in the coming year.

Introduction and background

Background

An oft repeated refrain from political leaders, regulators and industry is that Victoria's retail energy market is the most competitive in the world.² This statement is based on the work of VaasaETT a Finland-based energy think tank that analyses the number of customers switching retailers in competitive retail energy markets globally. The Victorian market for a number of years has maintained a switching rate of over 20 per cent. This means that more than one in five consumers of electricity or gas changed provider in any one of those years.

While there is no doubt that this high switching rate does indicate some level of competition, it is not the only issue to consider when assessing the effectiveness of competition in the market. A significant issue is whether switching is a result of informed choice and whether consumers are making rational decisions in their interest. As Paul Joskow, Emeritus Professor of Economics at the Massachusetts Institute of Technology explains, "looking at switching rates alone isn't very informative as an index of the welfare consequences of retail competition."³ Ultimately, a market will only be truly competitive if informed consumers are active in finding the best prices and features or services that may be particularly sought after.

If consumers are switching from a position of ignorance, or in some cases as a result of receiving misleading information, there is a strong chance that they will not be better off as a result of a switch. Regardless, the effectiveness of markets will be undermined by widespread misleading practices or ill-informed consumers.

Previous research as well as engagement with the community undertaken by the Consumer Utilities Advocacy Centre Ltd (CUAC) suggests that there are many Victorian consumers who are still unsure about how to participate effectively in the market. Other consumers have switched provider, often as a result of contact from a direct marketer, but without awareness of the features of the contract that they were signing up to. Many consumers indicate that they find it confusing to compare different energy offers and to be sure that they are getting a product that is suitable for their needs. This would indicate that there are likely many consumers currently unable to effectively participate in the market and that market distortions and failures, principally information asymmetries, continue to prevent a change to this situation.

Economic analyses of the necessary components of workable or effective competition in a neoclassical framework suggest that consumers need good information about the product and behaviour of the seller in order for competition to be effective. Information allows consumers to make informed choice in their interests. The Essential Services Commission (ESC) suggested that a

² See media releases from the Energy Retail Association of Australia at http://www.eraa.com.au/db_uploads/Switching_release_and_report_100510.pdf and the Victorian Minister for Energy and Resources at <http://www.vaasaett.com/wp-content/uploads/2009/08/Victorian-Minister-Press-Release1.pdf>

³ Joskow, Paul (2008) 'Lessons Learned from Electricity Market Liberalization', *The Energy Journal*, Special Issue, The Future of Electricity: Papers in Honour of David Newbery

fundamental characteristic of an effectively competitive market is the “widespread exercise of market choice by well informed buyers.”⁴ As mentioned above, CUAC’s experience with Victorian consumers suggests that the retail market for energy may not currently be fulfilling this prerequisite for effective competition.

Additionally, there are a range of areas where neoclassical assumptions may not hold. Specifically, consumer behaviour does not always adhere to the rationality that is assumed in the neoclassical economic model. Various anomalies and limits on consumer capacity can require alternative approaches to market design and targeted interventions to enable effective consumer participation. Similarly, the quality of information available to consumers in the market place is fundamental for a competitive market model to function effectively. If information is inaccurate or misleading, then consumers will not be sufficiently well informed for effective decision-making.

Consequently, this project moves beyond the fairly unsophisticated analysis of the VaasaETT study and looks at the state of Victoria’s competitive market from a consumer perspective. Specifically, it examines whether Victorian consumers are able to participate effectively in the Victorian retail market given:

- the information available to them;
- observed consumer behaviour and limits on consumer capacity; and
- the existing regulations and market structures.

It also identifies approaches to improve the system.

To achieve this, the study examines the consumer experience of the Victorian retail energy market and analyses some of the barriers that prevent effective consumer participation and shield retailers from competitive pressure. As part of this, the level of consumer understanding of the market and how to participate is assessed. This assessment is based on existing data and research within the community including a consumer survey. It also includes an analysis of the quality of the information available to consumers to assist them in making choices. It examines the literature on the way consumers make decisions in competitive markets and some of the behavioural anomalies and limits that reduce their participation or motivation to participate. Most importantly this report provides a set of recommendations to be acted upon by Governments, regulators, industry and consumer groups to overcome the barriers to effective consumer participation.

Given that energy is an essential service that is necessary for participation in society, it is crucial that the rules, institutions and practises that govern its supply to all Victorian homes and businesses ensure access, affordability and fairness for all consumers. Improving the ability of consumers to participate effectively in the competitive market will ultimately strengthen the market and contribute to these objectives being met.

Hopefully, this report will provide a basis for improvements to Victoria’s energy market in the consumer interest. There is scope for the findings to be acted on by the Victorian Government and regulator to improve the market’s operation. The findings should also be useful to policy makers in

⁴ Essential Services Commission (2002) *Special Investigation: Review of effectiveness of Full Retail Competition for Electricity – Final Report*, Melbourne, p. 18

other jurisdictions as they consider their approach to retail energy market reform and competition. The findings should be closely considered by the Australian Energy Regulator (AER) and Commonwealth Minister for Energy as they assume responsibility for the regulation of the retail end of Australia's energy markets.

Key points

- Switching rates alone are an unsophisticated approach to assessing the effectiveness of market competition and consumer participation within markets.
- Other issues in the market also need to be assessed including observed consumer behaviour and the quality of information available to consumers.
- This study provides a consumer perspective on the effectiveness of the competitive retail energy market in Victoria.
- In particular, the effectiveness of consumer participation and the barriers to consumer participation that exist is analysed.

What is effective consumer participation?

The key theme underpinning this work is the idea of effective consumer participation. The previous section briefly highlighted some of the potential barriers to effective consumer participation that are explored in this report. However, it is a useful exercise at the outset to define the term “effective consumer participation.” For the purposes of this paper, this is defined as the extent to which the vast majority of energy consumers are empowered and informed to make decisions in the market in their interest. If most consumers are not in a position to make decisions in their interest, then effective consumer participation will not be occurring.

Effective consumer participation is a necessary prerequisite for a well functioning competitive market. In its absence, the competitive pressure exerted on retailers to keep prices low and improve the quality of the services provided will be far from optimal. This was highlighted by the Australian Energy Market Commission (AEMC) in their review of the effectiveness of competition in Victoria's energy market:

Customer participation is an important pre-requisite for an effectively competitive market. Where customers can be seen to respond to price or quality differences in the products or services on offer by switching to those that better meet their needs, this contributes to competitive pressure and incentives on suppliers to respond or risk losing patronage and market share. Conversely, in markets where customers do not respond to differences in price and non-price products and service offerings, suppliers may have a degree of market power which enables them to maintain prices above

the long-term cost of supply (or alternatively provide inferior service quality) for a significant proportion of their customer base without loss of custom.⁵

Prerequisites for effective consumer participation

As was discussed earlier in the introduction, information or well informed consumers are often considered a prerequisite for effective competition in economic theory. However, there are a number of other prerequisites required to achieve effective consumer participation as defined in the previous section. Good information alone will not ensure effective consumer participation although it is an important component. Information has to be available in such a way that it allows effective consumer choice with minimal search costs. If the costs involved in a consumer searching for a new offer outweigh the savings to be made, then the effectiveness of both competition and consumer participation is compromised. Search costs are transaction costs that have significant potential to reduce the efficiency of a market. The problems with search costs are particularly pronounced in high complexity, low involvement markets such as energy and financial services.

Other factors affecting consumer participation are consumer behavioural anomalies and limits on consumer capacity. These can affect the manner and extent of consumer engagement in the energy market. These need to be factored into market and policy design in order to foster effective consumer engagement.

Given this, what are the prerequisites for effective consumer participation? Although there is not a substantial body of literature on this question, there appear to be some clear prerequisites for effective consumer participation. These include:

- The availability of close to full information if a consumer wishes to find it.
- The benefits of consumer participation outweighing the costs once search costs and any other relevant costs are factored in.
- The presence of low search costs to access the basic information required to support an effective choice.
- The presence of reliable information upon which to base consumption decisions.
- Consumers that are sufficiently engaged with the market with a desire to actively participate.
- The absence of, or appropriate strategies to overcome, the various features of consumer behaviour that may limit participation and decision-making effectiveness. These behaviours may include limits on consumer capacity, loss aversion and time inconsistency among other things.⁶
- The ability to effectively compare the differences between products on offer and assess whether an alternative offer is appropriate for a particular set of circumstances.

⁵ Australian Energy Market Commission (2007), *Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria*, First Final Report, 19 December 2007, Sydney available at: <http://www.aemc.gov.au/Market-Reviews/Completed/Review-of-the-Effectiveness-of-Competition-in-the-Electricity-and-Gas-Retail-Markets-Victoria.html>

⁶ These will be discussed in more detail in the chapter on Facilitating effective consumer participation.

- The presence of independent information sources to improve the reliability of consumer information and to improve consumer confidence levels.
- An effective consumer protection regime, including a commitment to regulatory enforcement, to ensure that consumers are protected from misleading conduct and feel secure in making choices.

If these prerequisites are met, *ceteris paribus*, it is likely that the market will be more competitive with higher standards of service and lower prices. This will lead to more efficient market outcomes in line with the national electricity and gas objectives. The analysis in this report includes assessments against these criteria that have been established as indicators of whether effective consumer participation is occurring.

Why do this research?

Victoria's full competitive market with price deregulation is still in its infancy. Price regulation was removed in January 2009. It is appropriate when a major policy reform is implemented that the impacts of the reform are analysed and its success is assessed against the expected outcomes of the reform. This research is timely and needed because of the lack of appropriate analysis of the impacts on consumers of the new deregulated market environment. As mentioned, much of the analysis has focussed on raw switching rates. There has been too little analysis of whether the market is benefitting consumers. Since deregulation, little research has been done on the effectiveness of consumer decision-making or on the extent to which consumer behaviour deviates from the assumptions of rationality that are a key basis for Victoria's market design.

This research aims to provoke further thinking and public debate about approaches to improving the design of Victoria's energy market in the consumer interest. The uniqueness of energy as an essential service for social participation and economic activity requires governments and consumers to take an active interest in ensuring the structures that govern its supply are in the public interest. Therefore, one of the broader objectives of this report is to provide a number of recommendations that could be adopted in the short term to improve Victorian energy market operation in the consumer interest.

However, a further and equally important objective is to encourage the Government and regulatory agencies to undertake an appropriate regime of monitoring market effectiveness and impacts on consumers. Major policy reforms should not be "fire and forget". It is crucial that policy makers take an active role in monitoring the effectiveness of the reforms with a commitment to implement appropriate solutions to any problems that emerge.

The consequences of Government not adopting an aim of continuous improvement to the effectiveness of consumer participation in the energy market could be substantial. Consumer welfare will be negatively impacted and there will be a substantial opportunity cost associated with consumers paying too much for energy and oligopolistic retailers making super profits in the uncompetitive market environment.

Changing market governance arrangements

It needs to be remembered that full regulatory responsibility for the Victorian retail energy market is likely to transition to the AER in the next year as a result of Council of Australian Governments (COAG) agreements and the proposed National Energy Customer Framework (NECF). Current responsibility for regulatory oversight of the retail market resides with the ESC. The findings and recommendations of this report have been developed with regard to current regulatory and governance arrangements and are, therefore, primarily directed at the Victorian Government and regulatory institutions. However, with the transition to a national market, many of the recommendations will apply to the AER and its new regulatory regime.

The AER is currently in the process of finalising its regulatory guidelines and standards to guide its oversight of retail market functions. Many of the findings in this project are of relevance to that process and should be considered further by the AER. Similarly, this report includes findings and recommendations relevant to the ESC's *Your Choice* price comparator website that should also be considered in the development of the AER's equivalent service.

This report

This report is divided into five further sections.

The next chapter outlines the approach to data collection in this research.

Chapter 3, *Facilitating effective consumer participation in a competitive market* analyses the development and neoclassical theoretical underpinnings of the Victorian retail market. It then examines literature on consumer decision-making. In particular, it analyses some of the observed limits on consumer capacity for effective decision-making and other behavioural anomalies that impact on consumer participation that affect the extent to which the neoclassical market design is appropriate. Evidence from retail energy markets is examined and approaches to overcoming some of the issues identified in the chapter are outlined.

Chapter 4, *The Victorian experience of a competitive retail energy market*, examines the state of the Victorian market from a consumer perspective. It includes a discussion of the findings of the 2007-2008 AEMC review of competition in the Victorian market. It also analyses existing barriers to effective consumer participation, including evidence gathered through engagement with end users and their representatives.

Chapter 5, *The quality and reliability of available consumer information*, details the findings of research on the quality of information contained on the various online switching websites developed to facilitate consumer choice in the market.

Chapter 6, *Improving the market*, establishes a range of different options for reform that would encourage more effective consumer participation in the Victorian energy market and for consideration by other Australian jurisdictions and the AER.

Project methodology

Project initiation

This project resulted from CUAC's observation of significant community concern about the functioning of Victoria's retail energy market. Previous research conducted in relation to smart metering and CUAC's general interaction with community members suggested considerable misunderstanding of how to participate in the energy market. It was clear that many community members were uncertain of their rights and responsibilities and how they could find offers more suited to their circumstances. As a result of previous research on smart meters, CUAC had recommended the development and implementation of an education initiative to improve consumer knowledge of the market to overcome some of the observed problems with consumer understanding.⁷ However, CUAC also understood the need to conduct further research work on:

- the sources of consumer misunderstanding and poor decision-making in complex markets including retail energy markets;
- the quality of available information in the retail energy market;
- the consumer experience of the market as well as the nature and extent of any consumer misunderstanding; and
- solutions to consumer misunderstanding and poor decision-making where it exists in the market to improve the effectiveness of competition and consumer outcomes.

Therefore, CUAC scoped this project and sought project funding from the Consumer Advocacy Panel. It was envisaged that the research would adopt similar methodology to CUAC's previous work on smart meters that would involve engagement with community agencies to seek insights into the communities' experience. However, given that this work was dependent on ensuring that information was sought from the broader community a consumer survey was incorporated into the research design.

The final design of the project involved a rigorous combination of desktop research and analysis, community engagement, a consumer survey, mystery shopping and an evaluation of all of the above to develop firm and achievable policy recommendations. These stages are described further in the following sections.

Desktop research

In order to assess how consumers make decisions in complex markets, CUAC conducted an analysis of the wealth of literature on consumer behaviour as well as the more specific literature on consumer behaviour in energy markets and the particular experience of Victorian consumers.

⁷ CUAC (2010) *Consumers and smart meters: Delivering information to non-government organisations*, Report to the Department of Primary Industries

Much of the literature on consumer behaviour in complex markets was found in academic journals and could be classified as belonging to the growing field of behavioural economics. Behavioural economics aims to move beyond simplistic assumptions of rational consumer behaviour to identify the actual motivations for decision-making. There is now a large body of literature that identifies common deviations from rational behaviour. This literature also identifies in what circumstances deviations are likely to occur. There is also a growing body of literature on the types of policies and market interventions that can accommodate this idiosyncratic consumer behaviour. Some of the research on consumer behaviour used in this study is drawn from regulatory agencies among which there is an increasing recognition that this type of analysis can improve regulatory design. In particular, literature from Ofgem was used in this study. A range of papers commissioned by private institutions were also examined.

Literature on consumer behaviour in, and experience of, energy markets specifically was also analysed as part of this study. In particular, a detailed analysis of the AEMC's 2007 review into the effectiveness of competition in Victoria was undertaken. Other academic work on the experience of consumers in comparable markets, such as the UK and Scandinavia, was also examined. The study drew upon recent CUAC research into consumer experience of the Victorian smart meter roll out. It should be noted that there is a lack of recent literature on consumer experience of the Victorian retail energy market owing to its relatively recent inception and to the fact that there is not a systematic program of consumer research conducted by consumer groups or regulators. This study aims to address this gap.

In identifying some of the most appropriate interventions to overcoming barriers to effective consumer participation including behavioural idiosyncrasies, the study drew heavily on the recently published OECD *Consumer Policy Tool Kit* as well as academic literature on the subject.

A comprehensive list of the literature reviewed as part of this study can be found in Appendix C: References.

Consumer and community group consultations

In order to understand current Victorian consumer experiences of the competitive energy market, primary research was conducted with Victorian consumers and community agencies. The aim of the research was to gauge Victorian consumers' level of understanding (or misunderstanding) of various aspects of the competitive retail energy market. This stage of the research also intended to determine whether there were any clear behavioural anomalies among consumers and whether there were any systemic issues affecting consumers' ability to participate in the market. Two approaches were used to achieve this.

The first involved three meetings with front line community workers who regularly support clients with energy issues. The first of these meetings, on 2 June 2011, was conducted as part of the semi regular meeting of financial counsellors interested in utilities. A subsequent meeting was held with staff of the Springvale Community Aid and Advice Bureau (SCAAB) on 8 June 2011. A final discussion was held at the CUAC offices with representatives of a variety of organisations on 9 June 2011. Participants at the meetings included financial counsellors, emergency relief workers, social workers and energy auditors. At each meeting a series of questions about both the participants' and their

clients' experience of the energy market were put to participants. A full list of the questions discussed and participants in these meetings is provided in Appendix B: Community sector meetings. The meetings elicited a range of views and perspectives on consumer participation in the energy market. They were particularly useful in establishing some of the barriers to consumer participation among more vulnerable Victorians including low income, older and culturally and linguistically diverse consumers.

In addition to the community sector meetings, CUAC designed and developed a survey that was administered to 327 residential energy consumers by a market research firm. A detailed description of the survey methodology along with the survey text can be found in Appendix A: Consumer Survey. The market research firm used a selection of their online survey panel. The members of the panel had been previously recruited to participate in market research surveys.

Potential respondents were invited to complete the survey based on demographic characteristics, and were not informed of the survey's subject matter prior to participation. This respondent selection method reduces selection bias, whereby respondents with a particular interest in the subject matter are over-sampled. The sample was reflective of the demographic and geographic characteristics of the Australian population in terms of gender, age, and postcode, as per the current data available from the Australian Bureau of Statistics. Demographic data on the survey respondents is provided in Appendix A Consumer survey. Survey results indicated that the sample also was approximately representative of income distribution.

Topics covered in the survey included:

- awareness of competition;
- ease of understanding information provided in relation to offers;
- ease of understanding bills;
- level of engagement; confidence in their decision-making;
- satisfaction; and
- experience of door-to-door sales.

An open ended question was provided to allow respondents to provide further comments on any issue of relevance and note. The survey consisted of 34 questions and, on average, took respondents 12 minutes to complete.

Analysis of online price comparison services

In order to assess the quality of some of the information available to consumers in the Victorian energy market, a mystery shopper exercise was conducted into a number of energy price comparison services. Specifically, eight websites or phone based price comparison services along with the Essential Services Commission's own price comparator were tested on the basis of the accuracy of the information that they provide to consumers but also on the basis of their transparency. Five privately operated websites that allow immediate price comparisons were compared. The results from comparison services that only offer phone based information were also tested. All services were tested for their performance in relation to both gas and electricity. The mystery shopper research was conducted by Alviss Consulting. Full details of the research and the

methodology used can be found in the supplementary publications produced as part of this overall research effort. A report on the mystery shopper research and a policy briefing paper were produced as part of this research stage and they are available at www.cuac.org.au. These papers were released in May 2011.

The analysis of switching websites was conducted as part of this research in order to assess whether consumers had access to accurate and reliable information upon which to base their decisions. Although this analysis has not comprehensively analysed the full range of available information (including information provided from telesales, door-to-door and retailer websites), it does provide useful insights into whether consumer participation is likely to be effective on the basis of information access.

Review of results and development of policy recommendations

The information and data gathered from the three key research stages provided some fairly clear evidence of:

- where consumer behavioural anomalies were likely to undermine the neoclassical competitive model in retail energy markets;
- some of the observed issues with competitive retail energy markets both in Victoria and elsewhere;
- regulatory and information provision approaches to mitigating and overcoming issues associated with observed consumer behaviour in energy markets that undermine effective consumer participation; and
- the everyday experience of Victorian retail energy consumers as they negotiate the market.

The literature on overseas experience, consumer behaviour in other markets and successful approaches to overcoming barriers to consumer participation was used to develop some appropriate responses to the observed barriers to effective consumer participation undertaken in the primary research. An effective package of measures including regulatory, policy and education responses was developed for consideration by policy makers, consumers and other energy market participants.

Facilitating effective consumer participation in a competitive market

Why do we have the system that we do?

National competition policy and national energy market reform

The genesis of Victoria's competitive retail market for energy can be traced back to the economic reforms that started in Australia during the early 1980s. Research at the time indicated that Australia's productivity and efficiency was being constrained as a result of barriers to both local and international competition in the markets for a range of goods and services. Following on from some of the major macroeconomic reforms such as the lowering of trade barriers and the floating of the Australian dollar, attention was turned to areas where microeconomic reform could improve Australia's economic performance.

One area that was identified was the provision of infrastructure services (i.e. utilities), which at the time were predominantly provided by the public sector. Governments at all levels began to turn their attention to improving the performance of these sectors.⁸ In 1991, the Industry Commission conducted an inquiry into energy generation and distribution that laid some of the foundations for the significant reforms that have occurred in the energy market to date. In this review the Commission proposed structural reforms to the energy industry that included:

- separation of natural monopoly electricity transmission functions from generation and distribution functions and its operation as a separate utility;
- pooling and market trading arrangements to match supply and demand for electricity;
- the splitting of existing Government owned electricity generating capacity into a number of independent generating utilities that would compete against each other and new entrant private generators;
- the creation of multiple electricity distribution franchises in each state with a requirement that open access would be provided to each distribution network;
- the separation of gas transmission and distribution assets; and
- the development of an open access regime for gas networks.⁹

⁸ Productivity Commission (2005), *Review of National Competition Policy Reforms*, Report no. 33, Canberra, p. 56

⁹ Industry Commission (1991), *Energy Generation and Distribution*, report No 11, AGPS, Canberra
See also Access Economics (2001) *Impact on Victoria of the privatisation of the State's electricity and gas assets*, report for TXU Australia

The Industry Commission review was followed in 1992 by the Commonwealth Government commissioned Committee of Inquiry into a National Competition Policy for Australia (the Hilmer Review) that recommended the expansion of competition to a range of sectors that had previously been sheltered from competition. This included reform in the energy sector from wholesale to retail levels. The Industry Commission subsequently found that there would be substantial economic benefits from the implementation of the Hilmer reforms.¹⁰ The broad findings of the competition policy related reviews of the 1990s were that in electricity, for example, economic outcomes had generally been subservient to “robust engineering outcomes”¹¹

In Victoria, as the development of National Competition Policy was underway, the newly elected Kennett Coalition Government was already taking steps to implement some of the reforms that would become more widespread as competition policies envisioned in the 1991 Industry Commission Review were adopted in different Australian jurisdictions. This involved the corporatisation, structural separation and eventual privatisation of Victoria’s energy sector. It also required the creation of a new regulatory regime to oversee appropriate economic and consumer protection regulation for the new energy market governance arrangements. This included the development of appropriate price and access regulation arrangements for the new monopoly businesses.¹²

In Victoria, privatisation of the energy industry occurred progressively during the late 1990s. Distribution network providers were the first to be privatised. These were followed by the generators and transmission network providers and finally by the retailers.¹³

Meanwhile, at the national level, reform processes were in play to harmonise features of the various jurisdictionally specific energy markets and create a truly national market. The Council of Australian Governments agreed in 1995 to implement a national competition policy based on the Hilmer reforms. These reforms included a commitment to expose energy markets to competition, along the lines of the concurrent Victorian reforms and to develop a national energy market. Consistent with the National Competition Policy reforms, the Victorian Government undertook a program to gradually open up retail electricity and gas markets to competition.

Full retail contestability and price deregulation

Full retail contestability was allowed for all consumers in Victoria in 2002. Its introduction was staged with the largest consumers given access to the competitive market first followed by medium sized business consumers and finally small business and residential consumers.¹⁴ Table 1 shows the timelines for the progressive roll out of full retail competition in Victoria.

¹⁰ Industry commission (1995), *The Growth and Revenue Implications of Hilmer and Related Reforms: A report by the Industry Commission to the Council of Australian Governments*, AGPS, Canberra

¹¹ Parer, Warwick (2002) *Towards a Truly National and Efficient Energy Market*, Council of Australian Governments Energy Market Review, Commonwealth of Australia, Canberra, p. 8

¹² See Access Economics op. cit.

¹³ Ibid, pp. 19-20

¹⁴ See Essential Services Commission (2002) op. cit, p. 14

Table 1: Timetable for the introduction of full retail competition in the Victorian electricity and gas markets

Date of eligibility	Threshold customer load	Estimated number of eligible customers
Electricity		
December 1994	In excess of 5 MW (demand)	47
July 1995	In excess of 1 MW (demand)	330
July 1996	In excess of 750 MWh per annum	1500
July 1998	In excess of 160 MWh per annum	5000
January 2001	In excess of 40 MWh per annum	35000
January 2002	All remaining customers	2.1 million
Gas		
October 1999	In excess of 500 TJ per annum	35
March 2000	In excess of 100 TJ per annum	110
September 2000	In excess of 10 TJ per annum	600
September 2001	In excess of 5 TJ per annum	600
October 2002	All remaining customers	1.4 million

Source: Australian Energy Market Commission (2007) Issues paper *op.cit.* 10

Concurrently, at the national level, the Ministerial Council on Energy had commissioned Warwick Parer to undertake a review of national energy market directions. This review became the cornerstone of the current round of national energy market reform and the reform to the Victorian energy market that has subsequently occurred. Among other things, the Parer review recommended the:

- compulsory introduction of interval meters;
- the removal of retail price caps and the introduction of full retail competition in all Australian energy markets; and
- the transition to a harmonised national regulatory system under a national regulator for Australia's energy markets.¹⁵

Subsequently, the Ministerial Council on Energy adopted the review along with most of its recommendations.¹⁶ Victoria acted before the other states in the adoption of the Parer recommendations. In July 2004, the Essential Services Commission directed that interval meters should be progressively introduced in Victoria.¹⁷ Subsequently, Victoria was the first state to have the competitiveness of its energy market reviewed by the AEMC, the national energy market rule

¹⁵ Parer, Warwick (2002), *op. cit.* pp. 180-83

¹⁶ Ministerial Council on Energy (2003) *Report to the Council of Australian Governments on Reform of Energy Markets*, available on Energy Future Australia Website www.efa.com.au

¹⁷ Victorian Auditor General's Report (2009) *Towards a 'smart grid'- the roll-out of Advanced Metering Infrastructure*, p. 3

maker, as a prelude to the deregulation of retail prices. The Commission, delivering its findings in 2008, found that the Victorian retail market was competitive and that price deregulation should occur.¹⁸ The Victorian Government, in accordance with the Ministerial Council on Energy responses to the Parer Review that had preceded the AEMC review on competition effectiveness, announced that retail energy prices would be deregulated with effect from 1 January 2009.

This was the last major step in the deregulation of Victoria's retail energy market. A competitive retail market had been established with consumers relying on competitive pressures to ensure the appropriate price service mix.

