

Experience shows that when a customer, through lack of economic power has difficulty in obtaining mainstream services they are likely to end up accessing expensive and often exploitative services as a last resort. Typically, this last resort is a “**residual market**”. “Pay day lending” (short term lending) is a residual market. Pay day lenders are unregulated credit providers who effectively charge whatever they want for loans. A secured loan through mainstream credit providers costs around 14% (and through a finance company 26%), but pay day lenders are known to have charged annual interest rates of up to 2000%. Pay day lenders have recognised the gap in mainstream banking and finance services and are targeting the poor with vigour. In many cases the pay day and short term lending companies are owned by major mainstream banks.

Contrary to the notion that CSOs are a ‘safety net’ guaranteeing supply - they are often examples of ‘residual markets’. For example in telecommunications, line rental costs have increased substantially forcing many domestic customers out of standard service onto pre-paid mobiles or the lesser “*InContact* service”. The *InContact* service allows in-coming calls and 000 emergency calls only. CTN has noted that regions with a higher population of low-income households on the *InContact* service appear to also be the regions which find themselves last in the queue for telephone system maintenance and the upgrades required for high speed internet service. This looks like good old-fashioned redlining.

Mobiles once considered “yuppie toys” have rapidly become an expensive residual market. Lack of secure housing, homelessness, and increasing casualisation of employment has compelled many people to have a mobile phone instead of a home telephone (landline). As the existing ‘universal service obligations’ of the Telecommunications Act applies only to land line telephones it is easy to see why phone companies are putting up line rental because it effectively forces people to use mobiles - especially pre-paid mobiles. Phone companies can avoid the universal service obligation in this way. In addition it avoids bad debt and the use of disconnection. When people ‘self-disconnect’ - whether it be phones or electricity - governments, regulators and the general community is able to turn a blind eye to this disadvantage as the statistics are not collected. Pre-paid mobile phone plans are less flexible, the call rates higher, and adding insult to injury, pre-paid cards have, for no good reason - expiry dates! The contract conditions are more onerous making it difficult to switch which in turn reduces the access of these generally poorer customers to affordable rates.

A few years ago, the Human Rights and Equal Opportunity Commission established beyond doubt the right of supply for hearing impaired people. This meant that the special equipment - TTY - needed for the hearing impaired to access the telephone network should be priced at the same cost as standard telephone handsets. However, with the introduction of competition the Disability Equipment Program has been marooned. Telstra is the only phone company that is required to provide the equipment. Therefore, these customers have no choice about who supplies them. They are unable to shop around although they are often high use and hence attractive customers. They face a monopoly price! The Disability Discrimination Act has ensured equal access to supply only to be undermined by the creation of a residual market...

When governments do the markets dirty work

In Victoria, **full retail competition in electricity** means that vulnerable electricity customers can access a safety net service (referred to as the *standing offer*) if they are unable to obtain a *market contract* with a retailer. The *standing offer* is the **residual market** and like most residual markets it just happens to be the most expensive tariff (price rate) available. Therefore, while the intention is to protect low-income households these *standing offers* actually penalise them for being poor. Most disturbing however, is that the *standing offer* safety net ends in December 2003 after which electricity retailers will not be required to supply electricity if do not want to. Potentially thousands of households are at risk of being denied supply.

Discrimination in the delivery of goods and services - chickens and eggs?

Victoria’s Equal Opportunity Act covers a range of activities and services, which includes the delivery of goods or services. Under the Act, supplying a person with goods or services on less favourable terms or using unfair treatment

(such as harassment) because of a person’s disability or impairment, race, religion, gender, sexual orientation, or age is unlawful. Direct discrimination means treating a person less favourably than another person in the same or similar circumstances. Indirect discrimination occurs when a requirement, condition or practice that does not appear to be unfair in fact discriminates against people.

In the context of the provision of electricity, banking or telecommunications services economic discrimination or systemic discrimination can be seen to affect those who have been traditionally disadvantaged or marginalized such as people from non-English speaking backgrounds, the elderly and/or people with disabilities, those on low fixed incomes and those who are geographically isolated. For example, high account keeping fees impact disproportionately on low, fixed income bank account holders; bank branch closures disadvantage the elderly; door-to-door marketing directed to recently arrived migrant groups exploits their vulnerability. Where race, age, gender, disability and economic status begin and end is the chicken and egg question: does race for example become a way of screening for economic exploitation or does economic disadvantage result from racism?

