

Consumer Voices: Sustaining Advocacy and Research in Australia's New Consumer Policy Framework.

Joint Submission from WA Community Organisations

July 2009

Citizens Advice Bureau | Consumer Credit Legal Service (WA) | Consumers Association of WA (Inc) | Council
on the Aging WA | Financial Councillors Association WA | Financial Councillors Resource Project | Gosnells
Community Law Centre | Health Consumers Council | Kidsafe WA | People with Disabilities (WA) Inc |
Shelter WA | Western Australian Council of Social Services

Introduction

This joint submission responds to the Treasury’s recent issues paper: “Consumer Voices: Sustaining advocacy and research in Australia’s new consumer policy framework.” The submission represents the views from the following Western Australian organisations:

- Citizens Advice Bureau
- Consumer Credit Legal Service (WA)
- Consumers Association of WA (Inc)
- Council on the Aging WA
- Financial Councillors Association WA
- Financial Councillors Resource Project
- Gosnells Community Law Centre
- Health Consumers Council
- Kidsafe WA
- People with Disabilities (WA) Inc
- Shelter WA
- Western Australian Council of Social Services

The submission begins with some key themes and messages that the members consider a high priority for action. Following this, the submission addresses each of the following questions (as detailed in the Issues Paper) in turn:

No.	Question
1	<i>What existing institutional frameworks, at both the national and state levels, can consumers utilise to make their views known?</i>
2	<i>How can Australia’s governments facilitate more effective presentation and advocacy of consumer views?</i>
3	<i>Do existing Australian Government consumer policy consultation processes allow consumer representatives an effective opportunity to participate?</i>
4	<i>How could these processes be improved?</i>
5	<i>What other formal mechanisms could be used to provide consumer views to governments?</i>
6	<i>Which models for supporting consumer advocacy by the States and Territories have proven particularly effective? Please provide evidence to support your views.</i>

7	<i>What role does government support play in consumer advocacy at the national and state levels and how effective is it?</i>
8	<i>What models for government support of consumer advocacy are effective? Please provide evidence to support your views.</i>
9	<i>Are there problems associated with current models? If so, what are they?</i>
10	<i>Having regard to the existing government support for consumer advocacy, how can such support for consumer advocacy be sustained over the medium and long term?</i>
11	<i>What other key policy evidence issues exist in relation to consumer policy in Australia?</i>
12	<i>What approaches can provide an effective mix of both advocacy-focused and objective qualitative and quantitative consumer policy research?</i>
13	<i>How effective are existing consumer policy research programs and bodies? Please provide evidence to support your views. Drawing on Australian and international examples, what models are effective for funding effective advocacy-focused and objective qualitative and quantitative consumer policy research in the medium to long term? What other models are appropriate in this context? Please provide evidence to support your views.</i>

Our Initial Thoughts on Sustaining Consumer Advocacy and Research...

Wide ranging reforms to Australia's consumer policy framework are being proposed within the broader context of the Council of Australian Governments' (COAG) ambitious national reform agenda.

While change can sometimes present challenges, we feel that amongst the impending changes lie some exciting opportunities to make a positive and enduring difference for Australian consumers. Key to this, we believe, will be an ongoing government commitment to empowering a national focal point for consumer advocacy.

Indeed, we believe that the time has come to institute a national consumer advocacy body to champion the changing of policies and practices of government and business to benefit consumers. However, care is needed to ensure that **all** consumers benefit regardless of ethnicity, age, socioeconomic status or geographic location. Moreover, it is crucial that any national model for supporting consumer advocacy is based on strong, effective and appropriately resourced consumer bodies and networks at the State and community level.

Why Empower Consumers?

Effective consumers play a significant role in ensuring effective markets. Indeed, consumers who know their rights and have the information to make meaningful choices when buying goods or services, spur businesses to innovate and compete.¹ Conversely, consumers can highlight inefficiencies in markets and identify poor or unfair organisational practices.

This is easier said than done. Information asymmetry, power imbalances and suboptimal organisational processes and practices all play a role in inhibiting effective consumers. Moreover, against a backdrop of deepening global market instability, rising fuel and food prices and rapidly emerging technologies, enabling and empowering consumers is required now more than ever.