The market today

In 2009-10 there were 2,575,035 electricity customers and 1,859,117 gas customers.¹⁹ According to the most recent comparative performance report of the Victorian energy retailers, there are 14 licenced electricity retailers. Of these, 9 retailers are also licenced to sell gas. Despite this, not all licenced retailers have offers currently available in the market. For example, a recent CUAC-funded analysis indicated that there are only 7 retailers of gas with currently available offers in the Victorian market.²⁰

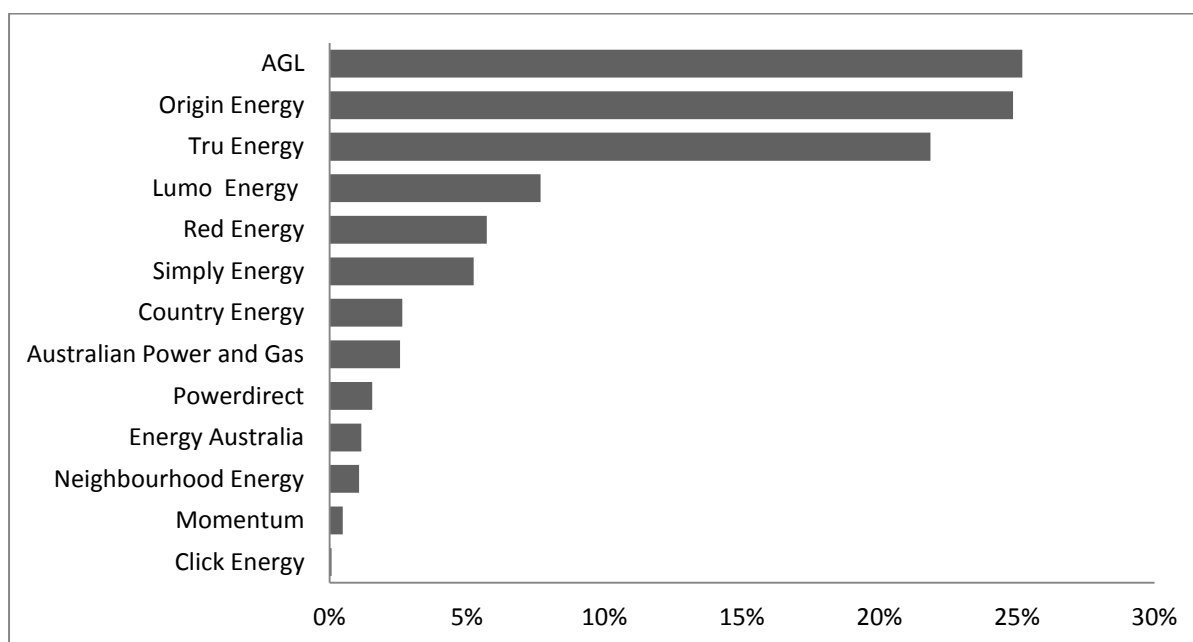
A certain amount of market concentration is evident in the Victorian energy market. As can be seen below, three major retailers controlled over 70 per cent of the market in the financial year 2009-10. The same three retailers also dominate the retail gas market. However, with even fewer retailers, the market is more concentrated. The switching activity in recent years has not significantly reduced the market share of the three major Victorian retailers.²¹

¹⁸ See Australian Energy Market Commission (2008), *Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria*, Second Final Report, 29 February 2008, Sydney available at: <http://www.aemc.gov.au/Market-Reviews/Completed/Review-of-the-Effectiveness-of-Competition-in-the-Electricity-and-Gas-Retail-Markets-Victoria.html>

¹⁹ *Ibid*

²⁰ Victorian Tariff-Tracking project, May Mauseth Johnston, St Vincent de Paul Society Victoria (2011), *Workbook 2: Published gas standing offers as of January 2011*, available at: <http://www.vinnies.org.au/reports-vic>

²¹ Essential Services Commission (2010) *Energy retailers' comparative performance report – Pricing 2009-10*, Melbourne

Chart 1: Electricity retailers by market share 2009-10*

*Figures exclude the 884 consumers, predominantly large users, supplied by other retailers. Among these retailers was Dodo Power and Gas who, at the time of this data collection, only had 2 domestic customers. It is likely that their market share would now be higher. The figures include both domestic and business customers. Source: Essential Services Commission (2010) Energy retailers' comparative performance report – Pricing 2009-10, Melbourne

Typically, retailers aiming to gain market share or, particularly in the case of the big three retailers, protect their existing market share, will use unsolicited direct marketing as a significant component of their marketing activity. The 2007 AEMC report into the competitiveness of Victoria's retail energy market found that "most customers that have switched to a market contract have done so in response to the direct marketing initiatives of retailers." CUAC's experience indicates that door-to-door sales in particular are one of the primary drivers of switching activity, with other less direct marketing appearing to have less of an impact on switching. There has also been substantial consumer unease about the conduct of this type of marketing with feedback from consumers suggesting widespread misleading and deceptive conduct. Widespread community concern about marketing issues has been evident in recent media coverage of the issue.

Future reforms

Future scheduled reforms to Victoria's retail energy market are administrative rather than transformative in nature and relate to the progressive transfer of regulatory responsibility to the national Australian Energy Regulator (AER). Legislation passed by the south Australian Parliament and endorsed by the Ministerial Council for Energy will form the basis for the customer protection regime in Victoria's energy market and will be administered by the AER. At this stage it is envisaged that, under this National Energy Customer Framework (NECF), control for retail regulation of Victoria's retail markets will be transferred to the AER in 2012.

The other significant reform that may occur, but is currently under review, is the introduction of "smart" interval meters in Victoria. This may substantially change the way electricity is paid for, with the introduction of time of use pricing structures. This reform also has the potential to allow consumers to monitor and better control their energy use. Reform around smart meters may

significantly change the competitive retail market for energy with the introduction of much greater complexity and a wider range of retail offers and products. The decision on the future of the smart meter roll out is currently being reviewed by the Government with a decision on the program's future expected later this year.

The theoretical underpinnings

The deregulation and reform of Victoria's electricity markets was broadly in line with the neoclassical microeconomic theory that has been widely adopted by Governments around the world over the last 30 years. Similar neoclassical inspired reforms to previously state-run monopoly providers of energy have been implemented most notably in the United Kingdom (commencing in the 1980s) but also in various US states and in the Nordic countries.²² Broadly speaking the neoclassical school of thought that drove this round of reform is still accepted by most policy makers in the energy sector.

However, there remains debate, even among neoclassical economists and energy policy makers, as to whether all aspects of the textbook neoclassical reform model for electricity markets is appropriate for all levels of the supply chain and classes of consumer. In particular, debate remains as to whether the deregulation of the retail market works better for small residential and commercial consumers than the continuation of monopoly supply at a regulated price.²³ The argument goes that complexity, information asymmetries, consumer behaviour that does not accord with neoclassical orthodoxy and search costs associated with the deregulation of the market outweigh the benefits of innovation service improvements and competitive price setting.

In order to reduce search costs and information asymmetries in the Victorian retail market, some regulation was put in an attempt to ensure consumer access to information and reduce search costs. Specifically, the ESC requires the provision of Price and Product Information Statements (PPIs) to consumers of market offers and also provides a website, *Your Choice*, that includes information about the range of offers available.²⁴ However, the 2008 AEMC analysis of Victoria's retail competition effectiveness indicated that consumers still found it difficult to understand and compare offers presented to them despite the provision of this information (as is examined in more detail in the next chapter.)²⁵

Despite ongoing debate about the appropriateness of a neoclassical model of full retail competition with price deregulation for all consumers of energy, there is little appetite among governments of either political persuasion to return to a system of monopoly providers or price regulation. Regardless, a strong argument can be made in the Victorian case that the system needs more time to mature to determine whether it does in fact deliver the purported benefits. Given this, the remainder of this chapter focuses on the features of consumer decision-making and approaches to facilitating better consumer choice in the context of a competitive retail energy market with price deregulation. In particular, the next sections analyse where the neoclassical assumptions of rational

²² See Joskow (2008) *op.cit.* p. 9

²³ See Joskow (2008) *op. cit.* pp. 28-35. Also for an alternative view see Littlechild, Stephen (2008) 'Retail competition in electricity markets – expectations, outcomes and economics', *Energy Policy* v. 37, pp. 759-763

²⁴ Essential Services Commission (2009), *Energy price and product disclosure final decision*, available at www.esc.vic.gov.au

²⁵ Australian Energy Market Commission (2007) *op. cit.*, pp. 104-6

preferences and low search costs²⁶ may not hold in a deregulated retail energy market and policy and regulatory responses to address this. Specifically, the subsequent sections of this chapter review the research on how people make decisions, search costs, the experience in the energy market and potential approaches to reducing some of the transaction costs and consumer behavioural idiosyncrasies.

Key findings

- The progressive deregulation and privatisation of Victoria's energy supply system occurred as part of the major microeconomic reform agenda that began in Australia in the 1980s and became the COAG National Competition Policy and National Energy Market reform agendas.
- The Kennett coalition government privatised and restructured the energy supply in Victoria and oversaw the introduction of energy retail competition.
- Subsequent Governments continued the program of deregulation with the introduction of full retail contestability and ultimately price deregulation for all consumers in 2009.
- The Victorian energy market is fairly concentrated with three dominant retailers.
- The design of the market is grounded in the principles of neoclassical microeconomics that emphasise rational behaviour, full information and minimal search costs.
- There is some debate even among neoclassical economists as to whether the market model works for small residential energy consumers.

Is more choice always better? How do we make decisions?

Economics relies upon assumptions about human behaviour in order to model outcomes and assess the welfare impacts of particular outcomes. As discussed, the neoclassical model assumes good information, rational consumers and low search costs. These assumptions simplify what actually happens in the market. In many cases these simplifications are acceptable because actual behaviour approximates the assumptions. However, they are often not grounded in actual consumer behaviour. Behavioural economics aims to include assumptions that better reflect actual consumer behaviour in the analysis of market outcomes and can provide a more complex and nuanced model/predictor of eventual outcomes.

In recent years and since the original development of the microeconomic reform agenda in Australia, there has been considerable interest in the application of behavioural economics. It has been moved outside the realm of purely academic economics and into the realm of public policy design and implementation.²⁷ It is important to consider the potential implications of behavioural economics to the design of Victoria's retail energy market but also to frameworks that may support the more effective participation of consumers within that market.

²⁶ For a basic and concise summation of the key principles of neoclassical microeconomics see Weintraub, E. Roy, 'Neoclassical Economics', *The Concise Encyclopaedia of Economics*, available at: <http://www.econlib.org/library/Enc1/NeoclassicalEconomics.html>

²⁷ Ofgem (2011) *What can behavioral economics say about GB energy consumers?* Released in conjunction with the retail markets review, London, pp. 4-5

The following tables provide a quick comparative analysis about where some observed consumer behavioural traits differ from the neoclassical assumptions. Although these observations are taken from a study examining consumer behaviour in relation to financial decisions many of the behavioural characteristics are relevant, as we shall see, for energy consumers.

Table 2: Key assumptions about consumer behaviour made in neoclassical economic analysis

1. Consumers have access to complete information
2. Collecting and analysing information is costless
3. People's tastes and preferences are independent of the choices of others
4. Suppliers have no market power
5. There are no spillover costs or benefits associated with consumption decisions
6. People ignore sunk costs and focus exclusively on 'marginal' or additional costs
7. People are motivated solely by self interest.

Source: Citi Australia (2010) Evidence versus Emotion: How do we really make financial decisions, Sydney, p. 3

Table 3: Key findings about consumer behaviour from behavioural economics

1. Other people's behaviour matters: people do many things by observing others and copying; people are encouraged to continue to do things when they feel other people approve of their behaviour.
2. Habits are important: people do many things without consciously thinking about them. These habits are hard to change – even though people may want to change their behaviour, it is not easy for them to do so.
3. People are motivated to do the right thing: there are cases where money is demotivating as it undermines people's intrinsic motivation; for example, you would quickly stop inviting friends to dinner if they insisted on paying you.
4. People's self expectations influence how they behave: They want their actions to be in line with their values and their commitments.
5. People are loss averse and hang on to what they consider 'theirs'.
6. People are bad at computation when making decisions: They put undue weight on recent events and too little on far off ones; they cannot calculate probabilities well and worry too much about unlikely events; and they are strongly influenced by how the problem /information is presented to them.

7. People need to feel involved and effective to make a change: just giving people the incentives and information is not necessarily enough.

Source: Citi Australia (2010) Evidence versus Emotion: How do we really make financial decisions, Sydney, p. 4

It is possible to highlight some broad behavioural anomalies that have an effect on the way that people make decisions and that are particularly relevant to consumer behaviour in the energy market. Indeed, the main examples of behavioural deviations from neoclassical assumptions in energy markets were highlighted in a recent paper prepared for the UK's energy retail market review currently being undertaken by Ofgem.²⁸ That paper highlighted the following four behavioural traits that are interesting and useful for consumer engagement with energy markets:

- limited consumer capacity;
- status quo bias;
- loss aversion; and
- time inconsistency.

The meaning and implications of each of these in relation to the retail energy market are now examined in turn.

Limited consumer capacity

It is usually assumed in most market models that consumers are readily able to access and digest the relevant information to make an appropriate decision in their interests. Given this, search costs are assumed to be low and certainly smaller than the marginal benefit of a particular consumption decision. However, there is increasing evidence of the limits to consumer capacity to appropriately evaluate information and make decisions in their interests without incurring substantial search costs. One of the most commonly cited studies that analyses this phenomenon is the seminal work by Iyengar and Lepper into the potential for choice and complexity to be demotivating. Their study demonstrated that consumers were more likely to purchase products (i.e. make a decision), in this case jam and chocolate, when the number of options available to them was reduced considerably.²⁹ This suggests that the limitless choices and product innovation envisaged by the neoclassical architects of Victoria's retail energy market may not be the best way to encourage effective participation and informed choice. This is particularly the case given the relative homogeneity of energy products compared to most other consumer goods and services even in the presence of product innovation.

The issue of too much choice or choice overload has been further explored by Barry Schwartz a Professor of Psychology at Swarthmore College in the United States. Professor Schwartz has researched the issue of choice extensively and has found that consumers realise greater satisfaction with less choice and when they spend less time on making choices. This is particularly important in a

²⁸ Further analysis of this review will be documented later in this chapter. As we shall see, the British market design and in many cases the consumer experience are analogous with similar policy rationale for the development of the respective retail markets.

²⁹ Iyengar, Sheena and Lepper, Mark (2000) 'When choice is demotivating: Can one desire too much of a good thing?' *Journal of Personality and Social Psychology*, vol. 79, no. 6 pp. 995-1006

context where choice is becoming more complex across a range of different markets and in life more generally. The need to choose reduces the satisfaction that would otherwise be gained if things were simpler.³⁰ This suggests that the complexity of energy markets and the addition of complexity through choice need to be considered in a wider context that includes the limited consumer satisfaction from having to choose across all markets. In some instances reducing the need to make choice may improve social outcomes and increase consumer satisfaction.

Box 1: The fox and the cat

Explorations of choice overload are nothing new. The story of the fox and the cat, widely included among Aesop's fables, is an ancient tale that neatly highlights the issue of choice overload. The first recorded version of the story in European tradition appears in the middle ages but analogous tales, often with different animals, can be found in earlier "eastern" writings including the Mahabharata.

In the story, a fox and a cat are discussing the impending approach of hounds from a hunting party. The fox boasts to the cat that he has many avenues of escape while the cat has only one and is, therefore, more likely to be captured by the hounds. As the hounds get closer the cat makes his escape up a tree while the fox, paralysed by indecision as he analyses his choices, does not react in time and succumbs to the hounds.

The impact of choice on the quality of consumer decision-making is also evident in the way that consumers simplify the choices available to them in order to make a decision that is sufficiently – but not optimally – good. Often, due to complexity, consumers need to make a good decision rather than the best decision. In economic theory, such behaviour is called "satisficing"³¹ and can occur when the market is too complex or the search costs are too high to make the best decision. There are a number of different behavioural anomalies that are associated with satisficing usually relying on heuristics. Heuristics are experience-based approaches to decision-making and finding a satisfactory solution where an exhaustive analysis is impractical. Rules of thumb and educated guesses are examples of typical heuristics. While some heuristics can be useful and support consumers to overcome search costs (see subsequent section), others can reduce the effectiveness of decision-making or open consumer decision-making to exploitation. One type of heuristic is the use of reference points or anchors as a basis for decision-making. This was described by Amos Tversky and Daniel Kahnemann in a 1974 study on heuristics. They found that people may often rely upon an initial piece of information even if it is irrelevant or uninformative.³² This has significant implications as it can allow sales people to make products appear cheap by providing an anchor point and then saying that prices are cheaper even though the anchor point bears no relation to the consumer's current consumption.³³

³⁰ A good short description of Barry Schwartz's views can be found in Schwartz, Barry (2000) 'Self determination: The tyranny of freedom', *American Psychologist*, vol. 55, no. 1, pp. 79-88. A more complete analysis can be found in Schwartz, Barry (2004) *The paradox of choice: Why more is less*, Harper Perennial

³¹ Decision making that meets the criteria for adequacy but does not deliver the optimal solution.

³² Tversky, Amos and Kahneman, Daniel (1974) 'Judgment under Uncertainty: Heuristics and Biases', *Science*, New Series, Vol. 185, No. 4157, pp. 1124-1131

³³ See Reeson, A and Dunstall, S (2009) *Behavioural Economics and Complex Decision Making: Implications for the tax and transfer system*, Report prepared for Treasury, CSIRO

The use of rules of thumb rather than information on actual benefits to arrive at a decision is another manifestation of limited consumer capacity in complex markets.³⁴ Consumers also often rely upon the behaviour of their peers, friends and neighbours.³⁵ This may lead to situations in which consumers select an energy offer that is inappropriate for their needs because someone that they know is doing the same.

The implications of these limits on consumer capacity likely include:

- choice overload leading to poor decision-making or the deferral of engagement with the market or the decision-making;
- the ability of direct marketers in particular to exploit consumer behavioural anomalies by encouraging consumer choice with the provision of irrelevant information; and
- the possibility that consumers satisfice rather than make the best decision by applying heuristics such as rules of thumb and other experience-based decision-making tools to make a decision that may not be “the best” for their particular set of circumstances.

Given marketing conduct, ever increasing complexity in energy market products and greater complexity in consumers lives more generally, limited consumer capacity is a major concern in Victoria’s relatively liberal retail energy market. It is clearly a consideration that needs to be incorporated into the market design and into the approach taken by government to support the effective operation of the market.

Status quo bias

Status quo bias is essentially ‘sticking to what you know’. Consumers are often happier remaining with the product or service that they use and are familiar compared with a new product and service. This often holds even if the price of the service that they currently use is higher than another. This has been associated with the endowment effect and also with loss aversion on the part of consumers (see below). The endowment effect is where people value things that they have more than things that they do not. Loss aversion, as it relates to the status quo bias, results in a consumer sticking to what they know for fear of losing anything if they switch to a new provider. The status quo bias has been explored extensively by Samuelsson and Zeckhauser. They found that the implications of the status quo bias include:

- that consumers are less likely to engage in optimal search activities;
- that consumers may display brand loyalty that can lessen competition in a market with many suppliers; and
- that it can result in sticky prices that do not move as a result of changes to market conditions.³⁶

³⁴ Ofgem (2011) *op. cit.* p. 6

³⁵ Citi Australia (2010) *Evidence versus Emotion: How do we really make financial decisions*, Sydney, p. 4, see also chapter 5, pp. 17-22

³⁶ Samuelson, W and Zeckhauser, R (1988) ‘Status Quo Bias in Decision Making’, *Journal of Risk and Uncertainty*, vol. 1 pp. 7-59. For discussion on implications see pp. 40-47, Kahneman *et. al.* also explored the issue of status

Loss aversion

Loss aversion has been explored in great detail by psychologists Daniel Kahneman and Amos Tversky in a series of ground breaking studies that also explored other behavioural biases like the status quo bias. Their work had a significant focus on people's decision-making in uncertain circumstances. One of the key findings to have emerged from their work has been that people attach much greater weight to potential losses than to potential gains.³⁷ Neoclassical assumptions are that a consumer would be indifferent between a gamble, for example, that offered a 50 per cent chance of a \$100 pay off or a 50 per cent chance of a \$100 loss. However, studies of loss aversion demonstrate that most individuals attach greater weight to the potential loss than the gain and are averse to such a gamble. One of the implications of this is that consumers stick with what they know as described above. It also means, however, that consumers are likely to be less active in searching for gains than they would be if they feared losses. In the context of energy markets this could mean that consumers would be much more likely to engage in search in the context of high or rising energy prices rather than low energy prices. This could have the effect of reducing the effectiveness of competition in the absence of significant upward price pressure. It could also result in people for whom energy bills are not a significant feature of their expenditure, high income earners for example, not engaging in active search.

Time inconsistency

Standard neoclassical theory posits that individuals prefer a dollar today over a dollar tomorrow and that individuals discount the value of potential future income at the same discount rate as time progresses. However, it has been shown that in reality individual discount rates vary over time. This has some important implications for consumer decision-making. One of the key manifestations of time inconsistency is so called "hyperbolic discounting"³⁸. Some of the most well known studies on hyperbolic discounting have been conducted by George Ainslie a psychologist, psychiatrist and behavioural economist. In a landmark study conducted in 1983 with Varda Haendal, people were asked the following two questions:

1. Would you rather receive \$50 today or \$100 in 6 months?
2. Would you rather receive \$50 in one year or \$100 in a year and six months?

Many of the subjects selected the \$50 in question 1 and then selected the \$100 in question two even though the questions are in many respects the same.³⁹ This provided evidence that the assumption of time consistency of the neoclassical model does not necessarily hold. A range of experiments and studies since have provided a range of further evidence on time inconsistency. A 2005 study by Shui and Ausubel demonstrated the clear consumer preference for short term low

quo biases in the article Kahneman, D, Knetsch, J. L., Thaler, R (1991) 'Anomalies: The Endowment Effect, Loss Aversion and the Status Quo Bias' *Journal of Economic Perspectives*, v 5, no. 1, pp. 193-206.

³⁷ See Kahneman *et. al.* (1991) *op. cit.* and Tversky and Kahneman (1974) *op. cit.*

³⁸ Hyperbolic discounting is the preference of consumers for rewards that arrive sooner rather than later. A hyperbolic discounter would discount the value of the reward received later by an amount that increases as the delay until the receipt of the reward increases.

³⁹ Ainslie, G and Haendal, V (1983) 'The Motives of the Will', in E. Gottheil, K. A. Druley, T. E. Skoloda and H. Waxman, Eds. (1983) *Etiologic Aspects of Alcohol and Drug Abuse*. Springfield, Illinois: Charles C. Thomas

introductory interest rates on credit cards rather than slightly higher introductory interest rates that might have a slightly longer duration. The key findings from this study are outlined below:

First, at the time of solicitation, consumers prefer an offer with a lower introductory interest rate (4.9%) and a shorter duration (6 months), to an offer with a higher introductory interest rate (7.9%) but a longer duration (12 months). The preference is puzzling since respondents pay a lower interest rate, ex post, under the longer introductory offer. We call this phenomenon “rank reversal”. Second, the majority of respondents do not switch out after the expiration of their introductory offers, even though their debt remains at the same level as when they accept the offer. This is puzzling because there are many other offers available and the benefit of switching is as large as before.⁴⁰

In a competitive market for energy there are some key implications from the Shui and Ausubel paper. The main possibility is that consumers will make a decision on the promise of an introductory “teaser” discount but then are likely to become less active in their participation once a decision is made. This could lead to the selection of offers that are not necessarily the best for a consumer and the possibility of reduced consumer engagement with the market over time. Retailers are clearly aware of consumers’ time inconsistency as is demonstrated by the proliferation of market offers with discounts for a certain period of time upfront that expire after, for example, 6-12 months.

In summary

The following table summarises the four highlighted behavioural anomalies that deviate from pure neoclassical assumptions and the impact that they may have on consumer behaviour in the energy market.

Table 4: Behavioural anomalies and the impacts that they can have on consumer behaviour in Victoria’s competitive retail energy market

Behavioural anomaly	What does it mean?	How does it affect the decision-making process?
Limited consumer capacity	Consumers have difficulties assessing many different options and large amounts of information.	<ul style="list-style-type: none"> Consumers are de-motivated by the complexity of the market and do not engage in search. Consumers use rules of thumb and sometimes irrelevant anchor points as a basis for decisions. Significant potential exists for poor decision-making. Consumers satisfice and choose better rather than best options to keep search costs manageable.
Status quo bias	Consumers prefer the current option.	<ul style="list-style-type: none"> Consumers do not seek an alternative option unless an extremely compelling reason is provided. Consumers have a loyalty to a particular provider, often based on a perceived knowledge of that provider.

⁴⁰

Shui, H and Ausubel (2005) *Time Inconsistency in the Credit Card Market*, University of Maryland, accessed at http://emlab.berkeley.edu/users/webfac/dellavigna/e218_f05/ausubel.pdf on 8 May 2011

		<ul style="list-style-type: none"> • Consumers do not actively seek to participate or engage in the market. • Consumers do not leave their current provider.
Loss aversion	Consumers attach more weight to monetary losses than to monetary gains and avoid risk taking behaviour.	<ul style="list-style-type: none"> • Consumers search less when energy prices are lower. • Consumers do not seek to engage or participate in the market.
Time inconsistency	Consumer preference for immediate gains means that they place too much weight on costs incurred now compared to future savings.	<ul style="list-style-type: none"> • Consumers overemphasise short term discounts • Consumers are lured by teasers and bonuses despite the long term implications of a decision being less positive. • Consumers do not seek to engage or participate in the market. • Consumers do not make a decision.

Source: Adapted from Ofgem (2011) op. cit. p. 10 and other sources cited in the above analysis

In the context of the Victorian competitive retail energy market there are several key possibilities that can be drawn from the aforementioned studies that rely upon observations of actual consumer behaviour in marketplaces. Limited consumer capacity seems to be the key issue that has the potential to undermine effective competition and consumer participation in the retail energy market. In essence, even though a consumer can access information about the market, the choices are confusing, the products difficult to compare and as a result the consumer may:

- not engage in the market;
- make a decision based on information that may not be relevant;
- try and make a choice based on incomplete information; or
- be unsatisfied with the choice that they make.

It is in the long term interests of retail market effectiveness and stability that policy makers and regulators engage with the issue of limited consumer capacity to ensure that the market is designed in such a way that it incorporates the capacity, and indeed the desire, of consumers to engage with the complex market. It is an oft repeated refrain from industry and even in public policy documents that consumers should be given almost limitless choice in the energy market. It is, however, appropriate to question whether this is in fact the right approach to ensure the effectiveness of a competitive market into the future given the research evidence.

Similarly, the other behavioural anomalies have impacts on how market design issues should be considered. Status quo bias, for example, should cause concern for policy makers particularly given the substantial market concentration. The Victorian gas market with its even greater market concentration should be cause for even greater concern among policy makers and regulators.

The problem of time inconsistency should give market designers pause to think about the appropriateness of “teaser” rates and complex retail discounts. These may serve to reduce the

direct comparability of offers while also preying on consumer predilection to select short term gains that may not necessarily be in their long term interest. Are these types of discounts the product “innovation” that was envisaged to improve the efficiency of the retail energy market? It often seems when comparing the range of different offers in the Victorian market that this is one of the only types of product “innovation” that has evolved.

The main concern from all behavioural anomalies is that consumers will not actively engage with a complex market like the energy market. It may be that there is some initial engagement after the market is opened to competition that reduces over time as a result of the behavioural biases. It may also be that when consumers do engage in the market they do it from a position of limited knowledge and awareness of whether the choice they are making is appropriate for them. The prevalence of door-to-door direct marketing as one of the major ways that consumers engage with the market does not necessarily encourage the type of active engagement and consumer participation that is required to generate effective competition given the behavioural anomalies discussed above. The behavioural biases and limits on consumer capacity identified in this chapter will reduce the extent to which the prerequisites for effective consumer participation are met. It is appropriate therefore to put in place remedies to ensure that these issues are appropriately managed by the market and its overseers.

Happily, there are some approaches that can be taken to overcoming the behavioural anomalies outlined so far in this report. The next section examines the extent to which the behavioural anomalies are actually impacting on competitive retail energy markets and the subsequent section examines the approach to overcoming issues in the market through information provision and other remedies.

Key findings

- A range of observed consumer behaviours in markets affect the ways that consumers participate and can serve to erode the effectiveness of markets and consumer participation within them.
- Limits on consumer capacity, loss aversion, status quo bias and time inconsistency including hyperbolic discounting are some key behavioural anomalies that impact on market function, competition effectiveness and consumer participation.
- A key implication of these behavioural anomalies is that some consumers will not participate in the market and that active consumer participation will decrease over time.
- A further implication is that consumer decision-making is less likely to be effective or accurate.
- Low involvement high complexity products and services such as energy, financial services, insurance and telecommunications are likely to be particularly affected by limited consumer capacity.
- The prevalence of the features of consumer behaviour identified in this section will impact on the effectiveness of consumer participation according to the criteria established in the introduction.

Search costs

In addition to the factors that affect consumer decision-making identified in the previous section, search costs are a further potential barrier to effective consumer participation. If the cost of searching for a new product outweighs the potential benefit of purchasing (or switching to) that product, then consumers are unlikely to engage with the market. Neoclassical market models usually assume that search costs are low and it is relatively easy for consumers to find the right information to make an effective decision. Where this does not occur then it may be appropriate to intervene to reduce or mitigate search costs. If search costs are high in retail energy markets this would undermine effective consumer participation and competition.

If consumers find it difficult to access information or alternatively do not know where to look for information, it is likely that search costs will be high. Search costs can also be high if there is a vast quantity of information that needs to be analysed in order to make effective decisions. It should be noted that consumers often overcome search costs through satisficing behaviour and the use of heuristics.⁴¹ This is often an efficient and effective way of making choice. However, as explained earlier, this approach to decision-making can be exploited.

It was anticipated that the internet would greatly help with the mitigation of search costs.⁴² While this has held true in a large number of cases, there are other cases where the internet has contributed to greater quantities of information that a consumer needs to analyse in order to make a choice. It is likely that the introduction of online price comparison tools has reduced search costs for some people. However, search costs may remain high for people who have limited internet literacy. The preponderance of online tools purporting to assist energy consumers may also impact on search costs.⁴³

Much of the work on search costs evolved from the work of renowned economist Ronald Coase. His famous article on The Nature of the Firm raised the fact that there are costs associated with engaging with a market that are not factored into the price of the good.⁴⁴ These costs have subsequently been labelled transaction costs of which search costs are but one component. In Coase's analysis, one of the reasons that firms are established is to overcome transaction costs associated with market participation. In a firm, specialised resources and knowledge can be directed to a particular task or activity resulting in it occurring efficiently and with economies of scale. The same cannot be said for an individual consumer. This analysis may be worth considering in relation to competitive retail energy markets. Medium to large commercial users of energy are often well equipped to engage with energy suppliers in the competitive market with the necessary skills and resources to do so efficiently. It is possible that the costs of market participation for individuals, with many other competing demands on their time and fewer savings to be realised, are much higher and this could significantly reduce the effectiveness of market participation for this class of consumer.