Case study: social exclusion and targeting

A recent example of how social isolation can be exploited involved the case of a man with an intellectual disability who fell prey to 0055 phone services. This man had incurred significant telephone bills because he regularly rang 0055 “chat” services he saw on advertised on TV. His disability meant he was socially isolated and vulnerable to the appeal of these ads. Unaware of the cost of such calls his telephone was disconnected when he could not pay and reinstated to incoming calls only (the InContact service). As his default on payment was listed on his credit reference, he was unable to connect with another telephone service provider. Despite initial requests by social workers, Telstra would not initially act until a specialist legal advocate intervened.

* Colton R 1998 *Performance - Based Evaluation of Maintaining Universal Service in a Competitive Utility Industry referring to a 1997 decision of the US Federal Communications Commission* www.fsconline.com/downloads/PENN-PBR.pdf

GLOSSARY

Cherry-picking

The attempt to attract or compete for the most attractive customers while not competing for the unattractive customers

Community Service Obligation

An obligation imposed by government on a service provider to deliver specific services or service at a particular price. It is increasingly a service that government pays for rather than the service provider. Also see ‘Safety net’

Competition

Is where companies ‘compete’ with each other to gain the patronage of customers. Competition is said to drive prices down and quality of service up because poor service drives customers away. Bad companies go out of business

Cross-subsidisation

Is where one set of customers pays more in order to allow another set of customers to pay less

Deregulation

The removal of regulations in favour of letting the ‘market’ or competition determine the extent and quality of service provision

Full Retail Competition

The opening of the electricity/gas market down to the domestic customer level

Market Contract

Refers to the type of tariff/contract a customer has if they have shopped around for a competitive deal in the electricity or gas market

Maximum Uniform Tariff

A tariff that assigns the same price to customers irrespective of location, and that incorporates a maximum price to be paid

Monopoly pricing

The price a monopoly supplier can charge over and above what a competitive market would deliver because they are the sole provider. It may be that they are the only company or the only company servicing a particular segment of the customers

Redlining

Negative price/service discrimination against certain classes or types of customers
Universal service

Residual market

A market of last resort - the only place a customer can get the service they provide typically at exorbitant and exploitative rates

Safety Net

A special service - generally required by Government to be offered - that ‘catches’ those who may otherwise fail to get the service because (typically) an inability pay. It may mean a subsidised service or a reduced service available at a lower price

Segment

To separate groups out from each other

Standing Offer

The ‘safety net’ tariff is what an incumbent electricity retailer in Victoria must offer any of its pre-competition domestic customers. Prices and terms and conditions are regulated

Tariff

The price schedule for usage of services like gas, electricity, water, phone and internet. It is common for there to be a fixed component charge and a consumption charge (eg. per kwh or per minute)

Telcos

Telephone, internet, mobile phone providers

Universal Service

The non-discriminatory supply of a good or service to all customers at an affordable rate

Utilities

Suppliers of gas, electricity, water and telephone and internet services

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More information about redlining in electricity industry in Victoria can be found by following the links at www.home.vicnet.net.au/~eag1/ or ringing EAG on the number above for a free copy. CTN can be found at <http://www.ctn.org.au/aboutus.htm> Financial and Consumer Rights Council <http://home.vicnet.net.au/~frc/welcome.html>



Energy Action Group
Footscray Community Legal Centre

Paying Too Much!

Redlining, Economic Discrimination and Essential Services

Introduction – services that are essential to life

In Australia, as in other western nations, access to affordable **gas, electricity** and **water** services are **essential** to the individual and fundamental to community wellbeing. Similarly, **telecommunications** services have become regarded as a services essential to social, political and economic participation. Less appreciated but increasingly recognised is the ‘essentialness’ of access to affordable banking services. For example it has become necessary to have a bank account in order to receive social security payments.