Consumer advocacy groups are a key platform to support consumers and mitigate some of the adverse consequences of market inefficiencies. Advocacy groups are well established in Australia, operating at national, State and community levels, albeit with varying levels of capacity. It will be important for any new national model to not only draw on the experiences and expertise of these groups but also aid their ongoing viability.

¹ Organisation for Economic Co-operation and Development (2009) Directorate for Science, Technology and Industry, Consumer Policy accessed at http://www.oecd.org/about/0,3347,en_2649_34267_1_1_1_1_1,00.html

Diversity of Consumers

We are all consumers, participating at multiple levels within the broader Australian economy. But consumers are not a homogenous group of people. Indeed, some participate from a more disadvantaged position than others due to a variety of determinants. These may include, (but are not limited to);

- Literacy
- Language
- Mobility
- Socioeconomic status
- Disability
- Access to technology

The overall impacts of these factors are complex and beyond the immediate scope of this submission. However, a strong concern for involving, and protecting our most vulnerable consumers underpins the direction of this submission. We trust that the Treasury will be mindful of the diverse nature of consumers and welcome the opportunity to use the reforms process to benefit **all** consumers.

Consumer Advocacy in Western Australia

It is crucial that consumer advocacy within the States and Territories is at an appropriate capacity to support and progress any changes at a national level.

This issue is particularly relevant for Western Australia. Currently there is no coordinated, independent and resourced voice to government and industry on the perspectives and interests of all WA consumers. This is a long standing gap in consumer advocacy services that will be explored later in this submission.

Western Australia does however have a wide network of established consumer organisations (including the members of this joint submission). An ongoing dialogue with these organisations will be essential to ensure that any national policy will provide optimal benefit to Western Australian consumers.

Consumer's Federation of Australia: Proposed National Model 2008²

The members have noted the Consumer's Federation of Australia's (CFA) recent proposal for a sustainable peak body for consumer organisations. We understand that the CFA's proposal was submitted in response to Recommendation 11.3 of the Productivity Commission's 2008 Review of the Consumer Policy Framework.

In summary, the Commission has recommended that additional public funding be made available to:

² The CFA proposal we refer to was released in late 2008, in advance of the 2009 Federal Budget. We note that the CFA proposal may have evolved since then. However, we have focussed on the 2008 version as it was the most recent iteration available on the public record.

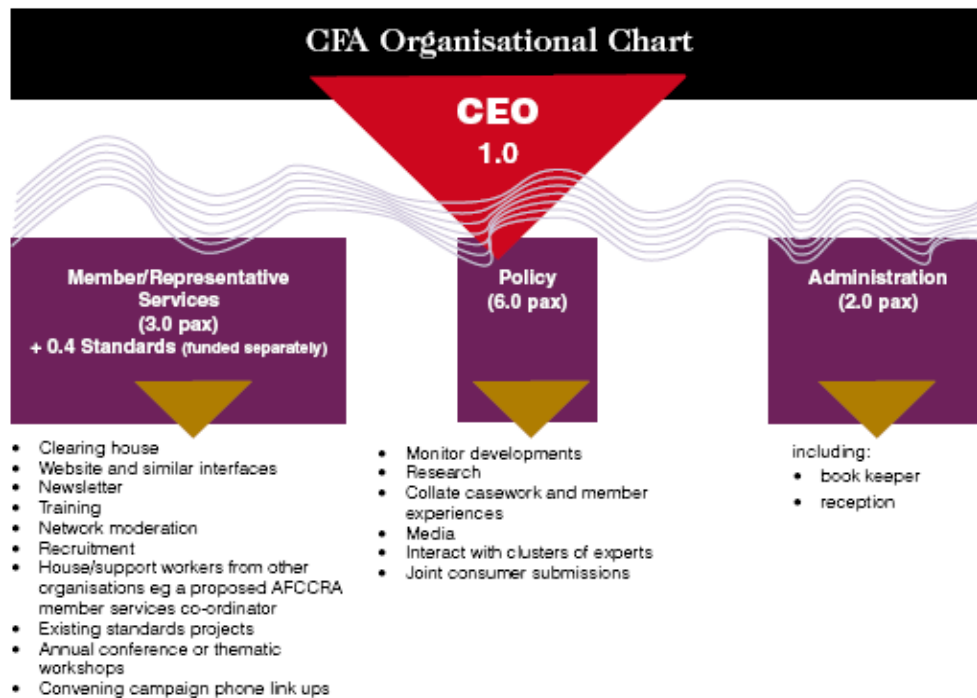
- *help support the basic operating costs of a representative national peak consumer body;*
- *assist the networking and policy functions of general consumer advocacy groups; and*
- *enable an expansion in policy-related consumer research.*³

With regard to the research component, the Productivity Commission recommends that research funding should be split between establishing (and supporting) a dedicated National Consumer Policy Research Centre (NCPRC), with remaining funds allocated as contestable grants for research on specified consumer policy issues.