⁴¹ See Reeson, A and Dunstall, S (2009) *op.cit.*

⁴² Kenney, M and Curry, J (2000) *Beyond Transaction Costs: E-commerce and the Power of the Internet Dataspace*, University of California, Berkeley

⁴³ See the subsequent chapter on the quality of information to see that new media has not necessarily reduced search costs given the quality of information available online to serve the Victorian retail market.

⁴⁴ Coase, R.H.(1937) 'The nature of the firm' *Economica*, New Series, v. 4, iss. 16, p.392

Key to the assessment of search costs is consumer willingness to undertake search. The AEMC in its review of the effectiveness of competition highlighted the low inclination of consumers to engage in search activities because of their lack of interest in energy as a product.⁴⁵ This lack of inclination could be a result of the search costs being perceived as too high.

Key findings

- The presence of search costs can undermine effective consumer participation and competition because consumers will have less incentive to engage with the market. The presence of high search costs deviates from the neoclassical ideal.
- If there are large quantities of information to analyse in order to make effective choice, search costs are likely to be high.
- While the internet has reduced search costs in some ways, it also creates a new set of problems associated with excessive information, information quality and the subsection of consumers who cannot engage with this source.
- Search costs are likely to be higher for individuals than firms as a result of economies of scale and the ability of firms to devote specialised resources to particular tasks.
- An unwillingness to engage in search activity suggests that consumers may have perceptions of high search costs.

How do consumers behave in energy markets?

In his 2008 analysis of the 'Lessons Learned from electricity market liberalization', Paul Joskow found that retail market design has huge implications for the success or otherwise of retail competition. Many approaches to retail competition in various jurisdictions have not resulted in significant success in terms of the promotion of competition or welfare outcomes. In his analysis he laments the lack of empirical evidence to evaluate the effectiveness of retail competition assessed against other models and other markets designs suggesting that switching rates alone are not very informative as an index of welfare consequences of retail competition.⁴⁶ Nonetheless he does go so far as to say that it is far from obvious to him that residential and small commercial customers have or will benefit from retail competition.⁴⁷ However, the lack of empirical evidence into market outcomes is a problem that plagues the analysis of the effectiveness of full competitive retail energy markets the world over. Too often, governments and regulators have been insufficiently active in assessing the outcomes of the competitive markets that they have implemented against the outcomes that were intended. The *ex-post* analysis has too often focussed on crude measurements such as switching rates alone. There has not been a sufficiently systematic and ongoing collection of data on market outcomes in most competitive energy markets to get a sense of trends regarding consumer knowledge, participation and engagement with the market.

The lack of data hampers the ability to assess the extent to which issues such as search costs and behavioural anomalies impact on consumer behaviour and market outcomes in energy markets.

⁴⁵ Australian Energy Market Commission (2007) First Final Report, *op cit*.

⁴⁶ Joskow (2008) *op. cit.* p. 34

⁴⁷ *Ibid*

However, thankfully, there are a few data sources and academic studies that can be used together to piece a picture as to what is happening in competitive markets.

In the Victorian energy market we have to rely upon the rates of switching and also the findings of the various reviews into the effectiveness of competition that have been conducted by the AEMC in 2008 and previously by the ESC in 2004 and 2002. While these reviews were part of the policy processes that led to the development of the market system that Victoria now has, they include some revealing insights into the difficulties faced by consumers in either accessing or understanding information. Table 5 below highlights some salient quotes.

Table 5: Victorian regulatory findings into consumer engagement with information

ESC investigation into competition effectiveness 2002	<p>“Consumers also appear to be having difficulty understanding the offers being made available but there is little evidence that the information is deliberately complex.”</p> <p>“Most retailers have accessible websites and provide information on request, but the current structure and complexity of the information has made analysis of the price comparisons difficult and confusing.”</p> <p>“Complex contracts increase the uncertainty associated with realising savings as it makes it difficult to understand the total costs of the contract. However, even where the contract is understood the inclusion of a clause allowing price changes or an exit fee increases the risk that the savings presented will not be realised. This can add significantly to the customer’s perceived costs of entering into a new arrangement.”</p>
ESC investigation into competition effectiveness 2004	<p>“On the customer side, available information about the retailers in the market and their market offers is limited, and customers are inexperienced and lacking in confidence. These factors appear to be preventing market participation by many customers. Survey information and submissions indicate that many customers are not aware of the retailers and the market offers they can choose from. The survey also shows that the customers that are unlikely to change retailers say this is because they are happy with their existing retailer, it would be ‘too much hassle’ to change or they require more information on the alternatives and their benefits.”</p> <p>“The Commission has concluded that customer acceptance of market contracts is being constrained by limitations on the availability and quality of transparent and easily understood information.”</p>
AEMC review of effectiveness of competition	<p>“The results of the Consumer Survey support the view that a significant proportion of customers do not find information provided in relation to market contracts easy to understand and compare with their current arrangements.”</p> <p>“While a large proportion of customers do not consider market offers easy to understand and compare, this does not appear to have posed a significant barrier to customer switching”</p> <p>“Whatever the case, the fact that there has been no apparent increase in either the degree of understanding or ease of comparing market offers raises questions about the effectiveness of the mandatory information disclosure requirements imposed by the Product Disclosure Guideline. This does not necessarily mean that the information requirements are too onerous or poorly designed given the nature of energy tariff structures. Rather, it may reflect the fact that a large proportion of customers are not willing to invest the time and effort required to adequately understand the information provided (i.e. to read through product information statements or offer summaries and calculate the potential savings available to them based on their last energy bill). It is also possible that the information disclosure required by regulation may be contributing to</p>

some “information overload”, hence reducing customers’ ability to access the most useful information. This trend has been observed in other sectors, including financial services. It may also be the case that some of the customers that do not find offers easy to understand or compare, understand them well enough to be confident that they will achieve some level of savings or some other net benefit by switching.”

Source: Essential Services Commission (2002) *op. cit.* Essential Services Commission (2004) Special Investigation: Review of Effectiveness of Retail Competition and Consumer Safety Net in Gas and Electricity, available at www.esc.vic.gov.au. AEMC, (2007) First final report *op. cit.*

All of these quotes indicate that complexity and understanding were still issues for consumers that did not go away as competition developed between 2002 – 2007. The level of consumer understanding in the Victorian market today is examined further in subsequent chapters. However, these studies demonstrate that there were observed characteristics of the market that seemed to indicate that limited consumer capacity was likely impacting on the effectiveness of their market participation at the time of these reviews.

It is noteworthy that the AEMC report, in particular, praises direct marketing as a way of overcoming both search costs and status quo bias. In their 2007 report they found that there was no strong evidence of a status quo bias and that direct marketing activities (i.e. door-to-door sales) was an effective approach to overcoming any bias that may exist. While this is likely true, anecdotal evidence suggests widespread misleading practice among door-to-door sales and a significant portion of the market that automatically rejects their sales tactics will likely offset any benefit from this form of marketing overcoming status quo bias.

The experience in other energy markets is also of interest and may over time have bearing on what happens in the Victorian market. Research by Christophe Defeuilly suggests that, in many energy markets, retail competition has led to growing segmentation between active and inactive consumers. Benefits in terms of product “innovation” have been limited. This is despite the great expectations at the outset.⁴⁸

Defeuilly subjects a number of countries to his analysis but the countries of most relevance to this research are the UK, Sweden and Norway. This is because the other countries analysed still retain some regulated controls on price which has been a factor in suppressing switching rates in these countries. Conversely, the UK, Norway and Sweden, just like Victoria, have removed “all major regulatory controls (including regulated tariffs).”⁴⁹ However, Defeuilly finds that despite high switching rates and pressure on prices for at least some consumers, competition in these markets was not performing as expected.⁵⁰

Of great interest from his work is his inference that in these markets with high switching rates there is segmentation between active and inactive consumers and that over time this segmentation is not reduced. His evidence for this is the fact that in the UK there has been little convergence between the average price offered by the incumbent retailers and the average price of the best alternative supplier. This spread, while fluctuating, has not declined significantly since 2002. He cites similar evidence in Norway.⁵¹

⁴⁸ Defeuilly, Christophe (2009) ‘Retail competition in energy markets’, *Energy Policy*, v 37 pp. 377-386

⁴⁹ *Ibid* p. 380

⁵⁰ *Ibid*

⁵¹ *Ibid* p. 377

He suggests that the inactive segment of the market becomes even more sticky when confronted with complex information and the possibility of loss associated with switching. According to him, it is this inactive section of the market that is strongly influenced by the behavioural biases outlined earlier in this chapter. Meanwhile, the active section of the market responds to the information and price available. He suggests that market segmentation may well persist over time even in the presence of information as new information “confirms consumers’ initial perception.”

Active clients will consider that a fluctuating market, characterized by frequent price changes, provides a continuous stream of new opportunities, while inactive clients will consider this very same instability as a sign of increased complexity and a greater risk of mistakes. Thus, both groups of consumers find that this information bears their choice out. This type of reaction does not foster market liquidity. It is more liable to progressively reinforce the market segmentation and lock in the positions taken by various categories of clients (active vs. inactive).⁵²

The other observation provided by Defeuilly is on the limits of so called product “innovation” to provide any substantial benefit to new entrant retailers against incumbents. He observes that a product innovation occurred at the outset of the competitive process in Britain. However, over time this narrowed to include only the provision of green products, discounts on different payment types and discounts for the bundling of different fuels. However, he suggests that these did not:

involve a broad redefinition of retail market attributes nor challenge incumbents’ business models by disqualifying their offers both technically and commercially. These new products, tools and contracts are easily reproducible from one supplier to another and may be quickly disseminated among all market participants. They seem unable to give a clear-cut and long-lasting competitive advantage to an innovative new entrant in the retail market. To date, this new entrant is not in position to create, what Schumpeter coined a temporary monopoly position, from which he will gain over profit and exploit his competitive advantage at the expense of the incumbent companies.

High involvement products, like ‘high tech’ devices for example (take the burgeoning market for tablet computers), engage all of the consumers in the market for such goods and these consumers enjoy the act of participation. The market is competitive, innovations can provide new entrants with a period of market dominance before other innovations come online, and many consumers purchasing the products are active in comparing the differences. However, as a service:

- that everyone must purchase;
- with less scope for innovation (and indeed less observed innovation) for the reasons described by Defeuilly; and
- with a large portion of the consumer base not particularly excited about active participation, competitive retail energy markets do not seem on their own to provide the necessary conditions for effective consumer participation and competition across the market.

⁵²

Ibid p. 384

If the competitive market is to be effective, approaches to engaging the inactive segment of the market will need to be put in place. Specifically, a range of approaches should be implemented by Government, and potentially through regulatory reform, that encourages segments of the market that are currently inactive to engage with the market. These approaches will be explored later in the report.

The absence of active consumer participation from a segment of a market has several implications. First, it means that maximum competitive pressure is not exerted upon market participants to improve their offering, innovate where possible and lower their prices. Second, it is evidence that retailers are earning rent from a section of the market that may, owing to either search costs or some of the behavioural biases outlined previously, feel ill-prepared to participate in the market. Potentially this comes with a substantial opportunity cost as money that these consumers could have spent on other goods to increase their utility goes to retailers of energy.

It should be noted that Defeuilly's views are contested by some economists, notably Stephen Littlechild, one of the architects of retail competition in the UK⁵³. He is of the view that the competitive retail markets where they have in fact been allowed to develop fully have delivered in excess of expectations. However, the evidence included in the Defeuilly paper when considered alongside the observed consumer behaviour in market places, other studies such as the Waddams Price paper considered below and evidence presented by regulators both in Australia and the UK deserves consideration.

A further study that is worth mentioning, particularly in light of the work by Defeuilly, is the work of Chris Wilson and Catherine Waddams Price into the effectiveness of switching decisions by consumers in the UK energy market. Their 2006 analysis of two different data sets on switching decisions found that consumers were not particularly effective in their switching decisions. Only between 8-11 per cent of consumers who switched found the best supplier available. They also found that only 26-39 per cent of the total gains available through switching were appropriated by consumers who switched. These results are only a marginal improvement on the outcomes that would have resulted from a random selection of energy offer.⁵⁴

The most remarkable finding from the Study, however, is that 27-38 per cent of consumers appear to have lost welfare as a result of their switching decision. The authors explain that the inability of consumers to capture the maximum gains is attributable to search costs and is expected in many markets as consumers make satisficing decisions. However, the finding that many consumers were actually worse off is more troubling, and they discuss the potential causes of this phenomenon. Wilson and Waddams Price suggest that the poor decision-making seems to be purely a result of market complexity and the presence of complicated non-linear tariffs.⁵⁵ This paper was the expansion of a previous piece of research by Wilson and Waddams Price that found that excess

⁵³ See Littlechild, Stephen (2009) *op. cit.*

⁵⁴ Wilson, C. M. And Waddams-Price, C. (2006) *Do consumers switch to the best supplier?* ESRC Centre for Competition Policy, School of Economics and School of Management, University of East Anglia, p. 14

⁵⁵ *Ibid* pp. 24-27

choice was reducing the effectiveness of consumer decision-making in line with the behavioural economics findings that were outlined earlier in this chapter.⁵⁶

A major implication of poor decision-making leading to welfare losses is that it will likely lead to increased loss aversion among consumers. In turn, this will discourage further participation or switching activity among consumers that have failed to benefit much from market participation.

What has Ofgem found about the UK energy market?

The UK introduced full retail competition before Australia, between 1996 and 1998. Price controls were removed in 2002. The Defeuilly and Wilson-Waddams Price studies shed light on some of the issues confronting UK retail markets. Such research, coupled with Ofgem's own observations of market conditions, has led to increased consideration of search costs and consumer behaviours in UK retail market regulation.

The Victorian and British market are highly comparable and, in many ways, the UK was the test case for the development of the Victorian approach. The following table illustrates similarities between the Victorian and UK electricity markets. Similar parallels exist in the respective markets for gas.

Table 6: Similarities between UK and Victorian retail electricity markets

1. Evidence of retail market concentration with six major suppliers in the UK and three in Victoria
2. Structural separation of the four levels of supply in the supply chain
3. Some vertical integration remaining most notably the control of major distribution assets by big retailers
4. Privatised distribution and transmission networks
5. The removal of significant regulatory controls including regulated tariffs
6. Some of the highest rates of switching in any of the competitive retail energy markets in the world
7. Government mandated roll out of smart meters

Source: CUAC internal research derived from materials published by Ofgem, the UK Department of Energy and Climate Change and Australian regulators and government departments.

In November 2010, Ofgem launched its Retail Market Review to build on earlier work undertaken in their 2008 energy supply probe.⁵⁷ Ofgem was concerned about consumer participation and competition issues in the retail market. They recently released research findings and some initial recommendations. The Ofgem findings appear to support some of the concerns of Wilson and Waddams Price and Defeuilly and suggest that search costs and limits on consumer capacity have significant impacts on the effectiveness of consumer participation and, therefore, competition itself. Some key findings of the paper are that:

- a significant proportion of customers are disengaged from the energy market;

⁵⁶ Wilson, C. M. And Waddams-Price, C. (2005) Irrationality in Consumers' Switching decisions: When more firms may mean less benefit ESRC Centre for Competition Policy, School of Economics and School of Management, University of East Anglia, p. 25

⁵⁷ The webpage for the Ofgem Retail Markets Review can be found at: <http://www.ofgem.gov.uk/Markets/RetMkts/rmr/Pages/rmr.aspx>, a number of documents can be found there including the interesting consumer research conducted to furnish the reviews' findings and recommendations.

- the quality of switching remains a concern with a large proportion of customers not sure if they have saved money from their switch;
- there has been an increase in the number of passive consumers and a fall in the number of active consumers;
- complex pricing structures are contributing to lower consumer engagement;
- an increase in the number of tariffs available may also be contributing to lower consumer engagement; and
- the big 6 retailers are still benefiting from 'sticky' customers.⁵⁸

Ofgem was of the view that these issues were likely to lead to consumer harm and action was required to improve market function and encourage participation. The Ofgem findings are broadly in line with the positions that many consumer advocates in Australia have expressed in recent years. Specifically, the consumer sector has argued that barriers remain to effective consumer participation, that the neoclassical assumptions underpinning the design of the Victorian competitive market may not hold, and that government intervention may be required to counteract this.

Key findings

- A number of studies suggest that behavioural issues diminish the effectiveness of consumer participation in energy markets.
- It is clear that consumers in competitive retail energy markets find it challenging to compare offers, can be overcome by complexity and find search costs high.
- A number of studies indicate an increasing number of inactive consumers in markets overseas and a preponderance of poor quality decision-making by consumers.
- Ofgem has recognised the impacts of complexity, search costs and consumer decision-making in the UK market.

What can be done to address the issues identified in this chapter?

Overcoming consumer behavioural biases and search costs in order to improve the effectiveness of consumer participation and willingness of consumers to participate is not easy. A market based on neoclassical assumptions of rational, informed and active consumers is much easier for government to oversee. If neoclassical assumptions hold, a light-handed approach to policy and regulation should provide sufficient protections for nearly all in the market. However, where search costs, behavioural biases and limits on consumer capacity impact on market function, there is potential cause for further government action to ensure that consumers are advantaged by the market. This is particularly important in a market for a product like energy which is essential for daily life and participation in society.

⁵⁸ Ofgem (2011) *The Retail Market review – Findings and initial proposals*, United Kingdom, available at http://www.ofgem.gov.uk/Markets/RetMkts/rmr/Documents1/RMR_FINAL.pdf, accessed on 15 May 2011.

One interesting observation from the literature is that information provision alone is not always the best way to overcome some of the issues identified in this chapter. The Iyengar and Lepper analysis of choice demonstrates the reason for this. In essence, information overload can lead to a reduction in the desire to participate in a market. As Defeuilly points out, “improving the quality and dissemination of information is not, in and of itself, sufficient to multiply the number of active clients, reduce switching costs, and stimulate a vibrant competition in retail.”⁵⁹ It is, therefore, essential to ensure that information provided to consumers is well-targeted, appropriate and provided in a quantity and at a level of detail that does not deter market participation. It is also important to consider some alternative options to encourage active consumer participation and awareness.

A number of tools to overcome search costs and behavioural issues are already in use in the Victorian retail energy market. Specifically, these include:

- regulations on contract terms and conditions;
- a standing offer default option;
- regulations on provision of standardised information to consumers when entering a contract;
- a government provided website to support price comparison; and
- cooling off periods during which a consumer can leave a contract having entered into it.

A number of further other options are identified in the consumer policy literature. This section examines a few of these in more detail.

Improving comparability and simplicity

Improving the simplicity of the market and improving the ability of consumers to compare can reduce search costs and overcome limits on consumer capacity and behavioural biases. In some ways this approach seeks to put some limits or boundaries on choice to make consumer decision-making easier and more effective. It can also serve to limit the ability of providers to “innovate” in a way that reduces consumers’ ability to compare. For example, complex discounts for particular behaviours or sign up bonuses are prevalent in the Victorian market. Such “innovations” can serve to reduce the comparability of different contracts.

Placing limits or boundaries on choice is contrary to what pure neoclassical theory would suggest is appropriate market architecture. However, in markets where consumer capacity is limited and their engagement with the product is low, limits on choice may increase consumer engagement and participation. This is particularly the case in markets where extensive choice is likely to de-motivate rather than engage. With regard to the UK energy market, Wilson and Waddams Price conclude that “welfare improvements might be achievable if authorities limited the number of competitors or options faced by the consumer. Indeed, consumers may benefit from the restriction of competitors within our market.”⁶⁰

⁵⁹ Defeuilly, C (2009) *op.cit.* p. 383

⁶⁰ Wilson, C and Waddams-Price, C (2005) *loc.cit.*.

This approach to reducing complexity was embraced by Ofgem in its current retail markets review. In response to their findings of consumer disengagement from the competitive energy market, Ofgem recommended reducing the number of energy-only or so-called “evergreen” contracts that companies are allowed to offer. Currently, 75 per cent of consumers in the UK market are on such contracts. “Innovative” fixed term contracts would still be permitted, but these would not be allowed to automatically roll over after the conclusion of the fixed term, meaning that consumers would have a decision point for further market engagement. Fixed term contract information would have to be provided in an “evergreen” format for ease of comparison.⁶¹ Box 2 is an extract from the latest Ofgem paper on the review.

Box 2: Ofgem proposals to reduce complexity

As a result of these findings, we are proposing to introduce measures to reduce the complexity of tariff offerings, improving their comparability and decrease the number of standard evergreen products available. We note that the consumer protection provisions of the Third Package include requirements for consumers to receive transparent information about energy prices and are supplied with electricity at clearly comparable prices, we therefore consider that further action would be consistent with our EU duties to ensure that there are effective consumer protection measures for energy consumers.

We intend to address confusion in the domestic market by a proposal to restrict the number of tariffs for standard evergreen products from each supplier to only one per payment method. We also propose to standardise the format of these tariffs across suppliers, with suppliers allowed to compete on a single "per unit" price. Consumers would then be able to tell at a glance whether they can save money either by switching supplier or by moving to a new deal. This would be a major reform impacting the 75% of customers currently on standard evergreen products.

Suppliers would still be free to offer an unrestricted number of fixed-term products in order for suppliers to continue to innovate and give their customers genuine choice. However, we would seek to ensure that customers only buy into these products with full knowledge and assent to their terms and conditions. Contract terms that allow adverse unilateral variations and automatic rollovers to a new fixed term product at the end of the period would not be permitted. This means that customers would default back to the suppliers' standard evergreen product, unless they make a positive choice for a further fixed term product.

We propose to require suppliers to quote prices for all fixed-term products on an evergreen equivalent basis that is readily comparable to the unit price for their standard evergreen products. We would also require regular disclosure of suppliers' weighted average fixed term product price on the same basis, so that any differential between standard evergreen and fixed term product prices is transparent to both consumers and Ofgem.

We are confident, based on evidence from consumer research, that reforms along the lines of those proposed here would be likely to have a material positive effect on both the level and effectiveness of household engagement in the energy market. However, we remain concerned that, despite these proposed reforms, there may be many consumers, including vulnerable consumers, who still do not engage in the competitive market and may remain at risk from higher prices.

Therefore, an important part of our thinking going forward will be to investigate what more can be done to increase engagement by, or protect, suppliers' most vulnerable customer groups. We are particularly concerned about those that have either been persistently disengaged, or find

⁶¹ Ofgem (2011) *Retail Market Review*, op. cit. p. 48

engagement in the current market difficult - particularly if these customers fall into vulnerable groups. This is an area that may warrant consideration of additional consumer protection powers or Government intervention.

Source: Ofgem (2011) Retail Market Review, op. cit. pp. 48-50

The approach taken by Ofgem may not be right for the Victorian market. However, it underscores the importance placed on consumer behaviour by an energy market regulator in the overseas market most similar to Victoria's. Strategies to limit complexity and increase comparability in the Victorian market should be developed as a result of thorough and appropriate research into likely consumer responses to such changes. It is interesting to also note Ofgem's recognition that even if product comparability is improved, vulnerable consumers may still require additional support and protections.

Any approach to improving comparability and reducing complexity should include a consideration of how to improve documents that are already provided. In Victoria, energy retailers are required to provide a PPIS. It is important that such documents are appropriately structured and designed to ensure consumer understanding in recognition of the way that people actually behave.

Libertarian paternalism: Default options

Thaler and Sunstein have argued that while it may not be necessary to limit choice, there is a case for ensuring the appropriate design of the "choice architecture to nudge people in beneficial directions."⁶² They argue:

*The presumption that individual choices should be free from interference is usually based on the assumption that people do a good job of making choices, or at least they do a far better job than third parties could do. As far as we can tell, there is little empirical support for this claim.*⁶³

They emphasise the importance of information design. That is the approach to providing and highlighting particular pieces of information to guide beneficial consumer choice. Thaler and Sunstein argue that default options can support beneficial choice, citing the default enrolment of US employees in pension plans as an example of how this has been effective in practice.⁶⁴ The Australian Government had previously recognised the particular importance of this default option when it made superannuation compulsory in 1992.

Ofgem has canvassed the possibility of a default option in its current retail view, proposing that fixed term contracts should not simply be rolled over at the conclusion of the contract. Rather, at the conclusion of a fixed term contract, a consumer would be prompted to search for a better deal or renegotiate with their current provider.⁶⁵ This could overcome a problem in the Victorian energy market that occurs when a consumer switches to a market contract but then fails to engage in further search after the contract term has expired, instead reverting to inactivity.

⁶² Reeson, A. And Dunstall, D (2009) *op. cit.* p. 15

⁶³ Thaler, R. H. And Sunstein, C. R. (2003) 'Libertarian Paternalism', *The American Economic Review*, v. 93, no. 2, The American Economic Association, p. 176.

⁶⁴ *Ibid*, pp. 176-178.

⁶⁵ Ofgem (2011) *Retail Market Review*, *loc. cit.*

Similar default options in the Victorian retail energy market could drive effective consumer decision-making. For the Ofgem default example, whereby a consumer must renegotiate after a fixed term contract, to be successful, consumers need to be in a position to make an effective choice with the right information available. In other words, it is important to ensure that any decision to introduce default options is considered in concert with the broader market design and the effectiveness of consumer choices given the observed level of consumer capacity in the market. Particular consideration should be given to supporting vulnerable customers if such an option were introduced.

Information, education and awareness

Victorian energy market architects and regulators have recognised the importance of the provision of independent and accurate information to facilitate effective consumer choice. The Victorian regulator, for example, has developed the *Your Choice* website as a comparative tool for consumers of energy.⁶⁶ The provision of such tools is widely held to be effective approach to simplifying choice.⁶⁷

The OECD also emphasises that mandated provision of information, such as the PPIs currently required by the Victorian energy regulator, have their place.⁶⁸ Many of the studies discussed above emphasise the importance of information and awareness to ensure participation. However, most emphasise that quantity, content and approach are equally important. As discussed at length, it is absolutely essential to ensure that information and awareness raising efforts do not themselves deter participation.

It should be noted that the appropriate design for approaches to consumer education and awareness raising are highly specific to the local market context. The literature is clear that there is not a one-size-fits-all approach to information and awareness raising campaigns.⁶⁹

Education and awareness initiatives

The OECD provides a succinct description of some approaches and considerations in the development and delivery of consumer education and awareness raising activities. Its *Consumer Policy Toolkit* emphasises the importance of considering the objectives of the campaign, with different approaches needed for pure information provision and long term behavioural change. The OECD's view is that if the objective is to provide basic consumer information about a particular issue, then the "key is to communicate a succinct message to as many people as possible in a timely fashion." If the objective is long term behavioural change, then the approach is more complex with a more thorough strategy developed involving different consumer types, demographics etc.⁷⁰

⁶⁶ An analysis of the *Your Choice* website is provided in Chapter 5 of this report. It provides some interesting results in relation to the quality of information available to Victorian consumers.

⁶⁷ Organisation for Economic Co-operation and Development Committee on Consumer Policy (2010) *Consumer Policy Toolkit*, Paris, France, pp. 83-4

⁶⁸ *Ibid*, pp. 85-6

⁶⁹ See Organisation for Economic Co-operation and Development Committee on Consumer Policy (2010) *op. cit.* and Flowers, R. *et. al.* (2001) *What is effective consumer education? A literature review*, Centre for Popular Education, University of Technology, Sydney, Commissioned by the Australian Securities and Investment Commission

⁷⁰ Organisation for Economic Co-operation and Development Committee on Consumer Policy (2010) *op. cit.* p. 80

Awareness and education initiatives, they stress, can be particularly effective if they are delivered jointly by government, consumers, community agencies, educational institutions and industry. Alternatively, the OECD suggests that government can deliver such programmes alone.

Box 3: Effectiveness of awareness and education initiatives from the *OECD Consumer Policy Toolkit*

The following findings about the effectiveness of awareness and education initiatives are useful in considering how these strategies can be made most effective:

- Mass-media campaigns which rely on print (i.e. newspapers and magazines) and audiovisual media (i.e. television, radio, and the Internet) are particularly well-adapted to achieving short-term behavioural change among consumers. Lasting behavioural change may require sustained efforts over time.
- Integrated campaigns, involving more than just one medium and one message, are more effective than single-focus strategies, particularly when they incorporate participatory strategies or face-to-face communications.
- Active and participatory learning techniques, where people work and learn from and with each other, can facilitate a deeper level of education and behavioural change. This can help consumers respond to problems by assisting them to devise their own ideas and strategies and to make long-term changes.
- Meetings and workshops can result in successful learning when they are inclusive, provide opportunities for learning by doing and are accessible to consumers.
- Behavioural change is most likely when people are presented with goals i) that are consistent with their beliefs or value systems; ii) that are likely to make a positive change in their lives; and iii) that work with (not against) their behavioural biases.
- Internet and communications technologies provide a valuable vehicle for delivering educational and awareness-raising results. Interactive websites are being used increasingly to support education and awareness initiatives by providing consumers with further practical and educational information, learning tools, resources, and peer networks.
- Awareness and education initiatives may assist with consumers' access to information, but may not always be sufficient. Consumers may be informed about the benefits of a particular course of action (for example, a saving plan for retirement which includes matched contributions from government or an employer) but may be affected by behavioural biases that are difficult to overcome.