In the service of the public

In the past, in Australia **essential services** were publicly owned. This arose because private companies failed to deliver the service needed or could not raise the money needed to develop the resources. The importance of these services to the economy and community welfare and the impracticality and expense of having ‘competition’ meant that having one - monopoly- provider owned by government was viewed as the most rational solution.

Australians aspired to providing electricity and telecommunications to everyone, believing strongly that ‘universal service’ was in the public interest. Charges therefore were kept to affordable levels. It meant that some customers cross-subsidised others - whether from urban to rural, from big to small user, or between generations. Governments provided financial concessions to pensioners and social security recipients to assist people on low fixed incomes.

Economic Rationalism

In recent years, state governments around Australia have **introduced competition to essential service industries**, arguing that this will create efficiencies and bring overall benefits to the community. In some cases, these industries were privatised. Where services are still publicly owned they are required to operate as if they were private commercially orientated businesses (corporatised). The provision of ‘universal service’ is still required in some industries like telecommunications although there is fierce debate about what ‘universal service’ means and how it should be paid for. As a rule, the notion of ‘universal service’ has given way to the idea of ‘community service obligations’ (CSOs). Community Service Obligations mean that a business should operate on a strictly profit maximising basis and if the broader community

Affordability” includes both an “absolute” (“to have enough or the means for”) and a “relative” (“to bear the cost of without serious detriment”) component.

According to the [US] Federal Communications Commission, both the absolute and relative components must be considered in making the affordability determination... service cannot be considered to be “universal” if customers who are succeeding in paying for that service nonetheless cannot pay for it “without serious detriment”*

considers that certain customers need financial assistance or subsidisation then government should pay for this. In this way, the social obligations will not distract the business from its primary profit making function or lessen its ability to be efficient.

The problem is that CSOs provide less than a universal service.

CSOs now tend to be limited to the pre-existing concessions like pensioner concessions. ‘Universal service’ however used to mean cross-subsidies like the subsidy from urban electricity customers to rural customers. In addition other services like the former Victorian ‘Home Energy Advisory Scheme’, which replaced inefficient electrical appliances and in some cases insulated homes of low-income people also existed - in recognition of social and economic disadvantage.

The (American) Alliance to Protect Electricity Consumers summarises the problem of competition:-

“Not every electricity customer is equally profitable to serve. Not every area costs the same to serve. In a deregulated industry, electricity service sellers that operate solely on a for-profit basis may be allowed to choose freely whom they will serve and the rate they will charge each customer. If they do, they can be expected to segregate customers by geographic area, past credit records and income level, and sell to the most attractive customers. If they do, what quality at what price can people in high-cost, difficult to serve, areas expect? How will people with lower incomes be assured they can afford electric service? Unless these questions are equitably resolved, deregulation will not benefit the whole nation”.

This argument applies equally to telecommunications (phone services), banking, gas and water. American citizens understand well the operation of markets. They have experienced decades of negative price/service discrimination (redlining) in the private provision of credit and insurance and in their telecommunications and gas industries since they were deregulated. They have experienced private service providers **segmenting** customers: separating the attractive ‘affluent’ customers from those unable to afford the product, or those who they regard as a credit risk. Customers face economic discrimination as the means by which they are differentiated. Not only are the poor at risk in these new markets but because ‘geographical equity’ is being dismantled, rural and remote customers are also likely to find themselves with no service; poorer service; and/or more expensive service.

Disadvantage

The table included here describes the many facets of the disadvantage faced by particular groups of consumers and relates this to the provision of telecommunications, banking and electricity.

In general, terms low-income customers face many disadvantages. They do not have sufficient income to take advantage of schemes to reduce costs. For example:

* Electricity companies offer discounts to those customers who will pay by direct debit. However, the risk of having insufficient funds in the bank - over-draw fees (\$20) means a low-income customer cannot accept this type of arrangement. Cheques likewise risk dishonour fees (\$35). Encouraging use of direct debit provides the utility a means by which it can segment its customers.

* Telstra now charges a \$5 late fee. Those on low fixed or irregular incomes juggle bills constantly and regularly pay bills late as a consequence.

* Loyalty schemes are an ideal way of segmenting customers. Typically, price discounts can only be claimed if the customer is a member of such a scheme - and mostly low-income households by definition are not because membership is only worthwhile if there is a large amount of expenditure on items such as airlines fares.

