

Your ref:
Our ref: EWOQ/19/0043

30 May 2019

Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601
Online Submission

Dear Sir/Madam

Guide to the Electricity Retail Code – draft for consultation

Thank you for to opportunity to make a submission on the Guide to the Electricity Retail Code (the Guide).

Background to EWOQ

The Energy and Water Ombudsman Queensland (EWOQ) provides a free, fair and independent dispute resolution service for small electricity and gas customers across Queensland and water customers in South East Queensland who are unable to resolve a dispute with their supplier.

Feedback on the Guide to the Electricity Retail Code

In reviewing the Guide to the Electricity Retail Code – Consultation Questions, EWOQ provides the following responses based on our experience as an external dispute resolution scheme dealing with residential and small business energy customer complaints in Queensland.

Question 1

Does the guide provide a glossary with clear terms?

In relation to the glossary, consideration should be given to removing conspicuous from this section. It is not a term that should be included in a glossary as the definition provided is no different to the definition of the actual word.

Question 2

Does the guide make it clear that retailers must also comply with the requirements under the Australian Consumer Law and National Energy Retail Law in addition to the Code?

EWOQ acknowledges the complexity of having a multi-layered regulatory framework in place to manage the energy retailer sector. Throughout the Guide the requirement of compliance of energy retailers with Australian Consumer Law, the National Energy Retail Law (NERL) and the National Energy Retail Rules (NERR) in conjunction with the Code is made clear and referenced frequently. We suggest reference to the NERR should be made under heading 2, 'Requirements that apply concurrently with the Code'.

Whilst this document is aimed at energy retailers, it is noted that consumers may also utilise this document in understanding the application of the Code. To improve the consumer understanding of this document and the linkage of the legislative framework and its interaction with the Code it would be beneficial for the

document and/or information sheets to be produced in clear and easily understood language for all reader groups.

Question 3

Does the guide make it clear which offer types the Code applies to?

The Guide clearly clarifies what is and what is not covered by the Code. However, this could be strengthened by providing some rationale around why only certain offers and customer types are covered by this Code and some guidance on alternative Codes and/or legislative instruments that are applicable to those offers and customer types not covered by the Electricity Retail Code. EWOQ recommends limiting this information to the specifically mentioned examples provided as exclusions within the Code.

Question 4

Does the guide and its worked examples make it clear how to check compliance with the price cap for all relevant offers?

The identification of who needs to comply with the cap on standing offer prices is usefully displayed in the diagram at Figure 1. This provides retailers with a simple assessment tool to determine their obligations. The examples to determine calculation of meeting the price cap are straightforward and relatively easy to understand.

Question 5

Does the guide make it clear that retailers are expected to contact customers, in compliance with the Code, where their standing offer will change?

EWOQ suggests that the guide should make clearer that retailers have an obligation to notify their customers of a change in standing offer tariff. The current terminology suggests that the retailer should contact the customer but does not place a specific obligation on a retailer. Additionally, it may be beneficial including the relevant provisions under the NERL and NERR in which it is cited that an obligation rests on retailers to ensure notification of price changes to customers.

It is our position that the expectation for retailers to contact customers could provide an opportunity for increased engagement and may result in increased trust and confidence in the energy market. This together with education and advice on alternative lower cost market contracts will support vulnerable customers and those that may have been or are reluctant to participate in the energy market

Question 6

Does the guide make it clear how all advertisements, publications and offers are required to comply with the Code?

The examples provided to demonstrate compliance with the price cap are sufficient however, given the rarity of discounts, it may be worthwhile to provide an example of the compliance of a discounted offering as a point of reference for future application.

Question 7

Does the guide make it clear how all advertisements, publications and offers are required to comply with the Code?

In relation to the advertising of prices and discounts, EWOQ supports the provision of this information to customers. The provision of this information should be clear and easily understood and provide the customer with clear options and choices available to them.

Question 9**Does the guide provide clear examples of the advertisements that do not comply with the Code?**

The examples clearly articulate when the Code does and does not apply to advertising, however, it would be useful to provide examples of when reference to a discount figure or percentage is acceptable to be advertised.

Question 10**Does the guide make it clear that retailers are expected to contact customers, in compliance with the Code, where their market offer will change?**

Whilst the guide references that there is an expectation to contact customers, it is our suggestion that the obligation is made in the wording of the guide.

Question 11**Does the guide make it clear that customers should be presented with information which enables them to make an informed decision about the retailer and tariff that is best suited to their needs and circumstances?**

Whilst the non-compliance of the Code is clearly provided within the Guide, it is recommended that the relevant legislative provisions are also referenced to ensure the source of authority is provided.

EWOQ appreciates the identification within the Guide of the ACCC liaising with ombudsman schemes, including EWOQ, for the purposes of monitoring compliance. EWOQ looks forward to working further with the ACCC in this regard.

If you require any further information regarding our submission, please contact Miss Jonnita Gillam, Principal Policy Officer on 07 3087 9404 or Jonnita.gillam@ewoq.com.au.

Yours sincerely

**Jane Pires**

Energy and Water Ombudsman