Source: Organisation for Economic Co-operation and Development Committee on Consumer Policy (2010) *Consumer Policy Toolkit*, Paris, France, pp. 81-2

The OECD's positions align with much of the literature on effective consumer education reviewed by Flowers *et. al.* at the University of Technology Sydney (UTS). The literature that they reviewed tended to show that education campaigns had no guarantee of success, but that there were some important design considerations that should be front of mind during program development. Of particular note were research findings that indicated that mass media campaigns can help short term behavioural change while more in depth approaches are needed to support long term change.⁷¹ Also consistent with OECD views was the research suggesting that participatory practices

⁷¹ Flowers, R. *et. al.* (2001) *op. cit.* p. 31

lead to longer term and deeper change. The importance of working with communities was emphasised, as such an approach builds on existing strengths within communities.⁷²

The OECD and UTS papers accord with the findings of recent Consumer Utilities Advocacy Centre (CUAC) research into community information needs related to the smart meter roll out in Victoria.⁷³ CUAC found that mass media campaigns were appropriate, and indeed necessary, to provide immediate information on relevant consumer issues. However, a deeper education campaign that increased community capacity and knowledge was appropriate to support consumers with a more detailed knowledge and the ability to engage with the technology.

A key finding of the CUAC research was that community agencies have an important role to play acting as information brokers and educators for their clients or members. It was found that it would be effective to adopt an approach that aims to equip community workers and community leaders with the necessary knowledge to support their communities. The report suggested that appropriate training and materials should be developed and implemented to develop consumer and community capacity.

Information disclosure

Outside of education and awareness raising campaigns, the provision of information can also be effective. In the Victorian retail energy market, the regulator provides consumer information through the provision of a price comparison site. Price comparison services such as this are identified by the OECD as an important way that regulators can provide information and reduce search costs. Some of the other useful approaches to information provision that the OECD identify in their Policy Toolkit include:

- ratings schemes;
- third party intermediaries;
- interactive tools; and
- online consumer generated reviews.

Some of these tools already exist in the Victorian market. Privately operated switching websites, for example, act as third party intermediaries. Medium sized enterprise may be able to access the services of a broker to assist their participation in the retail market.⁷⁴ However, other approaches such as ratings schemes or consumer generated reviews have not emerged to date. The development of such schemes, possibly in concert with existing switching websites, may aid consumer decision-making. However, there is a need for caution as such tools can be manipulated by energy retailers themselves to provide certain results. Consideration should also be given to how innovative interactive tools might be put to use to assist consumers in the Victorian market. Such tools have been trialled successfully in other markets including in financial literacy programs.⁷⁵

⁷² *Ibid*, p. 36

⁷³ CUAC (2010) *op. cit*

⁷⁴ Chapter 5 examines the quality and ease of use of a number of privately operated switching site in the Victorian market as part of this research paper's assessment of the quality of information available to Victorian energy market consumers.

⁷⁵ Organisation for Economic Co-operation and Development Committee on Consumer Policy (2010) *op. cit.* p. 86

Government-supported rating schemes could effectively convey to consumers information on non-price components of a particular retailer's service. For example, the ESC in Victoria currently publishes a retailer comparative performance report that assesses the performance of retailers against a set of criteria. It may be appropriate to develop this into a rating with weights assigned to the different performance report criteria. This rating could be communicated to the public, and would provide an incentive for retailers to improve service standards. Such rating systems have been used elsewhere with some success. One effective example identified by the OECD is Los Angeles County's hygiene standards compliance rating.⁷⁶

Comparison and rating tools are approaches that have been identified to overcome limits to consumer capacity and reduce search costs. The expansion of such tools in the Victorian marketplace could better support consumers to overcome search costs and improve decision-making.

Design of information

Some key considerations in determining the approach to information provision, according to the OECD, are:

- volume and content;
- framing; and
- timing.

Appropriate information design is highly specific to particular markets and the consumers within them. Further research is needed to determine the types of information appropriate to the Victorian retail energy market. It is also imperative that information design is flexible enough adapt to dynamic market conditions. Poorly designed information can exacerbate some of the features of consumer behaviour that discourage effective participation. Information overload is a key issue. It is essential that information is understandable and useable so that it does not merely compound the limits on consumers' capacity.

It is also important that the framing of information takes into account consumer behavioural patterns. For example, consumer risk aversion means that information that emphasises potential losses from inaction will potentially be much more effective than information that emphasises potential gain from action.⁷⁷ In further developing appropriate information tools and programmes for the Victorian retail market it will be important to assess relevant marketing and advertising literature to ensure that materials accord with the most up-to-date approaches to information delivery.

Timing is a further relevant issue identified by the OECD. Information provided at the time of a consumer transaction is likely to be of significantly less value than information provided at an earlier point. For example, if a consumer has made or is close to making a purchase decision, a contract with complex terms and conditions is unlikely to be analysed in detail. This could lead to ineffective consumer decision-making.⁷⁸ It is appropriate, therefore, for regulators to consider the approach

⁷⁶ *Ibid* pp. 86-7

⁷⁷ *Ibid*

⁷⁸ *Ibid*, p. 88

taken to the timing of their own information releases and the mandatory disclosure of offer summaries and product information statements.

Mandatory information disclosure is a further issue that consistently appears in the literature. In Victoria, retailers are required to provide offer details to the ESC and to provide offer summaries and price and product information statements to potential consumers. Similar regulation is being developed by the national regulator in preparation for the transition to national responsibility for elements of Victoria's retail regulation. There are guidelines on the form and content of these mandated information products. It is appropriate to consider the design of these products in light of the issues identified in this chapter to ensure that they actually assist in consumer decision-making.

Key findings

- Information provision alone is not sufficient to overcome behavioural biases and search costs and a range of responses need to be considered. However, if well designed, information and education can be an effective response.
- It is necessary to consider regulatory and other approaches to reducing complexity and improving comparability. This has been recognised by Ofgem and is supported by substantial research evidence.
- There may be scope to implement some defaults in the Victorian market to encourage effective participation. The removal of the ability to automatically 'roll over' fixed term contracts is one such approach that is being trialled by Ofgem.
- Information design is crucial to its effectiveness at overcoming search costs and consumer behavioural anomalies. Bad information can exacerbate problems while good information can be highly beneficial.
- Mass media is an appropriate approach to provide consumers with simple information. Long term behavioural change is better addressed through education campaigns that include an element of consumer participation.
- Participatory approaches to consumer education can build on the knowledge of community members to achieve better outcomes.
- Thought needs to be given to the quantity, content and tone of information. It should be tailored to identified behaviours and market problems as well as classes of consumers. Too much information is counterproductive.

The Victorian experience of a competitive retail energy market

This chapter outlines the findings of research conducted by CUAC into the experience of Victorian energy consumers in the competitive retail market. It includes the perspectives of consumers and consumer representative organisations on their:

- understanding of the competitive market and how it works
- motivation to participate in the market;
- knowledge of competition and retail choice;
- understanding of information in relation to the market and their own consumption;
- experience with choice and switching; and
- perceptions of the benefits or otherwise of the market.

It also includes a brief analysis of the results from the last major study into the consumer experience of the retail energy market, the AEMC's 2007 review of the effectiveness of competition in the Victorian retail energy market. As part of their assessment, the AEMC conducted a detailed survey of consumer experience.

Both the CUAC and AEMC analysis are assessed against the consumer behavioural issues identified in the previous chapter as well as the prerequisites for consumer participation outlined in the introduction to this report.

The 2007 AEMC analysis of consumer experience

Prior to the removal of retail price regulation in Victoria, the AEMC conducted a review of the effectiveness of retail competition in Victoria. This review placed a significant emphasis on the high rates of switching between retailers in Victoria as evidence of effective competition.⁷⁹ Furthermore, given that energy was assessed as being a low involvement product, the commission regarded door-to-door sales as a cost effective strategy for retailers to increase consumer motivation to switch.⁸⁰ It noted the recognition by retailers that "many customers regard energy services as a homogenous, low-involvement commodity that they were not inclined to undertake market search activity to find superior price/service offers."⁸¹

This was reflected in the findings that most customers who switched market contract did so in response to direct marketing, and that retailers viewed direct marketing, particularly door-to-door sales, as by far the most effective form of marketing activity.⁸² Based on its analysis, the AEMC was not of the view that there were systemic problems with the direct marketing activity of retailers. It found that such activities were a legitimate form of marketing for energy services, despite

⁷⁹ Australian Energy Market Commission (2007) First Final Report, op cit.

⁸⁰ Ibid, p. 68

⁸¹ Ibid

⁸² Ibid p. 66

“recognising the potential for customers to be misled or pressured by unsolicited door-to-door sales representatives or telemarketers.”⁸³

Notably, the AEMC analysis did not consider the extent to which direct marketing actually overcomes search or transaction costs. If consumers experience an opportunity cost through a loss of time and utility of having to deal with a direct sales person, then costs are imposed that certainly should be considered in any assessment of whether door-to-door sales are an appropriate approach to overcome consumer apathy and search costs.

As part of its review, the AEMC surveyed consumers about the sources of information used to select an offer (Table 7).

Table 7: Sources of information used by electricity market contract and standing offer customers

Information source	Domestic		Small Business	
	Market offer	Standing offer	Market offer	Standing offer
Provided by person who came to my door	20%	7%	17%	3%
Provided to me by person who phoned me	9%	4%	13%	4%
Retailer	13%	8%	17%	5%
Got something in the mail	7%	5%	7%	2%
Internet	7%	4%	6%	4%
TV, Radio, Newspaper or Magazine	5%	4%	3%	3%
Other	22%	14%	17%	9%
Customers that used at least one source of information	74%	42%	71%	28%
Customers that did not know what information they used	26%	58%	29%	72%

Source: Australian Energy Market Commission (2007) First Final Report, *op cit.* p. 102

Remarkably, 26 per cent of residential consumers who had clearly made a decision to switch in the competitive energy market did not know on what basis they had decided to do so. The figure was even higher among small business consumers, of whom 29 per cent did not know on what basis they had decided to change provider. These results are supplemented by further data from the AEMC’s consumer survey on reasons for switching or not switching.

83 Ibid, p. 68 and pp. 83-4

Table 8: Reasons for switching or not switching

	Domestic		Small Business	
	Electricity	Gas	Electricity	Gas
<i>Reasons for switching to a retailer</i>				
Lower prices immediately or discount/cheaper	42%	NA	58%	4%
Offer of green energy	14%	NA	10%	5%
Other	46%	NA	32%	2%
<i>Reason for not switching to a market contract</i>				
Just stayed with the same retailer	51%	45%	43%	40%
Don't know	15%	20%	22%	21%
Couldn't be bothered	13%	13%	8%	11%
Other	21%	22%	27%	28%

Source: Australian Energy Market Commission (2007) First Final Report, *op cit.* p. 98

This analysis indicates that 46 per cent of domestic consumers opted to switch electricity retailer for reasons other than price and the offer of green power. Unfortunately, the AEMC report does not provide a full explanation of the motivations of respondents who switched for “other” reasons. Similarly, the 64 per cent of consumers who either “just stayed with the same retailer” or “couldn’t be bothered” switching to market contracts suggest the potential presence of status quo biases or, at the very least, a sizeable group of inactive or “sticky” customers.

The AEMC survey also found that a “significant proportion of customers do not find information provided in relation to market contracts easy to understand and compare with their current arrangements.” This highlights the limits on consumer capacity for comparison, and may also suggest the presence of poorly designed information in the market place. It certainly indicates a possibility that consumers will become disengaged over time as they continue to be unable to digest information necessary for effective decision-making. The AEMC suggested that this raises questions about the “effectiveness of the mandatory information disclosure requirements,”⁸⁴ but that it had not posed a significant barrier to switching.

The AEMC did not consider the potential for consumers to be worse off from switching decisions to be worthy of further analysis and found that “even where some customers make what appear, ex-post, to be ill informed decisions in relation to their supply of energy, this does not necessarily mean that competition for these customers is not effective.”⁸⁵ It is difficult to reconcile the AEMC’s position with the research discussed in this report. Given the way in which consumers approach decision-making, there is a high likelihood that ill-informed decisions will dissuade consumers from further participation in the market. This could lead to a growth in inactive consumers, a problem that has been identified in the longer-standing deregulated markets in the UK and Norway.

84 Ibid, pp. 104-6

85 Ibid, p. 107 also see p. 99

The AEMC review also found that:

- there was general consumer satisfaction with full retail competition;⁸⁶ and
- “there is no evidence to suggest that any particular customer group has been precluded from participation in the market or that information constraints have posed a barrier to customer switching”.⁸⁷

The ultimate conclusion of the AEMC in its review was that competition in the Victorian retail market was effective. In coming to this conclusion, it is clear that the AEMC placed great weight on switching rates as a proxy for effective competition. This was despite the issues described above and despite the view of some respected economists that switching rates alone are an unsophisticated approach to examining competition effectiveness.

Poor consumer understanding of offers, reliance on direct marketing that has the potential to mislead consumers, consumers not understanding what prompted them to make a particular consumption decision and the recognised potential for poor consumer decision-making all indicate that Victoria’s retail market in 2007 was at the very least immature. More likely, however, was the possibility that many of the observed consumer behavioural traits that undermine the effectiveness of their participation were already present in the market in 2007.

The AEMC’s study also suggests that the prerequisites for consumer participation detailed in the introduction to this report were not being met, even though, as evidenced by switching rates, some consumer participation was occurring. It is clear from the AEMC analysis that in 2007 the Victorian retail market did not have:

- consumers that were sufficiently engaged with the market and have a desire to actively participate;
- information that was easy for customers to understand; and
- products that consumers found easy to compare.

It would be hoped that at least some of these barriers to effective participation that had been observed in 2007 would have been addressed by 2011. However, the evidence discussed in the next sections suggests that there has been little significant change.

Key findings

- The AEMC’s review of competition effectiveness included some illustrative and startling findings relating to consumers understanding of market offers and the factors behind their decisions:
- Many consumers were found to not know why they made decisions and significant numbers of consumers showed a disposition towards inactivity.
- Consumers did not find the information provided easy to understand and found offers difficult to compare.

86 Ibid, p. 108

87 Ibid, p. 109

- A large proportion of consumers making decisions relied on information provided through direct marketing which was acknowledged as having the potential to mislead.
- There was a lack of inclination to undertake market search activity.
- These issues suggest that the effectiveness of consumer participation was likely to be limited. Furthermore, the findings demonstrated the presence of barriers to participation and the potential for consumers to become disengaged over time.

The CUAC research

For this report, CUAC undertook research into the consumer experience, understanding and level of participation in Victoria's retail energy market. This was accomplished through a survey administered to 327 residential consumers and through discussions with frontline workers in community agencies. The results from each are examined in turn in this section.

Survey results

The CUAC survey assessed respondents' basic knowledge of the market, understanding of and engagement with billing information, ease of understanding and comparing offers as well as experiences of switching and door-to-door sales.

Basic knowledge of the market

Respondents' basic knowledge of the Victorian energy market was assessed with two true or false statements. The statements were:

- Victorian customers can choose which company to buy energy from.
- In Victoria, the price of electricity and gas is decided by the government.

The results from these questions are indicated in the charts below.

Chart 2: Energy market knowledge: Victorian consumers can choose their energy company

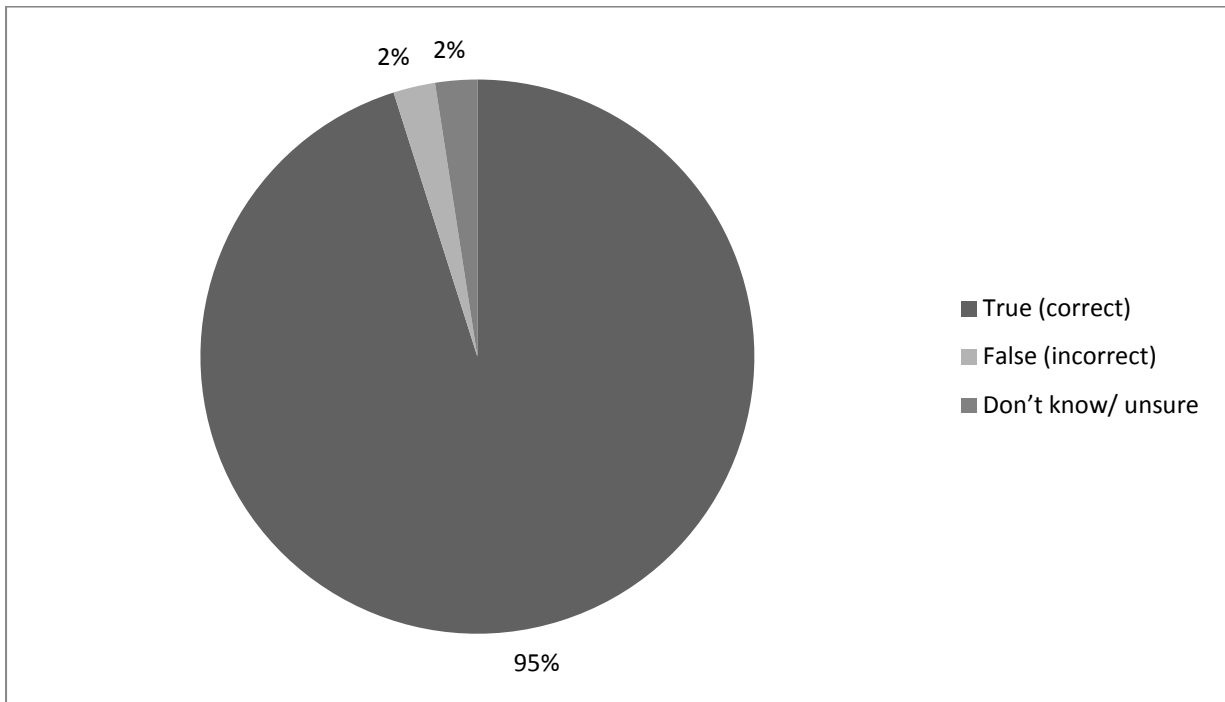
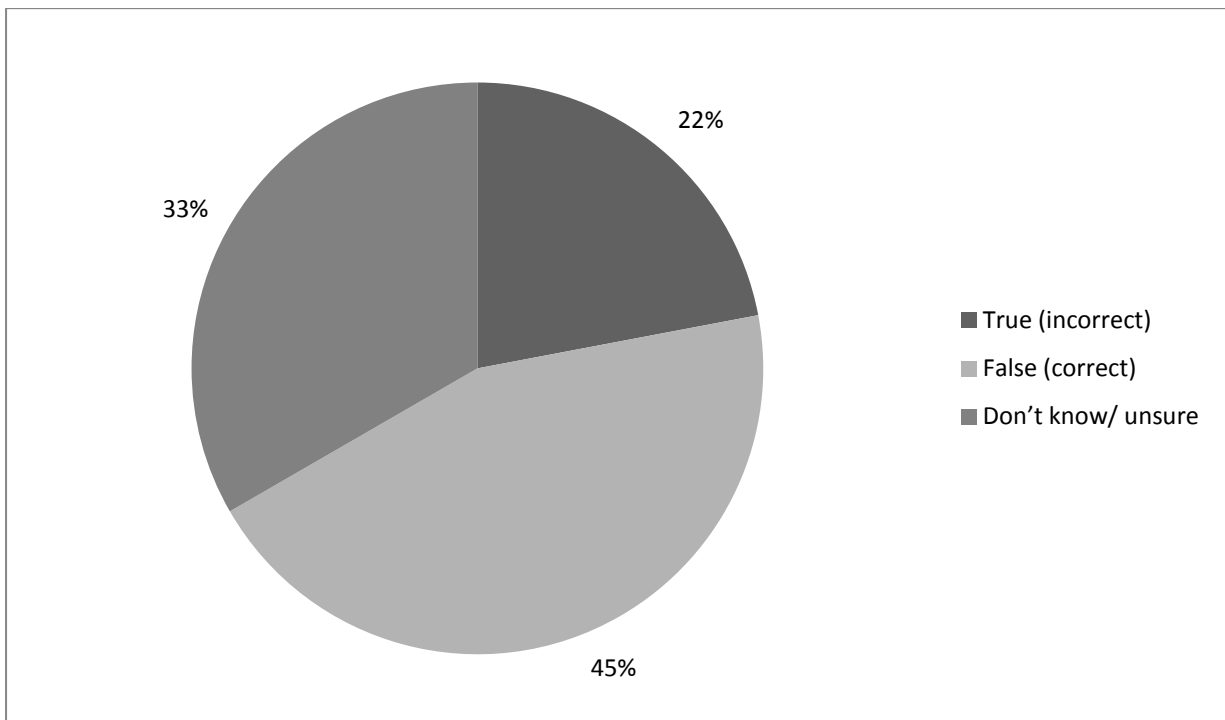


Chart 3: Energy market knowledge: The price of electricity and gas is set by the government



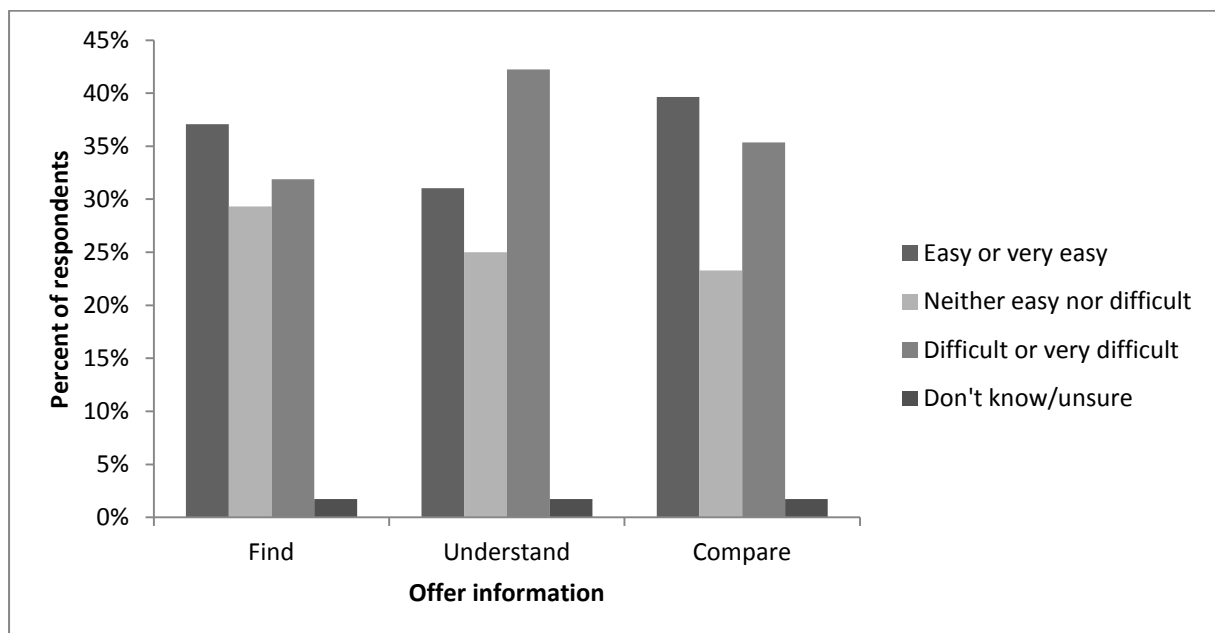
The results indicate that respondents had a fair level of knowledge/understanding of the basic structure of the retail energy market, with more than 95% of respondents answering at least one question correctly. Almost all respondents were aware of the existence of choice. Knowledge of the basis of prices was much lower, with just under half correctly stating that energy prices are not decided by government. One third of respondents were unsure or didn't know, while around a fifth thought that prices were decided by government. However, it is somewhat concerning that only 44

per cent of respondents answered both questions correctly. This indicates some remaining consumer uncertainty as to how the market functions.

Switching experience and ease of market comparison participation

The survey revealed some interesting features about consumer experience, understanding and preferences relating to market participation. The headline finding relates to the ease with which consumers can find, understand and compare information on energy offers. Chart 4 shows that over 30 per cent of respondents found it difficult or very difficult to find, understand and compare offer information. 42 per cent of respondents indicated that they found it difficult or very difficult to understand information. Given that retail choice has been available to consumers since 2002 and deregulated retail prices have been in place since 2009, this remains a fairly high percentage of consumers who find the information available to them difficult to engage with.

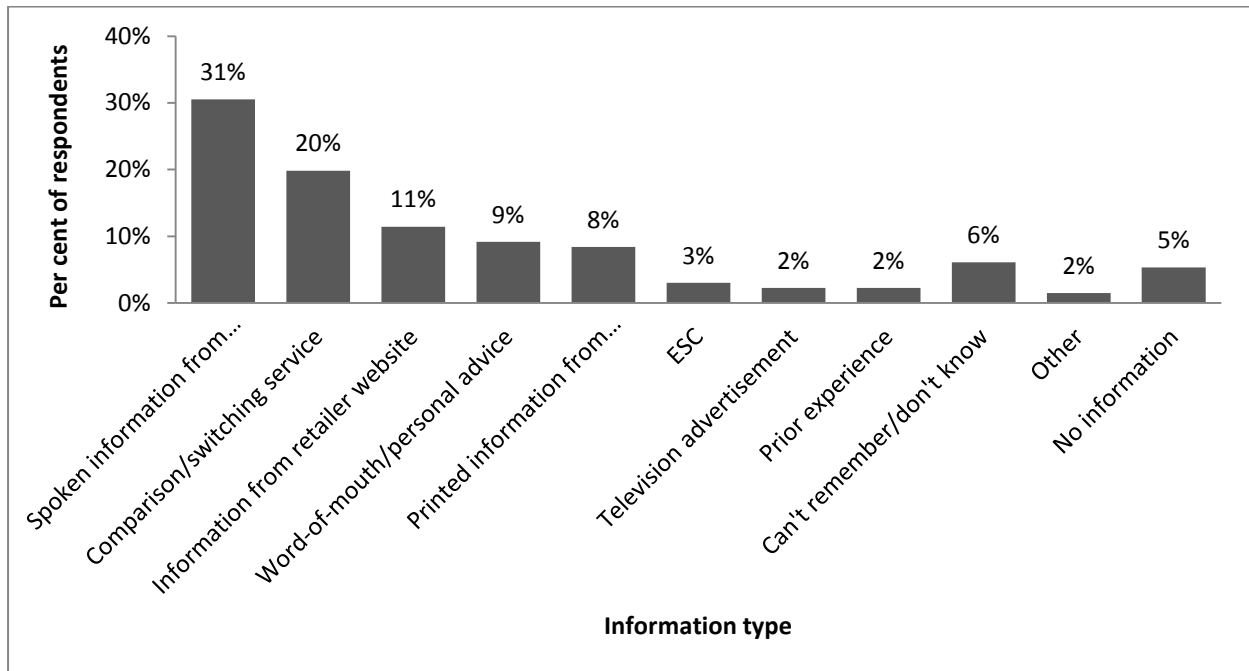
Chart 4: Ease of finding, understanding and comparing information in the energy market



Data from the survey on switching rates was broadly in line with the data from the ESC and the VaasaETT and indicates that 40 per cent of respondents had switched at least once in the last five years. The survey also found that 53 per cent of consumers who had switched in the last 5 years had done so responsively – that is, as a result of contact with a door-to-door salesperson, telemarketer or real estate agent. This indicates that much switching activity is occurring not as a result of an active desire to participate in the market.

Other key survey findings relate to the information used when deciding to switch. Chart 5 shows the sources of information used by consumers in deciding to switch energy offers. Remarkably, 40 per cent of consumers still relied upon information from a door-to-door or telesales person (31 per cent relied upon spoken information from the sales person and 8 per cent relied upon printed information from a sales person). Given the high levels of problematic conduct by marketers identified in the survey (discussed below), this passive consumer behaviour and reliance on information from direct marketers likely has a deleterious impact on the effectiveness of consumer participation.

Chart 5: Information used by customers in switching to a new offer



Survey respondents were also asked about their motivations for switching and not switching. Chart 6 shows the responses to these questions. It is clear that price remains the primary motivation for most consumers' switching decisions. Innovative products and services from energy retailers do not seem to be a major feature of decision-making. It is interesting to note the high proportion (39 per cent) of consumers who indicate that their reason for not switching is the difficulty in comparing, that they "could not be bothered" or that it "was not worth the effort."