Maximising Profits

The commercial objective of private companies is to maximise their profits. In Australia, since deregulation of banking, profits have jumped dramatically to an estimated \$10b in 2001. Telstra likewise has made record profits. To make these profits these suppliers segment their customers and:

1. maximise the volume of sales by providing discounts to business customers;
2. increase the charges to small customers and/or getting rid of low value customers;
3. increase the amount earned from each customer relative to the costs of serving that customer (eg through cost shifting).

Suppliers want to attract the wealthier/larger customers, and they do this by offering cheaper services. For example, banks are increasing the fees on household accounts but provide ‘no fee or reduced fee services’ to the business sector. The average household now pays \$120 per year in banking fees and the Reserve Bank has found that these fees significantly impacted on low-income households - the elderly, unemployed and low-income earners.

Similarly, phone (telecommunications) call rates are decreasing for long distance and overseas calls (predominately used by business and wealthy). However, local call and line rental rates are increasing (affecting low income/low volume users the most). Higher fixed charges are used to discourage low value customers (low profit) from accessing these services. If there is no alternative for these customers an effective monopoly exists and the supplier can over-charge.

Overcharging - just because they can do it

Lack of economic power means low-income customers ‘compulsorily’ over contribute to profits simply through effective **monopoly** pricing. Electricity tariffs in Victoria are being “re-balanced” (re-structured) compelling some households to contribute a greater than fair share of the costs. High standing charges (service to property charges) means that low consumption customers (which are predominately low-income customers) shoulder an even greater proportion of costs. Households are particularly vulnerable to the risk of cost shifting that will result in increasing fees and tariffs.

Internet and computer technology facilitates substantial cost shifting to customers. Banks for example do not need to provide branches if they can get customers to adopt electronic banking.

Customers must purchase a computer, software, modem and a server - yet have not seen the cost of banking drop!

Cost shifting can be highly exploitative. Particular groups of customers can be targeted for more expensive services because they are more susceptible to the ‘sales pitch’. It is common for low-income/low education level neighbourhoods to be frequented by door-to-door salespeople because this method of selling is successful in getting people to sign for services although it may not be in their interest to do so.

Private suppliers are also less likely to provide adequate services to all areas. In the UK energy, telecommunications, banking services and even food retailers have been withdrawing services from disadvantaged suburbs and towns. Customers in such areas are now more likely to have the more expensive pre-payment meters for their utilities. In Australia, banks have closed 2000 branches, most notably in rural areas forcing many customers to travel unreasonable distances or use electronic banking services.

The **relationship between banking, telecommunications and other services** assists **market segmentation**. A recent Consumer Telecommunications Network (CTN) survey of internet server providers in Sydney found (with the exception of Telstra’s Bigpond Pre-paid offer) that a credit card is necessary to get internet service - not necessary for payment but to secure the offer of service. Providers in other words are using the credit card as a form of credit reference check.

The relationships between telecommunications and electricity can work to increase Consumer Disadvantage:

**** Need a good telecommunications connection in order to get reasonable internet standard;***

**** Need computer and server to access internet based discounts for electricity or telco deals;***

**** Lots of general and specific public information now only accessible on the internet, which requires the household to have computer, modem and phone line;***

**** Need credit card in order to get internet server***

Consumer Disadvantage	Electricity	Telecommunications	Banking
Lack of purchasing power* For example, people on low incomes are disadvantaged because of an inability to obtain * discounts for bulk purchase * or reductions for direct debit payments or pay in advance inducements.	Discounts offered for Direct Debit - low-income people are disadvantaged because insufficient funds in bank account risks incurring over-draw fees applied by the bank. Inability to afford the computer and server to access discounted internet payment option.	Bigger users of mobile phones pay more in monthly access charges but get far more free telephone calls and/or discounts, making the effective charge per minute cheaper than a moderate mobile phone user. International and STD calls are falling but access to the service most needed by low-income people - local calls - is becoming more expensive as line rental charges increase.	Small account holders pay fees or higher fees and charges than larger, wealthier clients. For example the Commonwealth Bank charges \$2 per over the counter withdrawal if customer has a “basic account” (the so-called safety net service).
Exploitation* For example, when swindlers target frail, elderly people, or when bogus health products are marketed to the chronically ill	Door to door, sales target areas of low income/low education levels or recently arrived migrant populations because they are unfamiliar with local consumer protection laws.	Door to door, sales target areas of low income/low education levels or recently arrived migrant populations. Mobile sales are heavily orientated to the youth market. Young people are less experienced to deal with the contractual obligations.	Pay day lenders target low socio-economic groups. Some pay day lenders have been known to take unauthorised direct debits form people bank accounts. Finance companies charge excessive interest rates to low income borrowers.
Social exclusion* When people are denied equal opportunity to participate in society or the economy, their isolation also leads to difficulty obtaining goods and services. For example * Frail elderly * Mentally disabled * Physically disabled * Non-English speakers * Aboriginal people * Single parents	For example, elderly people are less likely to take up electronic payment methods - they want over the counter service to help them keep track of their bills. As a result they are more likely to end up in the residual market and paying more. If we take water - having water restricted makes it incredibly difficult to maintain participation - not being clean and well dressed rapidly exacerbates exclusion.	People restricted to in-coming telephone services only. Credit reference defaults impede access to alternative services.	Non-English speakers and the elderly people find E-banking highly inaccessible. ATMs are not multilingual in Australia. Bank branch closures and the increase in electronic banking means it is difficult for a range of people who need passbooks to keep track of their finances.
Other people’s transactions* Can contribute to disadvantage, as for example, when poor environmental quality results from a nearby freeway or airport or when the options of future generations are restricted by consumption today.	People in low-income private rental have almost no control over the energy efficiency of the house or its heating and hot water appliances. Whilst it is cheap for landlords to install such appliances it is often very expensive to run them. Victoria’s most vulnerable electricity customers - those in low income private rental and on low fixed incomes like single parents, and those on disability or other pensions pay far more than they should because they contribute to paying for the costs of domestic air-conditioning - contributing an estimated \$700m and \$1000m per annum currently - for a service they do not have.	The speeding up of life - the immediacy creates a dependence upon the use of with mobiles and internet. Put together with the increasing casualisation of work means that many workers must be on call at all times - compelling people to use mobiles.	Closure of bank branches increases transportation needs and reduces physical access for those who are unable to change to electronic banking - this includes the elderly and rural customers without adequate computer and internet connection.
Provision deficit* A clash between the circumstances of the consumer and the way the product or service is supplied	Tenants face a greater likelihood of paying termination fees because they move more often than home owners. Likewise tenants may be deemed as a bad credit risk and be refused a ‘market contract’.	Phone services were largely inaccessible to hearing impaired people until the Human Rights and Equal Opportunity Commission ruled that TTY be provided at the same cost as standard phone handsets, and that telephone exchanges be capable of delivering TTY across the network. A credit card is required to have internet service connected. Lack of stable housing forces many people to use expensive pre-paid mobile phone services	ATMs do not suit people in wheelchairs or using walking frames. ATM ramps are unsuitable for elderly people who feel unstable on slopes. Many people, especially the elderly feel that ATM service fails to provide adequate security. ATM and E-banking in Australia is not multilingual, although it is a standard in many countries.
Residual Markets Is the market of last resort for the customer	The <i>standing offer</i> (safety net tariff) legislated by the Victorian government will be the last resort for many low income customers, who cannot access the cheaper <i>market</i> contracts.	Mobile pre-paid phones are fast becoming the only service low income people can access - it is also the most expensive option.	Pay Day lenders, are last resorts for borrowing. A mainstream bank will charge12%-14%pa while a credit company charges up to 26% pa. Pay day lenders have been known to charge 2000%pa
Redlining The practice of price/service discrimination against vulnerable customers	Lack of government pricing guidelines enables electricity companies to change low consumption/low income households more because these customers have difficulty avoiding such charges.	Suburbs where there is a high concentration of low income households are often last on the list for upgrades for high speed cable and internet service, and tend to be overlooked for maintenance.	Small account holders are charged more and higher fees because they cannot avoid such charges - this is particularly the case for those receiving social security benefits.

** categories based on those developed by the National Consumers Council UK “Consumer Disadvantage”*