Chart 6: Most important reason for switching provider

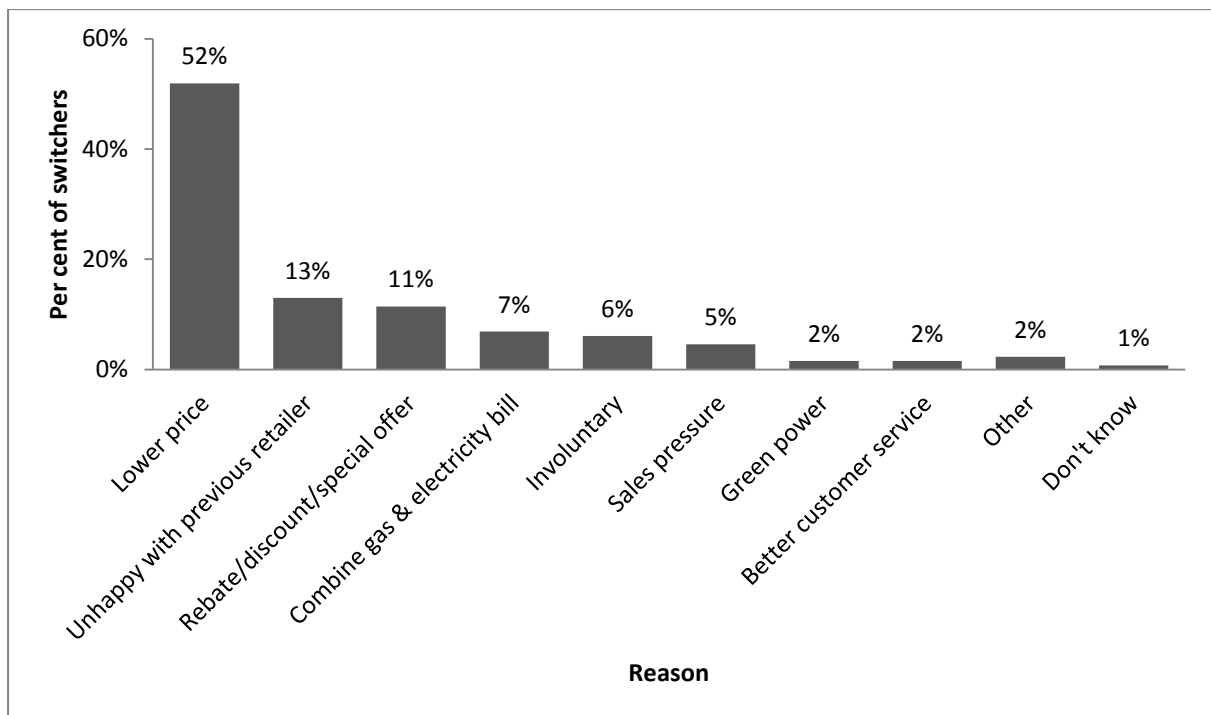
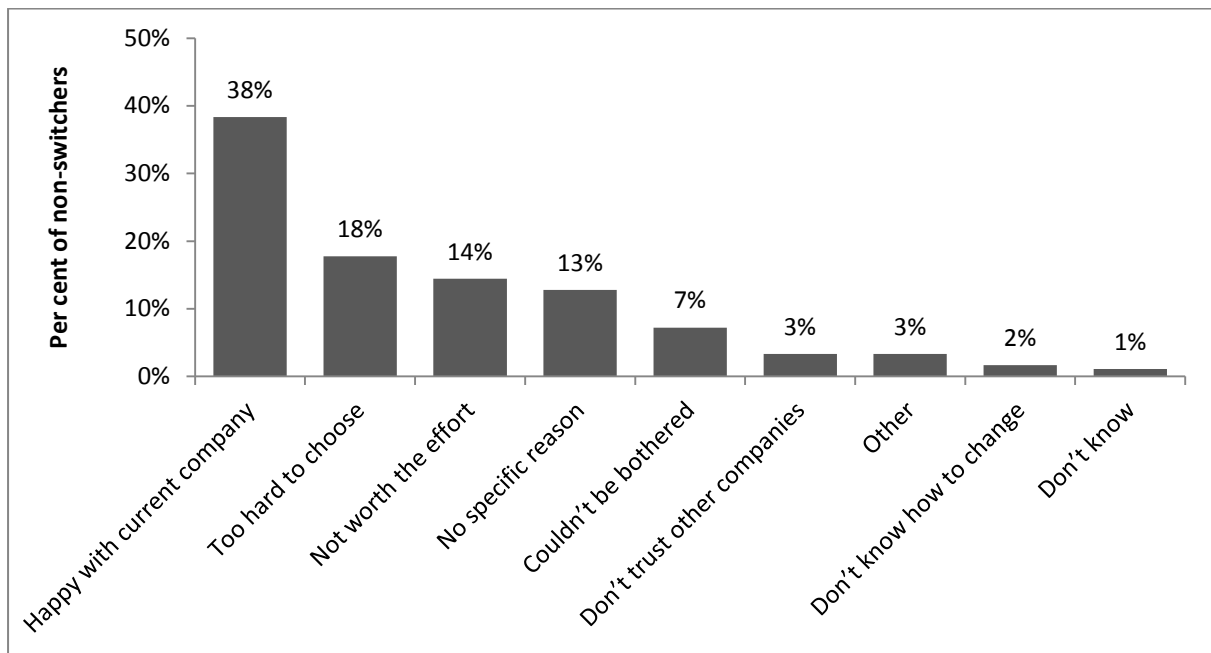
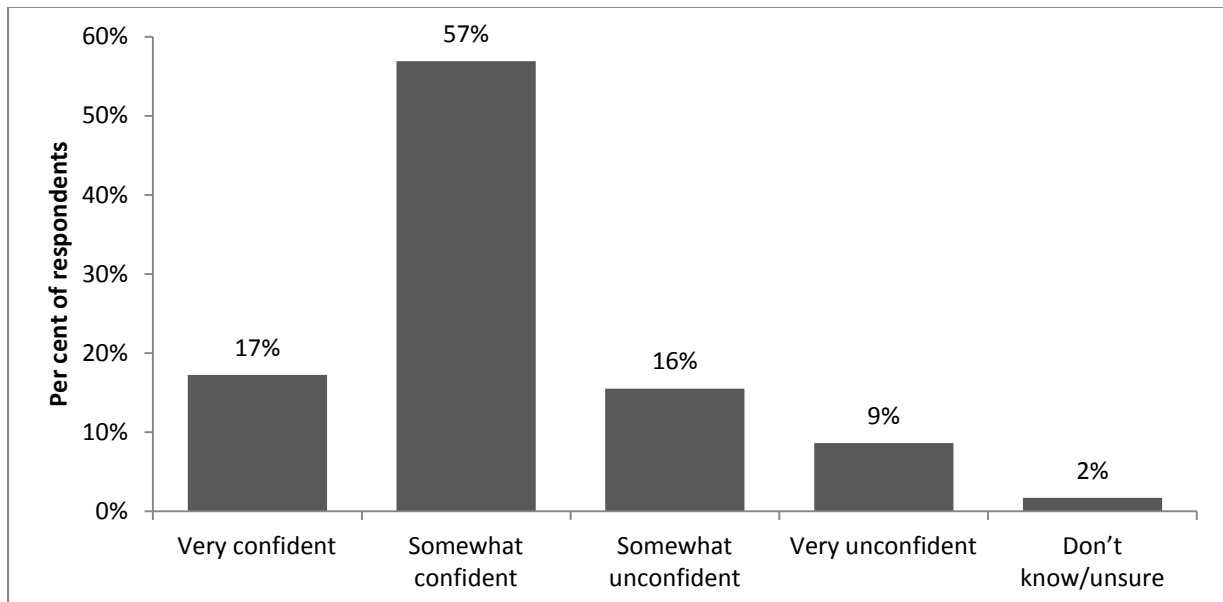


Chart 7: Reasons for not switching provider



The survey also assessed respondents' confidence in their decision-making and their future market participation intentions. Chart 8 shows a relatively high level of subjective consumer confidence in decisions made. While this does not actually measure the actual benefits flowing from a consumer's decision through, for example, lower prices, it does provide an indicator of consumer satisfaction. When considering this chart, it is important to keep in mind factors such as the endowment effect⁸⁸ that may lead to satisfaction in a decision outstripping the actual benefits flowing from that decision.

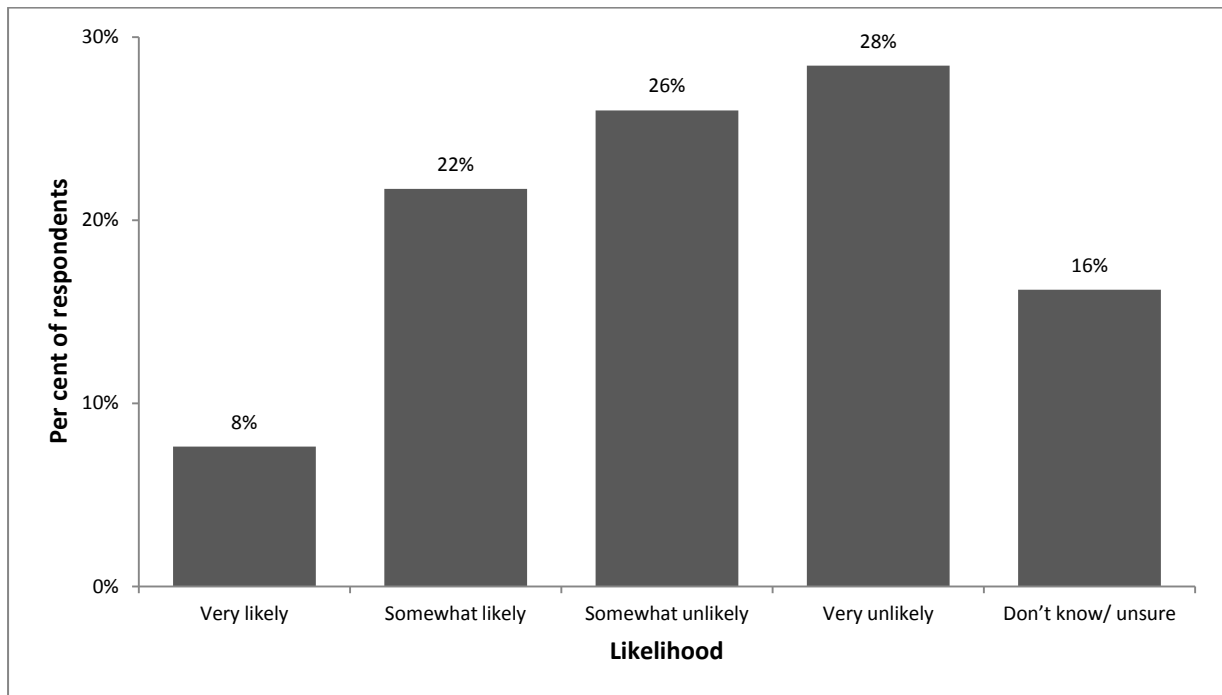
Chart 8: Confidence in switching decision



88 The endowment effect occurs when a consumer values a product more highly once their property right to that product has been established. It was first hypothesised by Richard Thaler who has been referenced elsewhere in this paper.

Chart 9 deals with future market participation intentions and shows that a clear majority of survey respondents do not intend to participate in the market in the coming year.

Chart 9: Likelihood of switching retailer in coming year



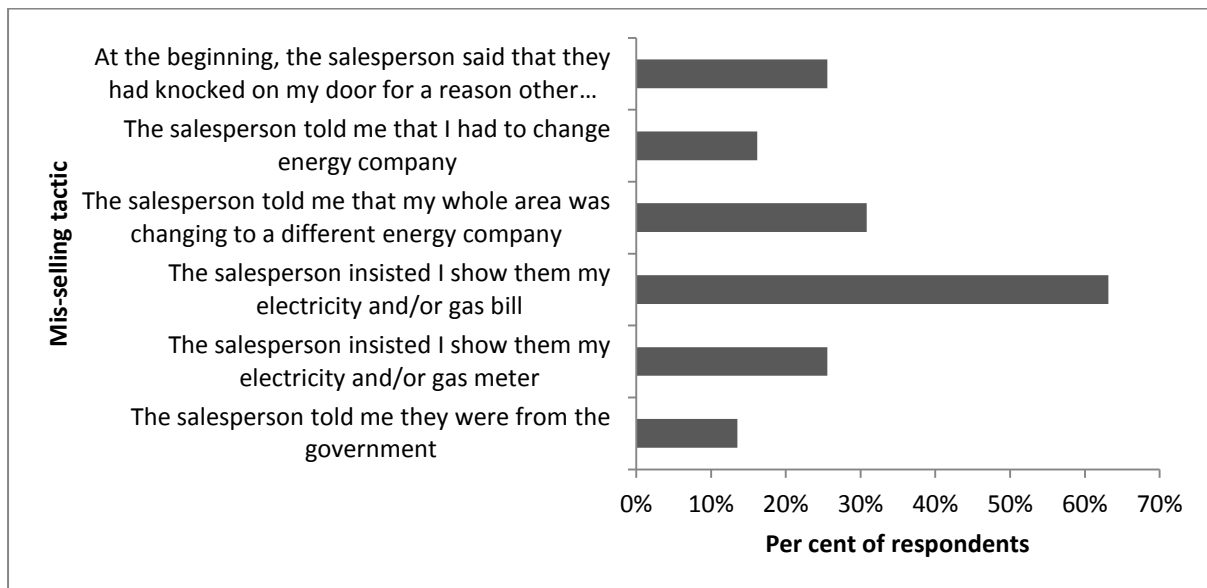
Experience with door-to-door sales

Given the high volumes of consumers who switched identified information from salespeople as the primary source of information relied upon for their switching decision, it is interesting to examine the consumer perceptions and experience of direct marketing. The survey included a number of questions about direct marketing. An interesting result was the high proportion of respondents who identified the occurrence of common mis-selling⁸⁹ tactics. Of the 327 survey respondents, 87 per cent had been approached by a door-to-door marketer at least once in the previous two years. Chart 10 shows the proportion of respondents reporting that a range mis-selling tactics were used during their most recent interaction with an energy door-to-door marketer.

⁸⁹

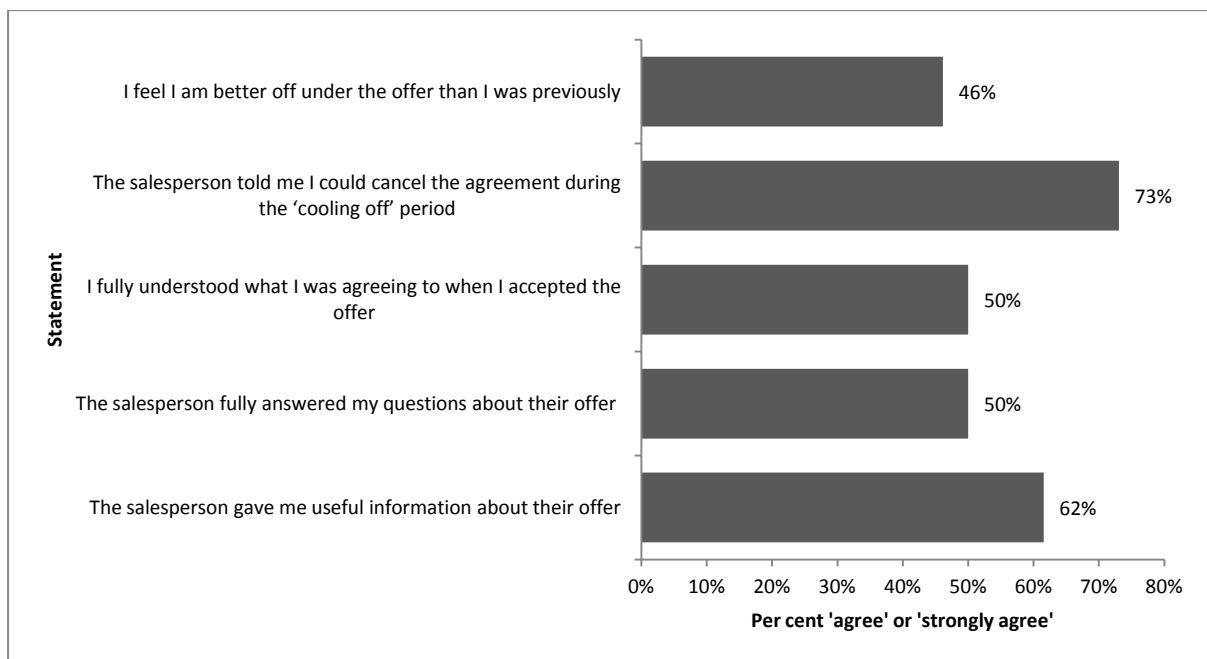
Mis-selling is the practice of selling a product on the basis of misleading advice.

Chart 10: Incidence of common mis-selling tactics



The figures clearly show very high levels of misleading and deceptive marketing practices in relation to energy contracts. This raises very significant questions about the quality of information available to consumers who are making switching decisions on the basis of contact with door-to-door sales people. It is interesting to note that, of the respondents who had accepted the offer the last time they had contact with a door-to-door salesperson, there were relatively low levels of understanding of the offer contents and a low level of confidence that they were better off as a result of the switch. However, it is also heartening to some extent that a relatively high percentage of respondents indicated that the seller provided them with useful information and informed them about their rights to a cooling off period.

Chart 11: Experience of consumers who switched as a result of their last contact with a door-to-door salesperson



A remarkable result from the survey was that six respondents (19 percent of those who switched as a result of their last interaction with a door-to-door salesperson) indicated that they had been switched despite not having accepted the offer from the salesperson. Although this is a small number of cases, it constitutes a high percentage of the respondents who switched as a result of the last contact with a door-to-door salesperson and is therefore worthy of further analysis to assess whether this is a common occurrence.

It is also interesting to note the high level of dissatisfaction with door-to-door marketing expressed by respondents in the open ended question that invited them to provide any other comments on energy issues. 157 respondents took the opportunity to comment. Of these, 75 per cent provided negative comments about door-to-door sales. Common issues highlighted were that:

- sales people came late (often around dinner time);
- sales people provided inaccurate information;
- sales people were a nuisance; and
- the overall experience of dealing with door-to-door sales was unpleasant and would better be avoided.

A high number of respondents indicated that sales people were coming late in the evening potentially in breach of the requirement that door-to-door sales cannot take place after 6 pm on weeknights.

Box 4: Comments received from survey respondents on door-to-door marketing

They don't say they are from the government but give the impression that they are following up something based on government and are very evasive about the nature of their visit. Even when there is a do not disturb on the door they still knock and are very persistent. They also give a line that when [sic] they represent the company that produces the electricity but the company a resident is with is just a retailer so it's cheaper to buy direct

They are intrusive and confrontational and come at the time when families are having dinner.

I would not be happy to get them at the door. It is a real turn off in this day and age for any product.

Door-to-door energy marketing leaves a bad taste in opinion, particularly some of the methods used in the past such as misleading statements or pressure selling from the salesperson. Unfortunately, sections of the community such as the elderly, non-English speakers, etc. are disadvantaged.

I think the door-to-door sales are dodgy and prey on people from vulnerable groups. I disagree with them and think the practice should not be allowed.

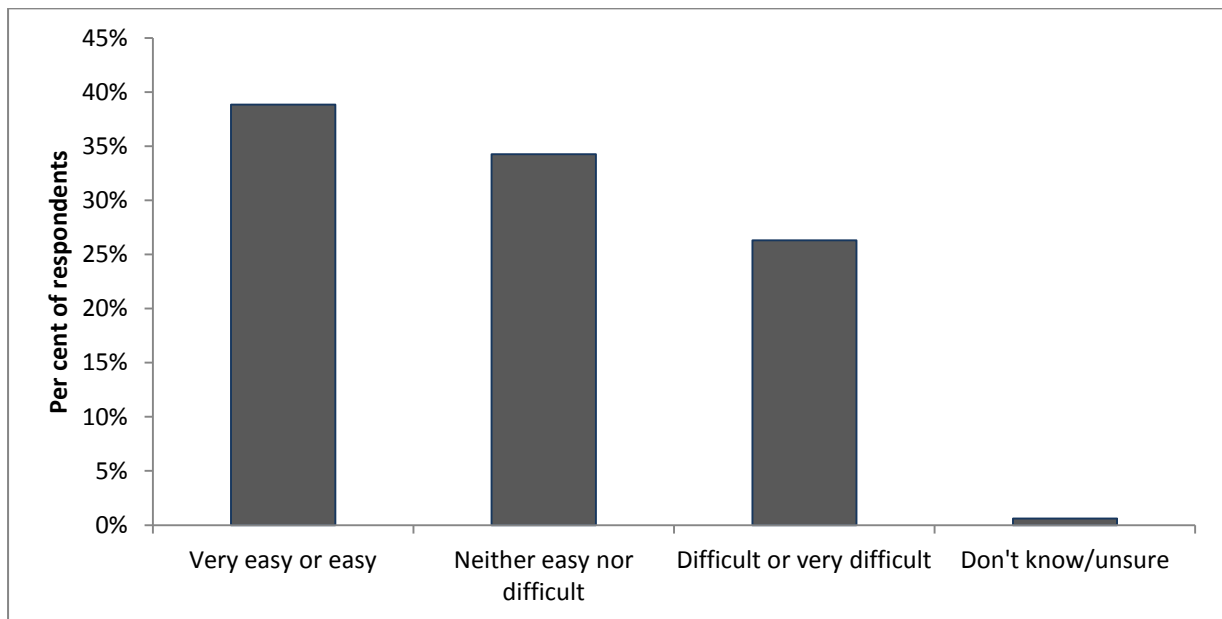
I really do not like them knocking at the door @ 6.30-7pm at night! (especially in winter when it is very dark!!)

Understanding of billing information

Consumer engagement with billing information is a measure of consumers' ability to participate in the market effectively. If a consumer understands all the information on their bill, then they will be

equipped with much better information upon which to compare different offers and respond to sales people. Chart 12 shows consumers' ease of understanding of billing information. Happily, more respondents than not indicated that bills were either easy or very easy to understand. However, a relatively high 26 per cent of respondents indicated that they had difficulty in understanding their billing information. These consumers would likely be poorly placed to make effective market decisions.

Chart 12: Ease of understanding billing information

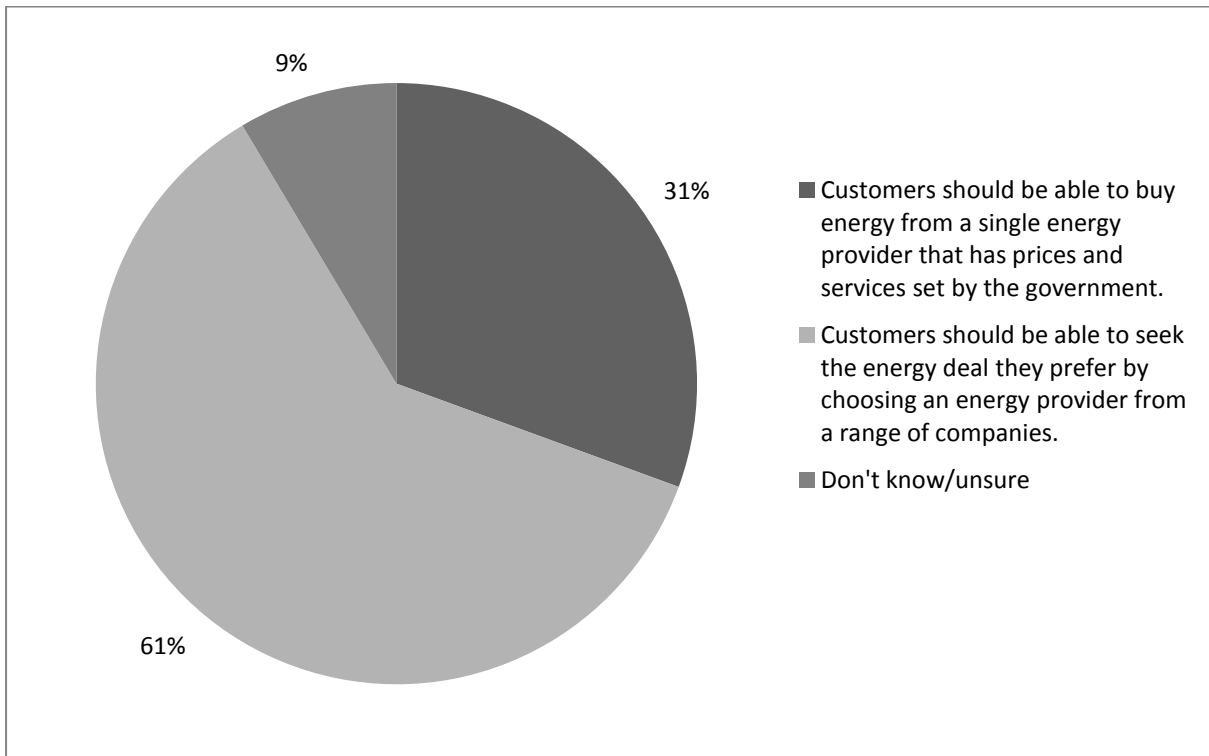


Respondents were also asked about which components of the bill they usually read. Responses revealed that the total amount owing is the most-read bill item and is read by around 9 out of 10 consumers, regardless of their overall level of ease in reading bills. The pay by date and usage graphs are the next most read items for both those who find understanding their bills easy/very easy and difficult/very difficult. Nonetheless, those who find understanding the bill difficult or very difficult are less likely to read many components of the bill including usage graphs and figures, breakdown of charges, and whether the bill is based on a meter reading or an estimate. For both types of consumer, usage graphs are quite widely read and are more likely to be read than usage figures. This suggests that it may be appropriate to think about ways of describing offers that more closely match the widely read components of the bill. It also highlights that relatively few consumers are likely to be well versed in the levels of their fixed and standing charges.

Overall opinion of the market

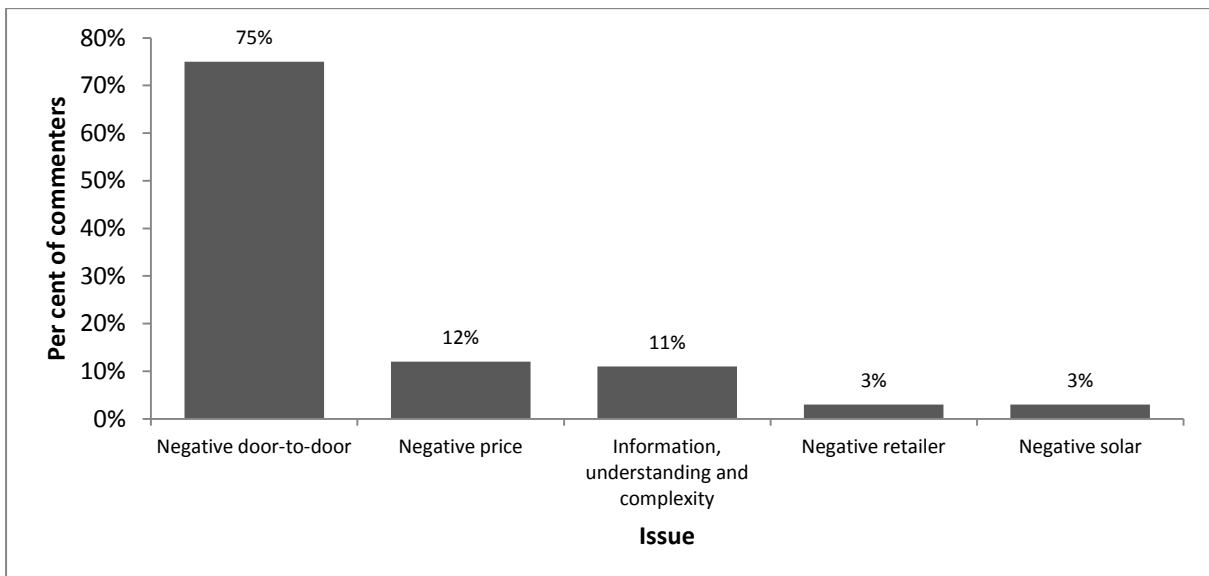
Respondents were asked about their overall opinion of current market structure. Chart 13 shows a relatively high level of consumer satisfaction with a retail market in which consumers are able to choose their supplier.

Chart 13: Opinion on market structure



Respondents were also asked whether they would like to make any further comments on energy issues and the contents of the survey. 157 respondents provided comment with Chart 14 illustrating the broad nature of these comments. As previously noted, door-to-door sales featured prominently in respondents' comments. However, comments on pricing and understanding of the market were also common. Very few positive comments were made about the energy market in general or specific aspects of it.

Chart 14: Nature of comments received from survey respondents



Box 5: Comments received from survey respondents on the energy market excluding specific comments on door-to-door sales

my experiences have been quite positive

The industry is poorly regulated and seems populated by dishonest shady people. I am still unable to find out how I was changed to the current supplier and they have my first name wrong.

Price hikes made by the commission this year were too high. I don't think a reason was provided on why prices had to go up, and any suggestion that it had to do with the changing climate (renewables) is misleading.

I would like to see a fixed price in accordance to the number residing in the premises.

yes energy is very expensive and i am thinking of changing to a cheaper supplier

Energy companies need to provide all the information about the cost of services after their promotional period. As we are all aware this period may be for 12mth and there after the cost is usually just as high as other companies. May they could provide loyalty incentives.

have clearer pricing

The government should run energy companies, not private enterprise

Feedback from meetings with agencies

In meetings with community agencies, CUAC gathered feedback on the experience of consumers, particularly vulnerable consumers, within the competitive retail market. Fairly consistent feedback was provided both about participants' (who were mainly front line community workers) own experience of the market and that of their clients. They were also asked how the market, in terms of consumer participation, could be improved.

Generally, there were mixed responses to questions about meeting participants' energy market behaviour. Some participants had made active switching decisions while others had remained with their original providers. A few had switched to a new retailer upon moving house and on advice from the real estate agent. A large number of participants found the market for energy a difficult and confusing market to navigate. Some key quotes to emerge from the discussion in regards to participant market choices were:

It is more confusing than the market for mobile phone contracts

I haven't chosen a new retailer and I don't know anyone who has

It is not like comparing stuff in a supermarket. It is in figures and substances that we don't understand.

I did not think about switching until I got solar panels.

A number of participants indicated that the installation of solar panels had been the trigger for their switching. It was also stressed that the actual market transfer process was not as smooth as you would expect, with errors being made and unresponsive call centres.

Meeting participants' opinions on the experience of vulnerable clients in the energy market was generally negative. There was a widely held view that many community members did not understand the choices that they were making and were often making poor decisions as a result of high pressure energy sales. Members of newly arrived migrant and CALD communities were identified as being particularly vulnerable to mis-selling, unconscionable marketing practises and the provision of misleading information. One example highlighted the case of a Sudanese woman who had switched provider as a result of a door-to-door salesperson having signed up her son (who was under the age of eighteen). The son had to be summoned home from school in order to extricate the household from the contract.

Some participants highlighted that some vulnerable clients who were in debt to retailers were using the availability of competition to try and escape their debt obligations and remain on supply. This behaviour was usually related to lack of knowledge about hardship programs. Participants noted that very few retailers block market transfer because of debt even though this is permitted under the retail code.

The participants from National Seniors Australia and Seniors Information Victoria reported receiving an increasing number of queries about energy from senior Victorians. It was noted that some seniors were becoming used to the idea of competition in the telecommunications market but were not yet accustomed to energy market competition. Many seniors were confused about how to make market choices. It was also noted that there was a minority of seniors with time on their hands who were particularly sophisticated energy consumers who took the time to ensure they were getting the cheapest price.

Low levels of consumer understanding and participation in the market was often linked to similarly limited understanding of how energy efficiency and behaviour change could reduce energy costs. Participants highlighted a broad spectrum of misunderstanding on energy issues that needed to be addressed along with issues associated with choice and market participation.

Participants were asked about how they thought markets could be improved in the consumer interest. A range of ideas were put forward about what could increase the effectiveness of consumer decision-making. From this a few consistent themes emerged. First and foremost there was a view that something needed to be done to overcome the current low levels of consumer literacy and knowledge of the energy market, with greater effort needed to build the capacity of consumers to participate. A few approaches to achieving this were highlighted:

- A large scale government run consumer education campaign.
- Targeted support to build the capacity of community workers and community leaders to provide support to their clients and community members in energy market decision-making.
- The use of appropriately targeted media to get the message to both the general community and to particular communities who use different communication channels (foreign language media was highlighted).
- The use of community organisations as conduits to get capacity building messages to the community.

These ideas generally mirrored the findings of CUAC's previous research into smart meters that highlighted the urgent need for information and education on energy issues for the community. As

one meeting participant said: “It is about educating people at the coalface who provide information to consumers.” Similar approaches, in terms of using the existing networks within the community to disseminate information, were also highlighted in CUAC’s earlier work.⁹⁰

A further key idea generated in the meetings was the possibility of having more options for consumers to meet with energy providers or brokers directly to access more information. At present, energy retailers are one of the few major retail businesses in Australia without a presence in “bricks and mortar” retail outlets. Consumers wishing to switch or find a deal cannot simply walk into a shop and discuss their particular situation with a seller and negotiate an outcome in the interests of both. Instead, as demonstrated in the survey results, consumers rely on the internet and on direct marketing.

There was widespread support for the idea that an independent provider with a network of retail outlets could act as an energy broker. Consumers could walk in and talk about their current energy use costs and be matched with a contract that was right for them. It was suggested that this would facilitate easier market participation for many in the community (particularly vulnerable consumers). It would also give consumers greater confidence in providers as they would know that they could actually speak to someone to ask for help rather than relying upon the rather uncertain avenue of the call centre. Australia Post was suggested as a possible provider of the energy brokerage service.

Key findings

- 42 per cent of consumers find it difficult to understand offer information and in excess of 30 per cent find it difficult to find and compare offers.
- Consumers are still heavily reliant on information from direct marketing to inform them of offers.
- Survey data suggests widespread mis-selling practices among door-to-door salespeople, calling into question the reliability of information relied upon for switching.
- Many consumers still identify the difficulty of choosing and not being bothered as reasons for not participating in the market.
- Although consumers are more likely than not to be supportive of retail competition, there is widespread dissatisfaction with door-to-door sales tactics.

The analysis

It is clear that many of the potential problems with consumer participation identified in the AEMC’s analysis continue to be reflected in this research. On a range of measures, consumer understanding of the market has not advanced and it does not appear that energy has ceased to be a “low involvement” product with a strong reliance on direct marketing to achieve consumer switching. Like the AEMC’s work, the research for this report found an overall satisfaction with a competitive

⁹⁰ See CUAC (2010) *Consumers and smart meters: Delivering information to non-government organisations*, Report to the Department of Primary Industries

market model but strong dissatisfaction with particular aspects of that model. Price also remains the primary determinant of consumer switching decisions.

Of particular importance, there was strong evidence that many consumers found it difficult to understand and compare energy market offers. Along the same lines, there remained a substantial group of consumers who could not be bothered to switch, or who found it too confusing. This was matched with a fairly high incidence of consumers reporting that they are unlikely to switch in the coming two years.

In relation to the effectiveness of consumer participation, it is noteworthy that consumers primarily rely on sources of information that they have little trust or like for. Consumer dissatisfaction with door-to-door marketing was clear in survey results and in the consultations conducted with community agencies.

While it is not possible to draw a definitive conclusion about what this means for the effectiveness of consumer participation and market competitiveness, it provides a clear indication that not all is as it should be. Indeed, many of the survey results point to the presence of some of the behavioural anomalies and market issues highlighted in the previous chapter.

For example, the survey results indicate that a fairly high proportion of consumers find information in the market difficult to understand and use. A proportion of these are likely affected by constraints on their capacity to absorb information in a market with which, as the results indicate, they have limited interest in engaging actively. Similarly, the number of respondents who have not engaged with the market because they did not understand it or because they could not be bothered was relatively high. This may suggest that there is a segment of the market that is and will remain inactive along the lines of the thesis propounded by Defeuilly.

It is more difficult to quantify the extent to which behavioural biases such as time inconsistency and status quo bias impact on the effectiveness of consumer participation. Data from the survey does not clearly highlight the presence or otherwise of these behavioural idiosyncrasies. However, the evidence that these are features of many comparable markets is clear and this needs to be remembered in the development of policies to improve the effectiveness of consumer participation in the market.

CUAC's consultations with community agencies indicated that the limited consumer understanding and active engagement with the market is magnified among vulnerable consumer groups. People in difficult financial circumstances or who, for a range of reasons, cannot as easily, digest information are less likely to be able to participate in the market. Furthermore, many of the barriers to market participation among these groups can be more easily exploited by direct marketers.

This leads to the dissatisfaction with door-to-door sales that was evident in the survey results and from information from community agencies. This data indicates that mis-selling practices are routine. Given that many consumers base their decision on information provided by door-to-door sales people, this suggests that the quality of their market choice is likely to be low. As is established in the next chapter, there are also serious questions about the quality of information from other sources.

When this is assessed against the criteria for effective consumer participation established in the introduction, it is clear that the market is falling short. In particular, it is clear that many consumers are not sufficiently engaged to actively participate in the market. Furthermore, the information upon which many are basing their decisions is likely less reliable than would be desired. There is a case for action to address the low levels of consumer understanding and other areas where consumer participation is less than ideal.

The data highlighted in this chapter should also be considered in light of Defeuilly's thesis of segmentation between active and inactive market participants. Where a substantial proportion of consumers are not inclined to engage in market search and find it difficult to understand and compare offers, may lead to a growth in inactive market participants. Strategies are needed to encourage these consumers into effective market participation or, alternatively, to ensure that default options offer them fair outcomes.

Key findings

- Data collected by the AEMC and in the survey conducted as part of this research show that the effectiveness of consumer participation is less than ideal.
- After years of operation consumer understanding of offers and ability to compare offers remains poor, and many consumers are not inclined to participate.
- There is strong evidence of mis-selling practices by door-to-door sales people, calling into question the reliability and quality of information upon which consumers are basing their decisions
- There is a case for action to address issues identified in this survey where consumers participation and thus competition effectiveness is limited.

The quality and reliability of available consumer information

Access to accurate information through switching sites⁹¹

Switching websites are increasingly important for consumers wishing to find a better energy offer. Aside from direct marketing, they are one of the few options available to consumers to find information about available offers and make decisions with low search costs. The absence of retail shop fronts and the rising price of energy, in particular, underscores the importance of this tool for consumer decision-making. The neoclassical market model assumes that there are low search costs and consumers have access to reliable information. However, the model is undermined if the information upon which consumer makes their decision is compromised or inaccurate.

As switching websites are key providers of consumer information, it is crucial that the information provided therein is accurate and appropriate to ensure that consumers can make the best choice. If this is not the case, the assumptions underlying the neoclassical model are discredited, transactions costs will increase and consumers will not be able to play their appropriate role in the market place and exert competitive pressure on retailers.

This part of the research was conducted to assess whether the information provided on switching websites was accurate and appropriate for consumers wishing to analyse different energy offers. Improving information content on these services could play an important role in improving the effectiveness of consumer participation. Furthermore, it is fundamental that information provided is accurate to ensure consumer can confidently make choices in their interest.

Due to resource constraints, this research only analysed the quality of information available on price comparison websites. It would be worth undertaking further research into the quality of information provided by door-to-door sales staff and on retailers' websites to get a more comprehensive picture of information quality and reliability.

The findings

The research analysed eight privately operated switching websites and the ESC's *Your Choice* website. The five websites that allowed consumers to conduct an instant online price comparison were tested with the entry of comparable search information for electricity for each of the five Victorian distribution areas. This was also done for the *Your Choice* website, the site established by

91 This chapter is based on work commissioned as part of this broad research effort into the quality of energy price comparison websites. The research was conducted by May Mauseth Johnston of Alviss Consulting Pty. Ltd. Findings are made in this chapter about the quality of switching sites and the ESC's *Your Choice* website. It should be noted that the findings of this chapter have already been made available to Government and the ESC and the full report is publically available on the CUAC website. The ESC has committed to fully implementing the findings in relation to problems identified with its website and some of the issues have already been rectified. The full research report can be found at www.cuac.org.au.

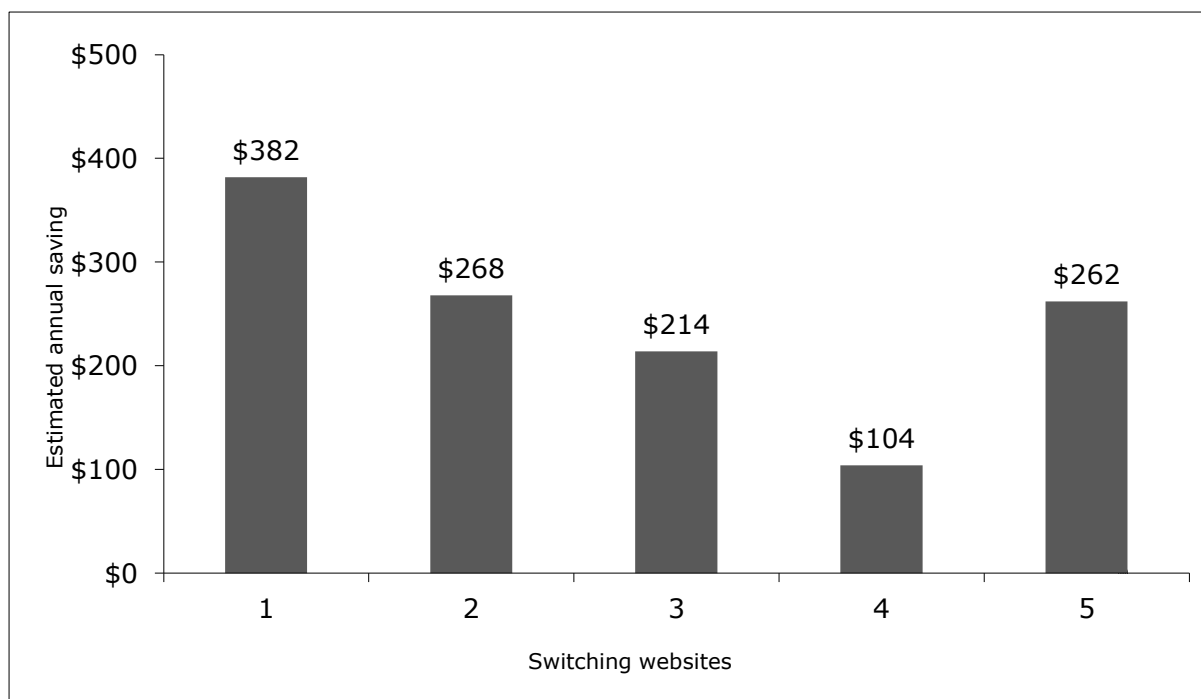
the regulator to ensure consumer access to information about the market and the various energy offers available. Of the three remaining websites, two required phone calls to analyse offers and the remaining website had offers that were years out of date. The results from these three websites are not listed in this report due to the difficulties in extracting information from phone services and, in the case of the out of date website, because there was little point in pursuing this.

All websites were assessed in relation to the methodology used to compare offers, openness regarding commission arrangements, the accuracy of calculations, and how they dealt with difficult issues like postcodes that cross distribution area boundaries (a situation that results in two different tariffs for the same postcode).

Better deal versus the best deal

The analysis of the five privately operated switching websites that allowed for online comparisons found that the different websites recommended different energy market offers with different levels of savings, despite the same data having been entered for the same post codes. This indicates that some of the switching websites are not delivering the best offers to consumers. Chart 15 shows the level of variance in recommended offers for a high consumption household in the Citipower distribution area.

Chart 15: Estimated annual savings between standing offer and best market offer across the five websites in the Citipower distribution area for a high consumption household



Source: Mauseth Johnston, May (2010) *Energy Switching Sites: An analysis of energy price comparison and switching sites available to Victorian consumers*, Alviss Consulting, Melbourne

The chart shows that the annual savings that a consumer could expect from switching through a comparison service would vary significantly depending on which site was used. Similar levels of variance were evident across other consumption levels and electricity distribution areas. The implication of this is that consumers cannot rely upon a particular website to find them the best

offer. Consumers would need to use a variety of websites, expending time and effort, in order to find the offer that was right for them. Switching websites vary significantly in terms of their service quality but it is extremely difficult for a consumer to identify any differences between the sites. Consumers are not provided with information as to which comparison website is the best.

The wide variation in the recommendations made between these websites is due to a number of factors, including:

- Different retailer representation on different websites. Some retailers only included offers from 5 out of the 13 retailers limiting their ability to provide consumers with the most appropriate offer.
- Different approaches to including one off, loyalty, or sign up bonuses in estimates of annual savings. In some cases the presentation of bonuses may mislead consumers because of the strict criteria required to receive bonuses (e.g. the discount is only received if all payments are received by the due date. Bonuses may also only apply to the first year of the contract and the price per kilowatt hour may be higher in the second year).
- Calculation errors resulting from mistakes in the formulas used to calculate the “recommended offer” and estimated annual savings.

Given these findings, it is appropriate that full disclosure is made as to how a particular switching website works and how it may produce different results from other like websites.

Findings

- Although all five privately operated switching websites delivered consumer savings if switching from a standing offer, no single website could consistently provide the best offer in each of the five distribution areas. Consumers could not be confident in the quality of the service that they were using.
- Additionally, despite purporting to provide accurate comparisons for consumers, there was wide variance between the recommended offers from different websites. This was partly attributable to the fact that a number of websites did not include offers from all retailers.
- It was also clear that some of the calculations that were made by the websites were incorrect; producing misleading results. Websites also adopted different approaches to the inclusion of bonuses and discounts.
- A consumer would need further information about the quality of the various switching websites to ensure that they were using a good service. This leads to consumers potentially missing out on hundreds of dollars of savings.

Gas offers

Only two of the switching websites analysed as part of this project allowed for searches of gas only offers, across all gas distribution zones. A further website that allowed for gas only searches did not have any gas market offers listed. The switching sites analysed as part of this research, therefore, do not offer a comprehensive service to Victoria’s gas customers.

A further difficulty with gas offers relates to assumptions made about savings in the presence of seasonal tariffs. Gas offers are usually structured with a winter peak price and a rest-of-the-year off-peak price. Given that most websites provide calculations of estimated annual savings, this means that websites must make assumptions about a customer's gas consumption profile as there was no mechanism to enter peak and off peak gas consumption. It is not made clear to consumers that the switching site is making an assumption about their consumption profile and that this could result in an inaccurate savings projection.

The complexity of the gas distribution system, with many distribution zones often crossing postcode boundaries that cannot be identified by consumers, also creates problems for consumers wishing to compare gas offers.

These issues highlight the difficulties confronting Victorian consumers should they wish to find a better gas offer. The gas market is significantly more concentrated than the electricity market with fewer retailers. It is important, therefore, for competitive pressure to be maintained through consumer participation. However, consumers may not be able to find gas switching services on the switching site of their choice and the switching sites available do not necessarily provide a sufficiently diverse range of offers to allow the consumer to access the optimal offer for their situation.

Findings

- Consumers wishing to exercise their choice in the competitive retail gas market are constrained in their ability to use switching websites as not all provide a gas only comparison service and there are fewer gas retailers.
- The accuracy of switching services for gas is compromised because of the presence of seasonal tariffs and the assumptions made by websites about a consumer's consumption profile lead to potentially inaccurate or misleading results. This is further compounded by the large number of gas distribution zones and the difficulties for consumers in identifying their zone.

Transparency

For consumers to have certainty about the quality of the switching website that they are using and the accuracy of the calculations provided, it is important that they are able to easily find out how the businesses make their switching recommendations and the methodology used to calculate savings. This includes the need for transparency about the approach taken to including discounts or bonuses included in offers. Inconsistency in approach between websites in the way that they treated discounts was a factor in the variation in the calculation of estimated consumer savings.

It is also important that switching sites are transparent about their business model to ensure that they do not unconscionably direct consumers to retailers who may be paying more generous commissions to the switching sites. Previously switching websites for health insurance products in Australia have been found to be unreliable as a result of some of these problems. Unfortunately,

not all of the websites are sufficiently transparent about their operations to allow for consumer confidence.

The table below highlights each websites approach to transparency and provision of information about calculation methodology.

Table 9: Transparency of the various switching websites

	Information about participating retailers	Information about their business model	Information on calculations/assumptions	Details of offers/rates
Site 1	Claims to have all energy plans available listed but this analysis did not find market offers from all retailers*	Very limited	Detailed description	Yes but no link to PPIS and the rates listed already include discounts
Site 2	States that they have most plans	States that they receive commissions/fees from participating retailers	Detailed description but difficult to find on website	Yes and with links to information based on PPIS
Site 3	States that they have all offers that are “readily available” (this analysis indicates that they don’t)	States that they receive commissions/fees from participating retailers	Detailed description	Yes, with link to PPIS
Site 4	Claims that they have all electricity and gas offers*	States that they receive commissions/fees from participating retailers	Very limited	Yes, easy access to information about rates and calculated discounts
Site 5	States only that they have agreements with numerous retailers	States that they receive commissions/fees from participating retailers	None	Yes and with links to information based on PPIS
Phone based services⁹²	Indicated that they had plans from most or major retailers	Yes (when asked)	Yes but needed some prompting	Yes (when asked)

* Difficult to verify with absolute certainty as the sites only lists energy plans deemed to offer a saving. However, these sites do recommend some retailers’ standing offers without suggesting the same retailers’ discounted market offers.

Source: Mauseth Johnston, May (2010) *Energy Switching Sites: An analysis of energy price comparison and switching sites available to Victorian consumers*, Alviss Consulting, Melbourne

As the table indicates, a number of sites do not provide sufficient information to provide peace of mind to a consumer using their service. Given that each website claims to provide an effective service, it would be desirable for there to be absolute transparency so that consumers could, in fact, verify that this was the case. Additionally, it is necessary that websites are transparent about their ability to provide information about all the offers available. This analysis suggests that some websites claim to have more plans available than they actually do.

92 Phone based services refer to MakeltCheaper and Energywatch, the two switching sites that require telephone contact in order to recommend plans/offers.

Findings

- Switching websites and services were not always transparent about the approach taken to calculating offers and any commission arrangements that they have with participating retailers. This information is important for independent observers and consumers in trusting the service that they are using.

The ESC's *Your Choice* Website

The ESC maintains the *Your Choice* website in order to provide consumers with an independent site to compare energy market offers. Such government sponsored approaches to the provision of comparison information are recognised as a potentially effective approach to improving consumer participation if barriers exist.⁹³

It is a regulatory requirement that retailers place one standing offer and at least one market offer on the *Your Choice* website. The *Your Choice* website allows consumers to compare offers but also provides a range of information about consumers' rights and responsibilities in the retail energy market. The website allows consumers to enter information about their current energy market offer and then to compare this with some of the other offers that have been provided to the site. Each offer listed on the site should include a link to the offers PPIS, a product information statement that is required by regulation and must meet certain content requirements.

The research found that the ESC's *Your Choice* website contained nearly all of the best value market offers often recommended by the privately operated switching sites. This indicates that retailers see value in listing their best offers on the site and the site could easily become a more widely promoted and trusted information source for Victorian consumers.

However, the research also found that some retailers failed to list market offers on the *Your Choice* website. A number of retailers were found not to be listing market offers on the *Your Choice* website despite a requirement of the ESC's Guideline No. 19 on Energy Price and Product Disclosure. In the final decision for that guideline, it states that, as a result of Orders in Council, "specified retailers who have an existing offer to sell electricity or gas that is generally available for acceptance by persons designated as small customers must publish at least one existing offer for those customers. These offers are to be published on both the retailers' and the *Your Choice* websites."⁹⁴

Furthermore, the site is not as user friendly as it could be. For example, unlike the privately operated sites, the *Your Choice* website does not order offers according to price. This requires a consumer to go to considerable effort to identify, among the many offers, the best option for them. Additionally, the *Your Choice* website does not attempt to make an estimate of annual savings that could be expected by a switch to one of the offers that the site lists. The recently added tool that allows consumers to compare two different offers goes some way to addressing this but is still not quite as user friendly as some of the commercially operated switching sites.

93 Organisation for Economic Co-operation and Development Committee on Consumer Policy (2010) op. cit.

94 Essential Services Commission (2009), Energy price and product disclosure final decision, op. cit. p. 9, available at <http://www.esc.vic.gov.au/>

A further problem identified with the *Your Choice* website was that a number of the links to PPIs were missing. The purpose of having these links is to provide accurate and standardised consumer information and it is essential that these links are maintained by the site's administrators in order to preserve the integrity of the site.

Findings

- The Your Choice website, operated by the Essential Services Commission, includes most of the cheapest offers in the market but is let down by its useability and the absence of offers from a number of retailers, even though all retailers are required to list offers on the site.
- A number of the links to PPIs that are required to be on the Your Choice website were missing.
- The lack of savings calculations or rankings according to price reduces the site's user friendliness.

The implications

The implications of these findings are significant. As the previous chapter clearly demonstrates, there are still problems with consumers understanding of the market, offers and information provided to them. This chapter illustrates that key sources of information upon which consumers can base their decisions and choices are insufficiently accurate to promote effective choice. In fact, errors are commonplace and the information sources are often lacking the transparency needed to inspire consumer confidence. This clearly does not align with the prerequisites for effective consumer participation, which include the presence of reliable information upon which to base decisions. When this is considered alongside the potential misleading information provided by door-to-door sales people, the quality of information in the Victorian retail market looks especially poor. The findings further demonstrate the significant work that needs to be done to allow for effective consumer participation in Victoria's energy market. Appropriate approaches to overcoming the weaknesses in these information sources are discussed in the next chapter.

Key points

- The findings further demonstrate the significant work that needs to be done to allow for effective consumer participation in Victoria's energy market.
- The findings highlight the fact that there is considerable unreliable information upon which consumers are basing their decision-making. This erodes the effectiveness of consumer participation in the market.

Improving the market

The case for action

This research has identified:

- the likely behavioural anomalies and barriers that could limit consumer participation in competitive retail energy markets;
- where these issues have affected energy markets in other jurisdictions; and
- some of the available remedies to overcoming barriers that limit effective consumer participation.

The research also assessed the extent to which barriers to consumer participation were present in the Victorian retail energy market. CUAC's consumer research, mystery shopping and analysis of previous AEMC findings highlighted that many of the issues such as limited consumer capacity, lack of desire to participate, difficulties in understanding and comparing, reliance on unreliable direct marketers and generally poor availability of accurate information are prevalent in the market. High numbers of consumers indicated that they did not find it easy to find, compare or understand offers and relied upon often misleading information from door-to-door sales people to make choices. Many of these findings tallied with the work of the AEMC in 2008, which also found significant gaps in consumer understanding of the market and a high reliance on direct marketing.

CUAC's engagement with social welfare organisations clearly indicates that existing competitive market arrangements are particularly difficult for more vulnerable consumers to navigate. Participants in CUAC's focus groups consistently suggested that vulnerable consumers did not understand market choice or, alternatively, would use its presence in misguided attempts to manage their growing energy debts and remain on supply. Descriptions of deceptive behaviour from door-to-door sales people leading to poor consumer decision-making among vulnerable members of the community was a consistent theme.

The vision of a competitive market that was the basis for national regulatory reforms and the policies of successive Victorian governments is not the market that has eventuated. This research, as suggested above, finds the market to be complex for many consumers and with a tendency for a segment of consumers to be disengaged.

Although a pure neoclassical approach would posit that over time the market will self-correct, there is a significant body of evidence from the field of behavioural economics and in experience with other competitive retail energy markets outlined in this report that suggests that this will not happen endogenously. This has already been recognised in comparable jurisdictions, such as the UK, where a range of approaches to overcoming the observed barriers to effective consumer participation are being tried and implemented.

Given the data and evidence presented in the report, a strong case can be made for a series of targeted policy and regulatory interventions to improve the operation of the competitive market.

Given the types of consumer behavioural anomalies and other factors that impact on consumer market participation, it needs to be remembered that policy and regulatory intervention are not necessarily deleterious to competition. Indeed, there are a number of policy and regulatory interventions that would likely be competition-enhancing, particularly when considering the interests of small domestic consumers of electricity and gas.

Therefore, this chapter recommends a variety of reforms that should be made to increase competition by facilitating effective consumer participation. Some of the reforms proposed are modest in scope and should be put in place to ensure that future policy development occurs with regard to the best possible evidence base and that the impacts of other proposed reforms can be assessed. Some of the other proposed reforms are more transformative in nature and should markedly improve the consumer experience of the market.

Once again, it needs to be emphasised that while the majority of the recommendations made in this chapter are directed at the Victorian Government and ESC, the oversight of the recommendations may need to change as market governance arrangements move to national institutions.

A full and comprehensive annual survey of consumer experience of the market

This study has conducted limited primary research into the Victorian retail energy market and has examined other data, information and research evidence on the state of energy markets both here and overseas. It is clear that there is insufficient publicly available information about the actual ongoing experience of consumers in the market. This limits the ability to assess the extent to which consumers are able to actively participate in the market. It also limits the ability to respond to emerging market trends, including barriers to consumer participation, with appropriate policy, regulation and information. The lack of a major, publicly available study on consumer experience since the AEMC Review into competition effectiveness clearly highlights this issue. In the absence of more comprehensive studies, inadequate proxy data sources such as raw switching rates are used to suggest competition effectiveness. As argued in the introduction, it is not sufficient for policy reforms to be “fire and forget.” Instead, the effectiveness of the policy should be assessed against a range of indicators including consumer knowledge, satisfaction and decision-making effectiveness.

Therefore, it is recommended that the Victorian Government, perhaps through the ESC, initiates an annual customer survey of Victorian energy retail customers on their market experience, satisfaction with the market, ability to compare, experience with marketers and participation intentions. This would be a useful tool from which all energy market participants could adjust behaviours, in the case of retailers, or, in the case of government and consumer representatives, modify policies and information resources. Such a study would complement existing data sources such as retailer and distributor comparative performance reports to provide a comprehensive picture of the state of the market.

Recommendation

1. That the Victorian Government initiates an annual survey, with publically available results, of consumer experience of the energy market from which inferences can be drawn on the effectiveness of consumer participation and competition. This would also allow for the analysis of emerging trends and risks.

The introduction of better prompts for market participation

Currently a consumer in the Victorian energy market receives few prompts to search for a better offer. This research shows that the major prompt for market participation is the arrival of a door-to-door sales person. Other prompts may include a television advertisement, but there is little evidence that these are the major drivers of consumers actively seeking out better deals. This research indicates that such prompts play a role but that is very much secondary to that played by door-to-door sales. Consideration should be given to the most appropriate ways to prompt active consumer participation. In the past, the ESC has attempted to raise awareness of its comparison website *Your Choice* through a bill insert to encourage consumer switching. However, consideration should be given as to how active consumer participation could be encouraged.

A crucial time to prompt active participation is at the end of a fixed term contract. If a consumer does not take action at this time, in Victoria, the retailer will be able to, in essence, continue to roll over their contract. Clause 24.3 of the Energy Retail Code requires a retailer to notify the consumer of the impending conclusion of a fixed term contract along with a notification of the terms and conditions of the new contract that will be entered into, in the absence of a consumer electing to take action. The information that the retailer provides at this time must also specify other options such as market search or the availability of the retailer's standing offer. This report recommends that further steps should be taken to encourage active market search at this crucial juncture. The information provided currently, with heavy control by the retailer as to the content, is unlikely to be well designed to encourage an active search. The interest of the retailer is to keep the customer and if possible to roll them over onto a new contract with terms and conditions favourable to the retailer. The market's interest, however, is better served if the consumer finds the best offer for them at the conclusion of a contract with whichever retailer.

To achieve this, this report recommends that the information provided to consumers to notify them of the conclusion of a fixed term contract should be deliberately designed to encourage market search. The ESC should impose regulations to ensure that the retailer interest at this juncture aligns with the market interest. While this may seem like a strong regulatory intervention that would not occur in other retail markets it is warranted by the fact of large numbers of passive consumers in a market for a low involvement but essential product like energy. It may be appropriate, for example, for the retailer to provide a glossy and well designed brochure at the end of fixed term contracts that directs consumers to the ESC's *Your Choice* website⁹⁵.

⁹⁵

It should be noted that the AER is currently developing its own price comparator and information website. Recommendations around the *Your Choice* site should also be heeded by the AER with responsibility for particular actions being determined once the AER has a site in operation.

This reform would provide consumers with a stronger prompt to undertake active market search at the end of fixed term contracts. In turn, this would lead to competitive pressure on retailers and better market outcomes.

Recommendation

2. That the ESC introduce regulation to compel retailers to provide specific information at the conclusion of a fixed term contract to encourage consumers to engage in an active search for the best energy offer available.

Appropriate regulation to improve the simplicity of offers and the ease of comparison for consumers

The research into consumer behaviour, consumer experience in other markets and consumer experience in the Victorian market indicates that steps to make the market simpler would be beneficial. The classic paper by Iyengar and Lepper⁹⁶ on limited consumer capacity illustrates the power of reducing complexity and improving comparability. It is also clear that many consumers are finding the Victorian retail market complex and comparability difficult. The research on the switching websites and the extent to which errors are made, even when technology is doing the leg work for the consumer, highlights the level of complexity. It is very difficult to make informed and accurate comparisons when considering the array of discounts and bonuses that most retailers incorporate into their offers, coupled with the fact that retailers are allowed to vary rates even within the context of a fixed term contract.

Steps should be taken to ensure that consumers are not overwhelmed with complex offers and can make informed choice in their interest.

The Retail Markets Review being conducted by Ofgem in the UK has recommended the introduction of a series of reforms to improve the simplicity of their market. Some of these reforms are not appropriate in the Victorian context because of different regulatory approaches to offers. However, aspects of the reforms would likely work to improve simplicity for Victorians. The reforms recommended by Ofgem include:

- The requirement for “evergreen” offers, or offers without a fixed contract, to be provided in a standard format that competes on the basis of usage charge alone (the fixed charge is set by the regulator). This means that there is a strong incentive on the retailer to reduce costs and price but that these contracts are easily compared by the consumer on the basis of a single unit price.
- The requirement for fixed term contracts to maintain a fixed price and the same terms and conditions for the period of the contract.

⁹⁶ Iyengar and Lepper, *op. cit.*

- The development of a standard metric for the expression of all energy contracts so that they can be expressed in comparable terms. This reform would mirror reforms in the UK's consumer credit market that allowed for easier comparison of credit contracts.
- The development of strict regulatory approaches to the provision of information to consumers to ensure that they understand the relevant terms.⁹⁷

In the Victorian context similar reforms should and could be considered. Such reforms should also necessarily be considered by the AER and Standing Council on Energy and Resources (SCER)⁹⁸ as transition to Commonwealth regulatory and policy arrangements occurs. Some specific reforms that should be considered are:

1. Mirroring the reform of the evergreen offers in the UK, the Victorian Government should consider the regulation of the fixed charge (cents per day) for standing offers and evergreen offers in the Victorian market with price competition in this market sector based on the cents per kilowatt hour (kWh) variable charge. The fixed charge could be set according to some reasonable determination of average consumption. Although a regulated fixed price would affect different energy consumers (small and large) differently, it is likely that these impacts would not be excessive and would be offset by the presence of other fixed term market offers without the regulated fixed charge. Such a reform would enable an easy and direct comparison of standing offers as well as evergreen offers and allow competition for offers that provide consumers with more consumer protection and the flexibility to change supplier.
2. To supplement this reform another UK inspired reform could be introduced. Specifically, fixed term contracts should come with a price that does not change over the course of a contract. Under current arrangements, whereby retailers can raise the prices of market offers periodically during the contract, consumers bear all the risk of their choice. Even if a consumer succeeds in finding the best offer for them at a particular point in time, a price increase can render the time spent in their decision-making worthless. On the other hand, retailers enjoy the certainty of having secured the customer for a particular period of time. A key reason for having a retailer is to mediate the inherent risks and volatility upstream in energy markets into products that mitigate these issues for end users. Allowing contracts within which prices can be increased even though the customer has signed up for a fixed term abrogates retailers' market responsibilities. The ESC should introduce regulation to facilitate this reform.⁹⁹
3. The Victorian Government and ESC should consider restructuring and reforming the current regulatory approach to complex discounts, bonuses and rebates. The question that needs to be analysed further is: does the presence of these incentives as they are currently structured deliver real innovation and options to consumers, or does it merely serve to reduce the comparability of offers on the basis of price (which, as this research shows, is the primary motivator for the majority of switching consumers)? Furthermore, rebates, bonuses,

⁹⁷ Ofgem (2011) *The Retail Market review – Findings and initial proposals*, op. cit.

⁹⁸ SCER is the successor ministerial council to the Ministerial Council on Energy or MCE

⁹⁹ This reform is currently under consideration by the ESC in Victoria in its Essential Services Commission (2011) *Energy Retailer Contract Variation Notification Requirements – Issues Paper*.

discounts and teaser exploit consumers' time inconsistency and other behavioural biases. Restrictions on the number and type of discounts, bonuses and rebates would contribute to market simplicity while increasing the effectiveness of competition on the basis of price.

4. The Victorian Government should consider placing limits on the number of market offers that can be provided by each retailer. There is a high probability that reducing choice may enhance rather than reduce competition. Research shows that consumers engage more in markets in which choice is not overwhelming. This greater consumer engagement and active participation leads to greater competitive pressure and a more active market. A reform that limits the number of offers may in fact prove that, in respect to competition and consumer engagement, less is more.
5. As part of these reforms, it may be appropriate for the ESC to consider the way that offers are expressed and described. Currently energy offers are given meaningless names conjured up by marketers such as *Loyalty Saver*, *Flexi Switch*, or *Go For More* to name a few. It may be more appropriate for offer names and quickly accessed marketing material to make some suggestion as to which consumer the offer would suit most. Selecting an offer would be simpler for consumers if they could quickly identify offers designed to suit, for example, large households or single apartment-dwellers. Creative approaches to more clearly identifying which offers are right for which consumers would support more effective choice and help overcome poor understanding of concepts such as kWh. This reform could be developed in cooperation with retailers.
6. Also mirroring UK reforms, a common metric for comparison should be developed by the ESC and AER to allow for all offers to be put into a particular tool and be directly comparable against each other on the basis of, for example, a single unit price. Although the design of such a tool may be difficult, in concert with some of the reforms suggested here, such a tool could be more easily developed and result in considerably reduced complexity for consumers. This tool could also be championed by regulators through their own comparison websites.

Recommendations

3. That the Victorian Government and ESC introduce, and in some instances, further consider regulatory controls around the number and expression of energy offers. Specifically, the Victorian Government should seek to introduce reforms to enhance competition through increased simplicity and comparability of offers.
4. That the Victorian Government should regulate the level of fixed charges (cents per day) for standing offers and evergreen offers with price competition occurring on the basis of the variable usage (kWh) charge alone.
5. That the ESC introduce regulation that removes the ability for retailers to vary prices during the course of a fixed term contracts.
6. That the Victorian Government and ESC review the role of discounts, bonuses and rebates. Consideration should be given to limiting their type and number to ensure offers remain comparable on the basis of price.
7. That the Victorian Government considers restrictions on the number of offers per retailer

to ensure that consumers are not overwhelmed by choice and remain actively engaged in the market.

8. That the ESC work with retailers to achieve a more meaningful approach to expressing energy offers. The expression of offers should allow consumers to easily identify if an offer is right for them.
9. That the ESC and AER develop a common metric for offer comparison such that all offers can be easily compared against a benchmarked consumption level. This metric should have a consistent approach to the treatment of discounts and other variations from standard expressions of price.

A variety of responses to improve comparison websites including a voluntary code of practice

Privately operated switching sites

As described previously, the research highlights some serious flaws in the accuracy and transparency of switching websites available to Victorian consumers. These websites can be improved to better service the Victorian consumer.

As an essential and unique service, the energy market and its participants are subject to more extensive regulation than is the case in markets for most consumer products. This is to ensure that consumers are protected and provided with a reliable, safe and affordable electricity supply. As major providers of information to consumers in the market, switching websites are *de facto* energy market participants. However, unlike other participants in the market, they are not subject to such strict regulation to ensure their practices are in accordance with government objectives in relation to the energy market. For example, they do not require licences to operate. This may have contributed to an environment in which there is significant potential for consumers to be misled or confused by switching websites' material.

Victoria is not the only energy market that has confronted this issue. In 2002, concerned at the performance and transparency of switching websites, the consumer group Energy Watch¹⁰⁰ introduced a voluntary code of practice for switching websites in the United Kingdom. The findings of the CUAC commissioned research indicate that this approach may well be appropriate in the Victorian context.

A voluntary code, such as that administered in the United Kingdom, could be a least cost approach to monitoring switching website performance and transparency. Code participants could use their participation in such a code as a mark of the quality of their services. For such a code to be effective it must be backed up with appropriate enforcement and auditing provisions as well as a competent and sufficiently resourced agency to oversee the code.

Some basic features of a voluntary code should be:

100 Subsequently becoming Consumer Focus

- A commitment to accuracy and to make all endeavours to provide all available offers from all energy retailers.
- A requirement for switching sites to allow for consumers to search for electricity, gas or dual fuel offers.
- A requirement for switching sites to be independent from energy retailers and the provision of unbiased recommendations.
- A requirement for openness about methodologies used to provide the comparison service.

The introduction of such a voluntary code could vastly improve the operation and effectiveness of switching sites and provide consumers with confidence that the site is reliable. It should go a long way to correcting some of the significant weaknesses of the current arrangements that have been identified in the CUAC commissioned research. It is worth noting that the introduction of a voluntary code in the United Kingdom has not resulted in the consolidation of the market power of a particular switching website. UK consumers can still access a range of different switching websites which participate in the code.

Alternatively, a compulsory code with similar provision could be introduced by Government and overseen by a regulator (either the ESC, AER or ACCC). It is important that an analysis of both voluntary and compulsory regulatory arrangements for switching providers be further explored before determining the appropriate approach.

Box 6: The Confidence Code, a voluntary code of practice for online domestic price comparison services

The Confidence Code is the voluntary code of practice administered by Consumer Focus (formerly Energy Watch) in the United Kingdom. It has nine requirements which participant sites must adhere to and these are outlined below:

1. Independence and impartiality: This requires the switching website to be independent of any energy retailer, to identify commission arrangements with retailers and to not display advertisements from energy retailers on their website.
2. Tariff and price comparisons: This requires the comparison website to use their best endeavours to show all available tariffs for all available payment types for all retailers.
3. Control and management: This requires providers to maintain control of their website content and to use its own tariff database and calculator.
4. Payment methods: The website must provide consumers with explanations of the various payment methods.
5. Results and filters: This requirement sets some guidelines as to how a price comparison site must display results including requirements to display at least ten of the cheapest tariffs available and the provision of opt in search filtering including the ability, for example, to search for only green tariffs.
6. Quality of service and energy efficiency: This allows websites to rate energy retailers about issues such as customer service. It also requires switching websites to include information about energy efficiency.
7. Accuracy and updating tariffs: This requires switching websites to ensure the accuracy of the listed offers and state the date that it was last updated.
8. Annual audit: The switching provider must comply with annual and ad hoc audits of compliance

undertaken by consumer focus.

9. Complaints handling: The switching provider must establish and operate an effective mechanism for handling and replying to consumer complaints/enquiries.

Source: Consumer Focus (December 2010) The Confidence Code: A voluntary code of practice for online domestic price comparison services

The *Your Choice* Website¹⁰¹

As a major source of unbiased consumer information on energy offers and consumer rights, the ESC's *Your Choice* website is an important resource for consumers in Victoria's energy market. CUAC'S research analysis indicates that offers listed on this ESC website are often among some of the most competitive offers of retailers. However, the analysis found that the ESC could improve the useability of its website by:

- ranking offers on the basis of price;
- improving the approach to providing calculations of savings; and
- ensuring that links to PPIs are readily available and up to date.

The ESC should also monitor compliance with Guideline No. 19 and associated Orders in Council that require the provision of a market offer from every retailer for inclusion on the *Your Choice* website. It is significant that, at the time of the original research, offers from a number of retailers were not included on the ESC's website. If the website is intended to provide complete information for consumers and regulations have been put in place to achieve this, it is only logical that website administrators should follow up with retailers to ensure that offers are listed.

CUAC would urge the ESC to adopt a proactive approach to maintaining and improving the *Your Choice* website. It is crucial that effort is put into ensuring its accuracy and the presence of PPIs as well as to ensuring that the information is appropriate for the consumer audience. This should be considered by the AER as it continues to develop its own price comparator website and undertakes consumer consultations to support the development process.

Recommendations

10. That the Victorian Government, potentially in collaboration with the State and Commonwealth regulators, should move to establish a regulatory framework for price comparison services that aims to ensure that all switching websites achieve high standards of quality, accuracy and transparency. This regulatory framework could be a voluntary code of practice as is the case in the United Kingdom, in which case the role of Government would be as both initiator and facilitator.
11. That the Victorian Government should ensure that appropriate resources are provided to the Essential Services Commission for the maintenance of the *Your Choice* Website.
12. That the ESC should review the approach it takes to presenting offers on its *Your Choice*

¹⁰¹ The findings and recommendations of this research have been provided to the ESC. The ESC has welcomed the report and met with CUAC to discuss processes to action the findings and recommendations relevant to their site. The ESC has indicated that they intend to implement the recommendations of the CUAC report.

website. The ranking of offers in order of price would make it easier for consumers to assess the different offers. Other improvements to the website should occur in close consultation with consumer groups.

13. That the ESC should be proactive in maintaining its website ensuring that offers from all retailers are included and that links to PPIs are up to date. Appropriate resources should be allocated for this purpose.

Funding for a consumer information and education campaign

Previous research conducted by CUAC has advocated in favour of a significant and multifaceted consumer information and education campaign on energy. This research continues to highlight the need to improve the literacy of Victorian energy users on energy in general and on the competitive market specifically. The education campaign should aim to lift the effectiveness of consumer energy market participation through improved consumer decision-making. Drawing on the *OECD Consumer Policy Toolkit*, previous CUAC research¹⁰² on smart meters and the other research outlined previously in this paper, such an education campaign should be carefully designed and targeted to build consumers':

- knowledge and willingness to participate;
- skills in effective decision-making in energy; and
- understanding of the variety of ways to manage their use and purchase of energy to limit costs.

To achieve this, the education campaign should use a variety of media and communication channels to reach a wide audience. Where possible, it should be an education rather than an information campaign that actually aims to achieve lasting behavioural change. To do this, an emphasis should be placed on deliberative and experiential processes. One approach is to equip community agencies, workers and leaders with the necessary skills to support their communities with energy issues. At present there is a similar level of misunderstanding among community workers about energy as there is among the broader population. However, if this was rectified there would be a large number of people who help community members on a variety of issues day-to-day who are well equipped to promote broader understanding of how to participate in the energy market.

In any education campaign careful thought should be given to the style, volume and content of information and how to ensure that it reaches a variety of audiences. The use of foreign language media and local media is an avenue for communication that is repeatedly raised and has been mentioned by community agencies in the course of this research.

Ultimately, the burden lies with Government to support any such campaign. However, given the difficulty experienced by consumers in their market participation and the high number of responsive rather than active energy market participants, it is recommended that resources be immediately

¹⁰²

CUAC (2010) *op. cit.*

provided to develop a comprehensive consumer education campaign in energy that would draw upon, improve and expand existing information for consumers.

Recommendation

14. That the Victorian Government provides resources for a comprehensive consumer education campaign that uses a variety of communication channels and draws upon, expands and improves existing information sources.

The development of a network of bricks and mortar “energy supermarkets”

One of the drivers of low levels of active consumer participation is the absence of consumer initiated face to face interaction. Energy is one of the few goods and services with a total absence of retail outlets. Consumer interaction with retailers is restricted to the telephone and internet. While this suits many consumers, there are still a large number of consumers who would prefer to deal with service providers face to face. The large network of brick and mortar branches operated by Australia’s big four banks has been cited as major reason for their ongoing market power despite deregulation. There is evidence, backed up by this research, that there is a section of the community that feels a sense of security about these arrangements in relation to essential services.

Some retailers used to have retail outlets. However, over the course of deregulation this service has receded and consumers no longer have the option of visiting their energy retailer at local shopping facilities for advice and to pay their bills. It is likely that there was a good reason for the decline in the retail outlets. Most likely, the benefit from having such outlets was not matched by the expense. However, there may be another model by which a bricks and mortar retail experience could be provided in an economic manner. One potential option would be to find an independent third party with a chain of retail outlets who could act as a switching service, providing consumers with information on the offers available and support in choosing. If a switch was made, the retailer would receive a commission.

As established previously in the research on switching websites, as long as the commission received was the same for all retail offers, the third party could still provide independent advice and receive a profit. One such independent third party with a chain of retail outlets is Australia Post. Given that they are required by law to maintain retail outlets, which can also be used to sell other goods and services, Australia Post would seem like a logical home for the “energy supermarket” that could help a significant section of the consumer base to navigate the retail market. Further synergy would likely result from Australia Post’s role as an agent for bill payment. Alternatives could include the use of energy brokers with small promotional stalls in shopping malls or the use of other retail networks such as supermarkets.

It is a recommendation of this report that the Victorian Government and energy retailers examine options for walk in retail outlets for energy. An independent energy supermarket or brokerage could overcome search costs for many consumers as well as providing an easy avenue for the simple comparison of different offers available. As part of this, Australia Post, as well as Government and

energy retailers, should examine the viability of using Australia Post’s network of retail outlets as an independent “energy supermarket” for consumers.

Recommendation

15. That the Victorian Government and energy retailers explore options for developing retail outlets that would allow consumers to seek face to face advice on the best energy offer for their needs. As part of this, the viability of using Australia Post’s network of retail outlets as an independent energy supermarket for consumers should be explored.

The development of an energy retailer rating scheme

The *OECD Consumer Policy Toolkit* highlights how ratings schemes can convey important information to consumers about particular products and services. Ratings are an appropriate tool to convey information about non price attributes of a particular product or service. Given the levels of consumer disengagement from the market, and given that price is major motivator of switching, it may be appropriate to develop a rating scheme that can convey a broad range of non-price information about retailers and their products to consumers. Such a rating scheme would also place a competitive pressure on retailers to improve their rating scores so that they are identified to consumers as performing to a high standard.

This report recommends that a rating scheme is developed for Victorian retailers of electricity and gas. The rating scheme would rate retailer performance against a range of criteria such as customer service, dispute resolution, regulatory compliance, and quality of additional services. Criteria would be assigned a weighting and then each retailer would be assessed against this. Data from the Energy and Water Ombudsman (EWOV) and ESC data could be among the data used to assess retailer performance against the criteria. The performance of companies in such a rating system could be widely publicised to inform energy consumers about retailer performance and add additional dimensions to their consideration of retailer offers.

CUAC will start to consider the development of such a rating scheme further and will consult with consumer groups, government, regulators and industry to further develop this idea. CUAC, as an independent consumer organisation for Victorian energy consumers, is uniquely placed to develop a tool that can be trusted by Victorian consumers.

Recommendation

16. That an energy retailer rating scheme is developed, which assesses retailer market performance against an array of non-price attributes including regulatory compliance and customer service.¹⁰³

¹⁰³

CUAC will commence the development of an independent rating tool for consumers in the coming year.

Adequate resourcing for independent information providers

The ESC *Your Choice* website is an important independent source of information on the Victorian competitive energy market that allows consumers to compare the vast majority of Victorian energy offers. As has been highlighted in this research, that website has not been as comprehensive and user friendly as it should have been. Nonetheless, this website has the potential to develop into a trusted, perhaps even the trusted, source of independent consumer information. The AER is also in the process of developing its own comparator website for energy offers that will apply for all of the NEM states. If this comparator is well designed and maintained it too could become a trusted source of independent information for consumers that could facilitate easy consumption.

A major problem, however, is that often unreliable information providers including both switching websites and door-to-door sales people are more often used as a source of information. These information providers actually benefit from increasing perceptions of market instability, price increases and volatility as this encourages consumers to accept their self interested recommendations. This phenomenon was well described by Dr Ron Ben-David, the Chairperson of the ESC, in a recent speech to the Energy Retailers' Association of Australia:

*Switching site operators are out there talking up price increases; creating community fear and suspicion; fear and suspicion of the market. Of course they would. They make their money by impelling customers into switching retailer. But what is truth and what is advertising? What is factual and what is self-serving?*¹⁰⁴

Given the financial rewards that can accrue to self-interested and often unreliable energy information providers such as switching websites, they have invested heavily in advertising and brand development. To date, independent information sources such as the ESC have failed to match the private providers of switching services in terms of brand development and promotion. It is recommended that the independent providers should seek to develop such effective and well recognised information services so that it is these services, rather than the privately operated sites, that become the major third party source of consumer information.

For this to be achieved greater resourcing would have to be provided for the regulator operated services. In addition, the operators of the independent services would need to adopt clever communication strategies including the targeted use of tabloid media to get their message to the community. This would mirror the approach taken by the private services at the moment. It is a recommendation that the resourcing needs of these websites should be funded through increased retailer licence fees. This would be justified on the basis that the effect of the licence fee increase would be to have information on retailers' products provided on a much better recognised and widely available information portal. This would, in turn, increase the exposure of retailer products to a more actively engaged market.

¹⁰⁴

Ben-David, Dr Ron, (21 July 2011) *Next steps for the regulator of Australia's most deregulated retail energy market*, Presentation to Energy Retailer Market Briefing: An Industry Briefing - hosted by the Energy Retailers Association of Australia, available at: <http://www.esc.vic.gov.au/NR/rdonlyres/78B6107E-202C-49D0-B466-5171977F5E32/0/EnergyRetailersContractVariationNotificationRequirements20110509C1123814.pdf>

A better resourced independent information provider would be more effective at reducing search costs and information failures as well as improving the comparability and simplicity of the market for all.

Recommendation

17. That significantly increased resourcing for regulator operated (ESC or AER) independent market information sources should be provided with the resources sourced through increased licence fees.

Cleaning up door-to-door

Door-to-door and other direct sales techniques are still the major driver of switching in the energy market and evidence suggests that the information provided in these transactions is systematically inaccurate. Furthermore, the research indicates that there is widespread consumer dissatisfaction with marketing practices. In essence, it appears that most consumers do not enjoy the experience of having the privacy of their homes interrupted by someone coming to sell them an energy market offer. However, it is also clear that much of the dynamism of the Victorian competitive market is driven by this flawed form of direct consumer engagement. The problems associated with door-to-door marketing have been evident for a very long time and consumer organisations as well as community members have been consistently highlighting the need for significant reform to the sector.

In response to concerns expressed over the conduct of direct energy marketing, the Energy Retailers' Association of Australia (ERAA) has recently established an industry code of practice, called Energy Assured, to improve direct marketing conduct. Energy Assured has received regulatory authorisation for its establishment by the ACCC and is scheduled to commence operation in 2012. The ACCC has given a three year authorisation for the scheme with a review to occur at the end of that period.

Consumer organisations at the time of the regulatory authorisation of Energy Assured expressed concerns over the scheme's design and the approach taken to its development, which involved very little engagement with consumer organisations. However, now that this scheme has been established, monitoring should be put in place to measure its impact on marketing conduct. A sound baseline set of data on consumer experience of direct marketing should be established at the start of the scheme. This can be used for comparison with further data sets that are collected as the scheme is in operation. If marketing problems persist at the end of the three year authorisation period, alternative approaches to the regulation and, potentially, curtailment of door-to-door marketing should be considered. This report recommends, therefore, the conduct of consumer research by the ACCC to get a clearer picture of the extent of problems with door-to-door sales against which the performance of Energy Assured can be assessed.

It should also be noted, however, that the presence of the Energy Assured scheme does not absolve regulators of responsibility for the oversight of direct marketing activities. Both the energy marketing code in Victoria and the new Australia Consumer Law contain important regulations

aimed at combating mis-selling and unconscionable marketing conduct. Given the problems associated with direct marketing activity identified in this report, it is recommended that Australian Consumer Law regulators and the ESC step up their compliance and enforcement activity in relation to direct marketing by energy retailers. As part of this, compliance audits and the full weight of sanctions for any breaches should be used to improve the conduct of door-to-door marketing. This has the potential to improve both the quality of decision-making made through door-to-door sales and improve consumer experience of this relatively invasive activity.

Ultimately, thought should be given as to how the retail energy market can remain competitive in the absence of door-to-door marketing activity. It is a contention of this research that a mature market with engaged consumers should not require such a sales tactic. Manufacturers of tablet computers and flat screen televisions do not need to adopt these invasive strategies. If the fundamental concept of retail energy market competition is accepted (which would assume increasing consumer participation and engagement), then the market should be able to handle the curtailing of this invasive marketing practice in line with markets for most other products. This research, along with much other evidence and opinion clearly highlights the community concern in this area. At the conclusion of the three year Energy Assured scheme, it will be imperative, therefore, to revisit the role of door-to-door sales given community views and an evolving market.

Recommendation

18. That a baseline data set on consumer experience of door-to-door marketing is collected by the ACCC in order to assess the performance of the Energy Assured scheme.
19. That Australian Consumer Law regulators substantially increase their compliance and enforcement activities in relation to direct marketing.
20. That, at the end of the three year Energy Assured Scheme, the question of the future of door-to-door marketing should be revisited with a view to curtailing this invasive practice in favour of other more consumer driven sales approaches.

Concluding remarks

A clear side effect of retail market deregulation has been a growth in complexity. Given the level of complexity in consumers' lives across markets for all goods and services, this growth in complexity in energy is not necessarily a good thing from a consumer perspective and is, in fact, likely to lead to increased consumer disengagement from the market. The time is right to start examining the issue of complexity alongside the traditional efficiency arguments that have driven energy market reform over the last decade. For low involvement products, such as energy, consumers are seeing few benefits from growth in complexity, particularly when they have to balance decisions made in the energy market alongside complex decisions they must make in other markets for essential goods and services. The likely impact of growing complexity is increased consumer disengagement and apathy. In turn, this will ease competitive pressure and lead to super profits being realised. It would seem that while there are some opportunities to reduce market complexity with the advent of new energy technologies, there is also significant scope for complexity to become even more deeply entrenched in the market. Given limits on consumer capacity, this is not necessarily in the consumer

interest. In the modern world with the availability of technology, we should be aiming to increase simplicity and consumer engagement rather than decreasing it with our policy reforms.

A good test for businesses, policy makers and regulators when considering the desirability of a particular reform is to place the reform into one's own social context. As reforms are considered one should ask the following questions: Would I benefit from the reform? Would I be an active participant in the opportunities that it provides? What would happen if I did not? Similar questions could be asked of relatives and friends to get a sense of whether a particular reform is likely to be effective among consumers. The logical extension of this questioning is to actually test reforms with comprehensive social research. These questions and the answers to them should be considered in light of the very observable limits on consumer capacity and in the recognition that modern household consumers are not the omniscient consumers of neoclassical orthodoxy.

Appendix A: Consumer survey

To complement in-depth discussions with community workers who support clients with energy and utility issues, CUAC conducted a short survey to develop a general picture of the ‘average’ Victorian consumer. The survey was designed to measure consumer knowledge and experiences of retail energy as well as consumers’ perceived¹⁰⁵ level of understanding. This appendix includes an explanation of the process used in designing, developing and administering the survey and analysing survey data, a description of respondent characteristics, and a copy of the survey instrument.

Design and development

The survey’s five sections covered respondent information, energy knowledge and awareness, switching, door-to-door marketing and opinions on energy market design. The 12 minute, 34 question survey comprised 33 closed-ended questions and one broad, open-ended question.

Respondent understanding

The survey was carefully written in clear, easy-to-understand language to maximise respondent understanding, thereby enhancing response rates, reliability and validity. In writing the survey, CUAC also reviewed similar surveys such as that conducted as part of the AEMC’s 2008 Review of the Effectiveness of Competition in Electricity and Gas Retail Markets.

The provider contracted to administer the survey includes a short, optional survey evaluation for respondents, and results of this evaluation suggest that the survey was well-received:

- 93 per cent said the survey was enjoyable or very enjoyable;
- 88 per cent ‘somewhat’ or ‘strongly’ agreed that the survey was easy to complete; and
- only 3 per cent felt the survey was too long.

Respondent satisfaction with the survey is a likely indicator of valid and reliable responses.

Minimising bias

To minimise bias, the survey avoided emotive or normative language and used balanced response formats (with an even number of ‘positive’ and ‘negative’ responses). The order in which survey responses are presented has been shown to influence answers, thereby introducing bias. To eliminate any potential response order effects, response order in CUAC’s survey was randomised for most questions (except where this could create confusion). Those questions in which response order was randomised are identified in the included survey.

The order in which questions are asked can also influence responses. In this regard, responses to the survey’s final, open-ended question may have been influenced by question order. A high proportion

105 This is an important point to note. CUAC’s survey did not assess consumers’ actual level of understanding of bills or retail offers, but their self-perceived and self-reported understanding. For a more comprehensive picture of consumer understanding, this type of data must be considered alongside research that tests actual understanding.

of responses to this open-ended question referenced door-to-door sales. While this probably reflects the topical nature of the issue, it may also be partly attributable to the door-to-door sales section of the survey coming immediately before the final, open ended question – meaning that concerns about door-to-door marketing were fresh in respondent’s minds. This should be borne in mind in interpreting responses to the final question.

Consumer empowerment

In all its research activities, CUAC attempts to incorporate consumer empowerment and capacity building into its information gathering activities. In line with this approach, at the conclusion of the survey, respondents were given information about the Energy and Water Ombudsman Victoria (EWOV), access to Victorian Government concessions and the ‘do not knock’ campaign. Contact details were also included and interested respondents invited to contact CUAC for more information about the survey or to obtain a copy of the research report.

Administration

CUAC contracted a commercial provider, Lightspeed Research, to program the survey and administer it online.

Online surveys

Methodologically, online survey administration has both strengths and weaknesses.¹⁰⁶ Online surveys are convenient and easy for respondents to complete and the potential for errors is substantially reduced through computerised administration. Compared to telephone surveys, online surveys also have the advantage of being quick and inexpensive to administer.

Online surveys also present some shortcomings. Most significantly, they do not reach parts of the population that do not use the internet. In 2008-09, approximately 72 per cent of Victorian households had home internet access.¹⁰⁷ Home internet access has grown year upon year since 1998 (approximately 9 per cent between 2007-08 and 2008-09)¹⁰⁸ and had therefore almost certainly increased by 2011. Home internet access is positively correlated with household income and negatively correlated with remoteness.¹⁰⁹ Households with children under 15 are also more likely to have internet access,¹¹⁰ and this factor probably accounts for the under-sampling of people aged 75 and above in CUAC’s survey (as described below).

Many of the potential shortcomings of online surveys are eliminated or mitigated by the provider’s panel recruitment and survey administration practices. While online surveys that can be accessed and completed by any internet user are highly unreliable, CUAC’s survey was administered using a panel recruited by the provider. Panel members undergo real-time validation checks to confirm their

106 For a comprehensive discussion, see Evans, Joel R. and Anil Mathur (2005) ‘The value of online surveys’ in *Internet Research*, vol. 15 no. 2, pp. 195-219.

107 Australian Bureau of Statistics (2010) *Household Use of Information Technology, Australia, 2008-09*. 81460DO001_200809.

108 *Ibid.*

109 *Ibid.*

110 *Ibid.*

identity before being added to the sampling pool for survey selection. The provider recruits its panel using both online and offline methods, reducing the bias that could be introduced by the use of a single recruitment method. Respondents are required to agree to complete the survey to the best of their ability, and data quality checks are undertaken to identify and remove, for example, respondents who complete a survey or survey component in an implausibly short time.

Pilot test

The survey was pilot tested with 52 respondents prior to full launch. This enabled the contractor to check programming of the questionnaire. CUAC also reviewed the pilot test data for indications of respondent misunderstanding (such as logical inconsistencies in responses) and non-exhaustive response formats (such as a high proportion of 'other' responses). Pilot test data did not reveal any substantial issues and no changes were made to the survey instrument. Pilot test responses are included in the overall sample.

Sampling approach

Potential respondents from the provider's panel were invited to complete the survey based on demographic characteristics, and were not informed of the survey's subject matter prior to participation. This respondent selection method reduces selection bias, whereby respondents with a particular interest in the subject matter are over-sampled.

In total, 327 respondents completed the survey. In recruiting respondents, the following non-interlocking quotas were used to ensure that the sample was broadly reflective of the population on some basic demographic characteristics:

Characteristic	Quota
Age	18-24 = 38%; 35-54 = 46%; 55-65 = 16%
Gender	Female = 51%; Male = 49%
Region	Metropolitan = 63%; Non-metropolitan = 37%

Note: All quotas used a +/- 5% tolerance range. For example, for a quota of 50%:50%, achieved samples of between 55%:45% or 45%:55% would be acceptable.

Respondent compensation

The panel provider compensates survey respondents through an incentive system comprising a points program (for respondents who complete the survey) and a prize draw (for screened-out respondents).

Data analysis

Cleaning

‘Data cleaning’ refers to the process of ‘detecting, diagnosing, and editing faulty data’ in a dataset.¹¹¹ Direct entry of responses into the programmed online survey meant that out-of range answers were not possible. However, there still remains room for respondent error in any survey.

CUAC conducted a small amount of data cleaning to identify and correct errors. Corrections were made where a respondent had selected an ‘other’ response but their written explanation fit within one of the response options provided, the response was re-coded within the appropriate response.

Analysis

For each survey question, the contractor supplied CUAC with frequency tables created using SPSS software. CUAC also conducted additional uni- and bi-variate analyses of the cleaned data using Excel.

Responses were not analysed against respondents’ demographic characteristics (gender, age, location etc.) because the sample was too small to produce reliable results at such a level of detail. This would, however, be useful avenue for further research.

Responses to the survey’s final open-ended question were analysed and coded against the common themes identified.

Respondent characteristics

The population for the survey was Victorian householders with responsibility (either sole or joint) for energy decision-making. A total of 327 respondents completed the survey.

Gender

Of respondents, 51 per cent (168) were female and 49 per cent (159) were male. This reflects the makeup of Victoria’s adult population, which in 2010 was 50.9 per cent female and 49.1 per cent male.¹¹²

Age

Table A1 below shows the percentage of survey respondents and of Victorians¹¹³ in each of seven age groups. The ages of survey respondents approximately reflects the age spread of the Victorian population, although persons aged 35-74 are slightly overrepresented among respondents. Persons

111 Van den Broeck J, Argeseanu Cunningham S, Eeckels R, Herbst K (2005) Data Cleaning: Detecting, Diagnosing, and Editing Data Abnormalities. PLoS Med 2(10): e267. doi:10.1371/journal.pmed.0020267

112 Australian Bureau of Statistics (2010) Estimated Residential Population by Single Year of Age, Victoria, Cat. no 3101.0

113 *Ibid.*

aged 75 and above are substantially underrepresented in the sample, and this should be borne in mind in interpreting results.

Table A1: Age of survey respondents

Age	% of respondents	% of Victorians
18 – 24 years	14.7	13.3
25 - 34 years	14.1	18.9
35 - 44 years	22.3	18.5
45 – 54 years	19.9	17.3
55 – 64 years	15.9	14.3
65 – 74 years	11.0	9.3
75 + years	2.1	8.3

Location

Seventy-six per cent (249) of respondents had their permanent residence in Melbourne, with the remaining 24% (78) based elsewhere in Victoria.

Household income

Table A2 shows survey respondents' household income after tax. Around one third (34%) had an annual income of between \$40,000 and \$75,000 – the largest group of respondents. Roughly a quarter of respondents fell in the low and high income brackets (24% and 28% respectively), with most of the remaining respondents did not know their income or chose not to disclose it.

Table A2: Household income after tax of survey respondents

Income	No income	Low (\$1 to less than \$40,000 p.a.)	Middle (\$40,000 to less than \$75,000 p.a.)	High (\$75,000 or more p.a.)	Don't know	Prefer not to say	Total
n	3	79	111	92	6	36	327
%	1%	24%	34%	28%	2%	11%	100%

Education

Table A3 depicts respondents' educational attainment.

Table A3: Highest level of education completed by survey respondents

Income	Year 9 or below	Year 10	Year 11	Year 12	TAFE/ diploma/ technical certificate/ apprenticeship	University degree	Total
n	14	25	26	61	95	106	327
%	4%	8%	8%	19%	29%	32%	100%

Language spoken at home

For a large majority of respondents (316 or 97%), English was the language spoken most often at home, suggesting that households in which the main language is other than English were under-represented in the survey. This should be borne in mind in interpreting results, particularly as this group is likely to have more difficulty understanding written and verbal English-language retail energy information.

Survey instrument

Below is the full text of the survey administered, annotated with skip logic and randomised question/response order.

Introduction

This survey is about your experiences and opinions relating to buying energy (electricity and/or gas) for your household. It should take you about 15 minutes to complete.

Section 1 - About you

This section of the survey asks for some information about you.

Q1. Are you...

- Female
- Male

Q2. Do you and your family speak English most often at home?

- Yes
- No

Q3. Which of the following age groups are you in?

- 18 - 24 years
- 25 - 34 years
- 35 - 44 years
- 45 – 54 years
- 55 – 64 years
- 65 – 74 years
- 75 + years

Q4 a. Where do you currently live?

- NSW [Terminates]
- VIC [→Q4b]
- QLD [Terminates]
- WA [Terminates]
- SA [Terminates]
- TAS [Terminates]
- NT [Terminates]
- ACT [Terminates]

Q4 b. Where in Victoria is your primary residence (the house you live in for most of the time)?

- Melbourne (including the Dandenong Ranges, the Yarra Valley and the Mornington Peninsula)
- Outside Melbourne

Q5. What is your current household income, after tax and other deductions, from all sources (including Centrelink or pension)?

- No income
- \$1 to less than \$15,000 per year (\$1-\$287 per week)
- \$15,000 to less than \$30,000 per year (\$288-\$577 per week)
- \$30,000 to less than \$40,000 per year (\$578-\$769 per week)
- \$40,000 to less than \$50,000 per year (\$770-\$962 per week)
- \$50,000 to less than \$75,000 per year (\$963-\$1442 per week)
- \$75,000 to less than \$110,000 per year (\$1,443-\$2,115 per week)
- \$110,000 or more per year (\$2,115 per week)
- Don't know
- Prefer not to say

Q6. What is the highest level of education you have completed?

- Primary school
- Year 7 to Year 9
- Year 10
- Year 11
- Year 12
- Apprenticeship/ TAFE/Technical Certificate/Diploma
- University degree
- Other (please specify)_____

Q7. Do you currently receive a concession (discount) from the Victorian government on your energy bill?

- Yes
- No
- Don't know

Q51) Are you the main decision-maker for the choice of energy provider in your household?

- Yes – solely responsible for the decision [→S2]
- Yes – jointly responsible for the decision [→S2]
- No [Terminates]

Section 2 - Energy information

Q8. Please classify the following statements as true or false, to the best of your knowledge:

	True	False	Don't know/ unsure
I. Victorian customers can choose which company to buy energy from.			
II. In Victoria, the price of electricity and gas is decided by the government.			

nb. sub-question order randomised

Q9. Which company do you buy electricity from at the moment?

- AGL
- Australian Power and Gas
- Click Energy
- Country Energy
- Dodo Power & Gas
- EnergyAustralia
- Lumo Energy

- Momentum Energy
- Neighbourhood Energy
- Origin Energy
- Powerdirect
- Red Energy
- Simply Energy
- TRUenergy
- Don't know/ unsure

Q10. If you buy gas, which company do you buy gas from at the moment?

- AGL
- Australian Power and Gas
- Dodo Power & Gas
- EnergyAustralia
- Lumo Energy
- Origin Energy
- Red Energy
- Simply Energy
- TRUenergy
- I do not buy gas
- Don't know/ unsure

Q11. In Victoria, customers can buy energy under either a standing offer or a market offer. To your knowledge, are you on a...

- Standing offer
- Market offer
- Don't know/unsure

Q12. When you receive your energy bill, which parts of the bill do you usually read? (Please choose all that apply)

- Total amount owing
- Breakdown of charges
- Amount overdue or in credit
- Opening balance
- The 'pay by' date
- The tariff/s (rate/s) you are charged per unit of energy used
- Whether bill is based on a meter reading or an estimate
- Time period covered by the bill
- Your meter reading
- Total kWh (kilowatt hours) used

- Average kWh (kilowatt hours) used per day
- Graph showing the amount of energy used during the period
- Graph showing the amount of energy used over 12 months
- Information on greenhouse gas emissions
- I do not usually read my bill

nb. response order randomised

Q13. Overall, would you say that understanding your energy bill is...

- Very easy
- Easy
- Neither easy nor difficult
- Difficult
- Very difficult
- Don't know/ unsure

Section 3 - Changing energy company

*This section of the survey is about changing from one energy company to another. Your **energy company** is the company that sends you the bill for the electricity and/or gas that you use.*

Q14. Have you, at any time during the last two years, changed from one energy company to another?

- Yes [→Q15]
- No [→Q22]
- Can't remember [→Q23]
- Don't know [→Q23]

Q15. During the last two years, how many times have you changed your energy company?

- Once [→Q16]
- Twice [→Q16]
- Three to five times [→Q16]
- More than five times [→Q16]
- Can't remember [→Q23]
- Don't know [→Q23]

Q16. Thinking about the last time you changed your energy company, which of the following best describes how you made the change:

- You accepted an offer from a door-to-door salesperson
- You accepted an offer from a telephone salesperson
- You decided to change by yourself and contacted your new energy company

- You were moving house and changed your energy company by yourself
- You were moving house and your landlord/real estate agent changed your energy company
- Other (please specify) _____
- Can't remember
- Don't know

nb. response order randomised

Q17. Thinking about the last time you changed your energy company, what was your most important reason for changing?

- To get a lower price
- To combine your gas and electricity bill
- To get 'green power'
- To get a rebate, discount or special offer
- To get free light bulbs or other energy-saving devices
- To get better customer service
- Was unhappy with previous retailer
- Pressure from telephone or door-to-door salesperson
- Other (please specify): _____
- Can't remember
- Don't know

nb. response order randomised

Q18. Thinking about the last time you changed your energy company, what information did you use to choose your new company/offer?

- Word-of-mouth or personal advice/recommendation [→Q19]
- Television advertisement [→Q19]
- Print media advertisement [→Q19]
- Information from the company's website [→Q19]
- Spoken information from salesperson [→Q19]
- Printed information from salesperson [→Q19]
- Recommendation from an energy comparison website or telephone hotline (For example, EnergyWatch or GoSwitch) [→Q19]
- Information from the Essential Services Commission (the regulator) [→Q19]
- Did not use any information [→Q23]
- Other (please specify) _____ [→Q19]
- Can't remember [→Q23]
- Don't know [→Q23]

nb. response order randomised

Q19. Thinking about the information you used last time you changed your energy company, how easy or difficult was it to...

	Very easy	Easy	Neither easy nor difficult	Difficult	Very difficult	Don't know/unsure
i. <u>Find</u> information about energy offers						
ii. <u>Understand</u> information about energy offers						
iii. <u>Compare</u> different offers to each other						

nb. sub-question order randomised

Q20. Thinking about the last time you changed your energy company, how confident do you feel that you chose the best deal for your circumstances?

- Very confident
- Somewhat confident
- Somewhat unconfident
- Very unconfident
- Don't know/unsure

Q21. Since changing to your current energy company, how satisfied have you been with your new energy company?

- Very satisfied [→Q23]
- Somewhat satisfied [→Q23]
- Neither satisfied nor dissatisfied [→Q23]
- Somewhat dissatisfied [→Q23]
- Very dissatisfied [→Q23]
- Don't know/unsure [→Q23]

Q22. What is the main reason you have not changed energy retailer during the past two years?

- Couldn't be bothered
- Not worth the effort
- Too hard to choose
- Didn't know I could change
- Don't know how to change
- Happy with current company
- Don't trust other companies
- No specific reason
- Other (please specify) _____
- Don't know

nb. response order randomised

Q23. How likely is it that you will change energy retailer at any time over the next 12 months?

- Very likely
- Somewhat likely
- Somewhat unlikely
- Very unlikely
- Don't know/ unsure

Section 4 - Door-to-door energy sales

This section of the survey asks about your experiences with door-to-door energy salespeople.

Q24. Have you, at any time over the last two years, been approached by a door-to-door salesperson offering to sell you electricity and/or gas?

- Yes [→S5]
- No [→S5]
- Can't remember [→S5]
- Don't know [→Q23]

Q25. Over the last two years, about how many times have you been approached by an energy door-to-door salesperson?

- Once
- Twice
- Three to five times
- More than five times
- Can't remember
- Don't know

Q26. Thinking about the last time that you were approached by an energy door-to-door salesperson, did you accept or did you not accept the offer they made to you?

- I accepted the offer [→Q27]
- I did not accept the offer [→Q28]
- I did not accept the offer, but was changed over to a new company anyway [→Q28]
- Can't remember [→Q28]
- Don't know [→Q28]

Q27. Thinking about the offer that you accepted, do you agree or disagree with the following statements?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree	Can't remember	Don't know
i. The salesperson gave me useful information about their offer							
ii. The salesperson fully answered my questions about their offer							
iii. I felt pressure to accept the salesperson's offer							
iv. I accepted the offer because I wanted the salesperson to leave							
v. I fully understood what I was agreeing to when I accepted the offer							
vi. The salesperson told me I could cancel the agreement during the 'cooling off' period							
vii. I feel I am better off under the offer than I was previously							

nb. statement order randomised

Q28. Thinking about the last time that you were approached by an energy door-to-door salesperson, did any of the following things happen?

	Yes	No	Not relevant	Can't remember	Don't know
i. The salesperson told me which company they were representing					
ii. The salesperson told me they were from the government					
iii. The salesperson insisted I show them my electricity and/or gas meter					
iv. The salesperson insisted I show them my electricity and/or gas bill					
v. The salesperson told me that my whole area was changing to a different energy company					
vi. The salesperson told me that I had to change energy company					
vii. The salesperson left when I asked them to					
viii. The salesperson's behaviour was respectful					
ix. At the beginning, the salesperson said that they had knocked on my door for a reason					

other than to sell me energy

nb. statement order randomised

Q29. Overall, how would you describe your experiences with door-to-door energy marketers?

- Very positive
- Somewhat positive
- Neutral
- Somewhat negative
- Very negative
- Don't know/unsure

Q30. If you had reason to complain about an experience with an energy door-to-door salesperson, did you make a complaint?

- Yes, I made a complaint [→Q31]
- No, I did not make a complaint [→Q32]
- No, I have not had any reason to make a complaint [→S5]

Q31. Who did you make a complaint to? Please select all that apply.

- The energy company
- Energy and Water Ombudsman (Victoria) (EWOV)
- Consumer Affairs Victoria
- MP
- Lawyer
- Other (please specify) _____
- Can't remember
- Don't know

[ALL →S5]

Q32. Why did you choose not to make a complaint? Please select all that apply.

- I forgot to make a complaint
- I did not get around to making a complaint/ was too busy to make a complaint
- I did not know who to make a complaint to
- I did not think my complaint would make any difference
- The matter was not important enough to make a complaint
- I did not want to have to talk to someone on the phone
- I did not know whether I had a good enough reason to complain
- Other (please specify) _____

nb. response order randomised

Section 5 - Opinions on energy

This section of the survey asks about your opinions on energy matters. It is the last section of the survey.

Q33. Which of the following statements is closest to your own opinion?

- Customers should be able to buy energy from a single energy provider that has prices and services set by the government.
- Customers should be able to seek the energy deal they prefer by choosing an energy provider from a range of companies.
- Don't know/ unsure

[nb. response order randomised]

Q34. Do you have any comments you would like to add about buying energy, door-to-door energy marketing, or any other energy-related matter?

[Non-mandatory open response]

Thank you and information

Have an energy complaint?

If you have a **complaint** to do with your energy company or energy door-to-door marketing, the **Energy and Water Ombudsman (Victoria)** can help. Call them on 1800 500 509 or visit www.ewov.com.au

Tired of doorknockers?

The Consumer Action Law Centre makes 'do not knock' stickers which tell door-to-door salespeople not to approach you. For more information or to obtain a sticker, visit <http://www.consumeraction.org.au/get-involved-in-our-campaigns/Do-Not-Knock.php>

Did you know?

If you are on a low income, you may be entitled to a government concession (discount) on your energy bill. For more information call the Department of Human Services **Concessions Information Line** on 1800 658 521 or visit <http://www.dhs.vic.gov.au/concessions>

Want more information about the survey?

This survey was commissioned by the **Consumer Utilities Advocacy Centre (CUAC)**. CUAC is a specialist organisation that advocates for fairer outcomes for energy and water consumers in Victoria. You can find out more about us on our website at www.cuac.org.au

Appendix B: List of organisations consulted

National Seniors Australia – Victorian Branch

Council of the Ageing – Seniors Information Victoria

Springvale Community Aid and Advice Bureau

Community Information Victoria

Brotherhood of St Laurence – Brotherhood Green

Kildonan Uniting Care – Energy and Financial Counselling Programs

Financial and Consumer Rights Council

Footscray Community Legal Centre

Members of the Financial and Consumer Rights Council Utilities Working group which is comprised of workers from a variety of organisations providing Financial Counselling Services

Appendix C: References

Access Economics (2001) Impact on Victoria of the privatisation of the State's electricity and gas assets, report for TXU Australia

Ainslie, G and Haendal, V (1983) 'The Motives of the Will', in E. Gottheil, K. A. Druley, T. E. Skoloda and H. Waxman, Eds. (1983) *Etiologic Aspects of Alcohol and Drug Abuse*. Springfield, Illinois: Charles C. Thomas

Australian Bureau of Statistics (2010) Household Use of Information Technology, Australia, 2008-09. 81460DO001_200809.

Australian Bureau of Statistics (2010) Estimated Residential Population by Single Year of Age, Victoria, Cat. no 3101.0

Australian Energy Market Commission (2007), Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria, First Final Report, 19 December 2007, Sydney available at: <http://www.aemc.gov.au/Market-Reviews/Completed/Review-of-the-Effectiveness-of-Competition-in-the-Electricity-and-Gas-Retail-Markets-Victoria.html>

Australian Energy Market Commission (2008), Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria, Second Final Report, 29 February 2008, Sydney available at: <http://www.aemc.gov.au/Market-Reviews/Completed/Review-of-the-Effectiveness-of-Competition-in-the-Electricity-and-Gas-Retail-Markets-Victoria.html>

Ben-David, Dr Ron, (21 July 2011) Next steps for the regulator of Australia's most deregulated retail energy market, Presentation to Energy Retailer Market Briefing: An Industry Briefing - hosted by the Energy Retailers Association of Australia, available at: www.esc.vic.gov.au

Citi Australia (2010) Evidence versus Emotion: How do we really make financial decisions, Sydney, p. 4, see also chapter 5

Coase, R.H.(1937) 'The nature of the firm' *Economica*, New Series, v. 4, iss. 16

CUAC (2010) Consumers and smart meters: Delivering information to non-government organisations, Report to the Department of Primary Industries

Defeuilly, Christophe (2009) 'Retail competition in energy markets', *Energy Policy*, v 37 pp. 377-386

Essential Services Commission (2002) Special Investigation: Review of effectiveness of Full Retail Competition for Electricity – Final Report, Melbourne

Essential Services Commission (2004) *Special Investigation: Review of Effectiveness of Retail Competition and Consumer Safety Net in Gas and Electricity*, available at www.esc.vic.gov.au

Essential Services Commission (2009), Energy price and product disclosure final decision, available at <http://www.esc.vic.gov.au/>

Essential Services Commission (2009), Energy price and product disclosure final decision, op. cit. p. 9, available at <http://www.esc.vic.gov.au/>

Essential Services Commission (2010) Energy retailers' comparative performance report – Pricing 2009-10, Melbourne

Essential Services Commission (2011) Energy Retailer Contract Variation Notification Requirements – Issues Paper, available at www.esc.vic.gov.au

Evans, Joel R. and Anil Mathur (2005) 'The value of online surveys' in Internet Research, vol. 15 no. 2, pp. 195-219

Flowers, R. et. al. (2001) What is effective consumer education? A literature review, Centre for Popular Education, University of Technology, Sydney, Commissioned by the Australian Securities and Investment Commission

Industry Commission (1991), Energy Generation and Distribution, report No 11, AGPS, Canberra

Industry commission (1995), The Growth and Revenue Implications of Hilmer and Related Reforms: A report by the Industry Commission to the Council of Australian Governments, AGPS, Canberra

Iyengar, Sheena and Lepper, Mark (2000) 'When choice is demotivating: Can one desire too much of a good thing?' Journal of Personality and Social Psychology, vol. 79, no. 6 pp. 995-1006

Johnston, May Mauseth, St Vincent de Paul Society Victoria (2011), Workbook 2: Published gas standing offers as of January 2011, available at: <http://www.vinnies.org.au/reports-vic>

Joskow, Paul (2008) 'Lessons Learned from Electricity Market Liberalization', The Energy Journal, Special Issue, The Future of Electricity: Papers in Honour of David Newbery

Kahneman, D, Knetsch, J. L., Thaler, R (1991) 'Anomalies: The Endowment Effect, Loss Aversion and the Status Quo Bias' Journal of Economic Perspectives, v 5, no. 1, pp. 193-206

Kenney, M and Curry, J (2000) Beyond Transaction Costs: E-commerce and the Power of the Internet Dataspace, University of California, Berkeley

Littlechild, Stephen (2008) 'Retail competition in electricity markets – expectations, outcomes and economics', Energy Policy v. 37, pp. 759-763

Ministerial Council on Energy (2003) Report to the Council of Australian Governments on Reform of Energy Markets

Ofgem (2011) The Retail Market review – Findings and initial proposals, United Kingdom, available at http://www.ofgem.gov.uk/Markets/RetMkts/rmr/Documents1/RMR_FINAL.pdf, accessed on 15 May 2011

Ofgem (2011) What can behavioral economics say about GB energy consumers? Released in conjunction with the retail markets review, London

- Organisation for Economic Co-operation and Development Committee on Consumer Policy (2010) *Consumer Policy Toolkit*, Paris, France
- Parer, Warwick (2002) Towards a Truly National and Efficient Energy Market, Council of Australian Governments Energy Market Review, Commonwealth of Australia, Canberra
- Productivity Commission (2005), Review of National Competition Policy Reforms, Report no. 33, Canberra
- Reeson, A and Dunstall, S (2009) Behavioural Economics and Complex Decision-making: Implications for the tax and transfer system, Report prepared for Treasury, CSIRO
- Samuelson, W and Zeckhauser, R (1988) 'Status Quo Bias in Decision-making', *Journal of Risk and Uncertainty*, vol. 1 pp. 7-59
- Schwartz, Barry (2000) 'Self determination: The tyranny of freedom', *American Psychologist*, vol. 55, no. 1, pp. 79-88. A more complete analysis can be found in Schwartz, Barry (2004) *The paradox of choice: Why more is less*, Harper Perennial
- Shui, H and Ausubel (2005) Time Inconsistency in the Credit Card Market, University of Maryland, accessed at http://emlab.berkeley.edu/users/webfac/dellavigna/e218_f05/ausubel.pdf on 8 May 2011
- Thaler, R. H. And Sunstein, C. R. (2003) 'Libertarian Paternalism', *The American Economic Review*, v. 93, no. 2, The American Economic Association
- Tversky, Amos and Kahneman, Daniel (1974) 'Judgement under Uncertainty: Heuristics and Biases', *Science*, New Series, Vol. 185, No. 4157, pp. 1124-1131
- Van den Broeck J, Argeseanu Cunningham S, Eeckels R, Herbst K (2005) Data Cleaning: Detecting, Diagnosing, and Editing Data Abnormalities. *PLoS Med* 2(10): e267. doi:10.1371/journal.pmed.0020267
- Victorian Auditor General's Report (2009) Towards a 'smart grid'- the roll-out of Advanced Metering Infrastructure
- Weintraub, E. Roy, 'Neoclassical Economics', *The Concise Encyclopaedia of Economics*, available at: <http://www.econlib.org/library/Enc1/NeoclassicalEconomics.html>
- Wilson, C. M. And Waddams Price, C. (2005) Irrationality in Consumers' Switching decisions: When more firms may mean less benefit ESRC Centre for Competition Policy, School of Economics and School of Management, University of East Anglia
- Wilson, C. M. And Waddams Price, C. (2006) Do consumers switch to the best supplier? ESRC Centre for Competition Policy, School of Economics and School of Management, University of East Anglia