The CFA does not intend to engage in research but instead proposes to establish itself as the national peak consumer body. The CFA model aims to achieve the following:

- Be a source of policy ideas and undertake advocacy issues across the range of consumer issues.
- Provide government and industry with access to clusters of expertise in consumer law, policy and practice.
- Coordinate and support consumer representation.
- Facilitate networking and information sharing amongst consumer organisations.

We support the CFA proposal in general. However, though the proposal features an advocacy theme, we note that the organisational model (see below) does not appear to have a strong, specialised consumer advocacy focus. We also wonder if the organisational staffing envisaged in the proposal (12.4 FTE) is large enough to deal with the spectrum of matters relevant to consumers.



³ Productivity Commission (2008) *Review of Australia's Consumer Policy Framework*, Final Report, Canberra.

We also note that the CFA does not intend to have a dedicated research capability. This is understandable in light of the possibility that the NCPRC is established. If indeed the NCPRC goes ahead, we would expect strong strategic arrangements between the two organisations.

In the event that the NCPRC initiative stalls, then perhaps a modified CFA proposal would be warranted. At the very least we would expect that the CFA (or indeed any national body) would need to maintain strong links with specialist academic units to enable their access to an authoritative and persuasive evidence base.

In any case, we believe that the CFA is a good starting point in moving towards a national consumer advocacy body. But any future body would be strengthened by drawing on comparable models established in other countries.⁴

Consumer Focus – United Kingdom

Consumer Focus is a recently established national advocacy body in the United Kingdom. Consumer Focus was created through the merger of Energywatch, Postwatch and the National Consumer Council (including the Welsh and Scottish Consumer Councils) and is the statutory organisation responsible for advocating for consumers in England, Wales, Scotland, and, for postal services, Northern Ireland.

The organisation currently employs around 170 staff and has been vested with strong legislative powers. These include the right to investigate any consumer complaint if they are of wider interest, the right to open up information from providers, the power to conduct research and the ability to make an official super-complaint⁵ about failing services.⁶

The organisation is comprised of the following teams:

- Company Performance and Consumer Experience⁷
- Disadvantage Advocacy⁸
- International Advocacy⁹
- Fair Markets¹⁰

⁴ Note that WACOSS is submitting a separate submission that provides a more in-depth discussion on the CFA proposal.

⁵ A super-complaint is a complaint made in the UK by a state-approved 'super-complainant'/watchdog organisation on behalf of consumers, which is fast-tracked by the UK Office of Fair Trading.

⁶ Consumer Focus Website (2009) www.consumerfocus.org.uk

⁷ The Company Performance and Consumer Experience team deals with price comparisons, tariff information and the Confidence Code. They look at issues of billing, mis-selling, compliance and enforcement of industry licence and other obligations across the corporate supplier spectrum.

⁸ Disadvantage Advocacy programme team promote and protect the needs of consumers who are disadvantaged by health, disability, income, age or geography – with a principal focus on fuel poverty but also encompassing social tariffs. The team works to ensure that consumers have satisfactory and equal access to services, and to ensure that businesses do all they can to look after the needs of all of their customers regardless of impediment caused by circumstance.

⁹ The International Advocacy team aims to influence international consumer policy and utilise international best practice to inform UK-based activity.

¹⁰ This includes advocacy to improve consumers' legal rights and how they can achieve redress, tackling failing markets, promoting consumer-focused regulation and achieving a well-functioning digital environment.

- Community and Public Services¹¹
- Regulated industries¹²

Consumer Focus is funded by the UK Government, Scottish Government and the energy and postal sectors and as their website notes; they are “the largest and the best-resourced advocacy body in the history of the UK consumer movement.” We believe that Consumer Focus demonstrates the importance of appropriate government (and sectoral) resourcing to support consumer advocacy through a viable and sustainable national model.

However, we accept that not all aspects of the Consumer Focus model will be relevant to the Australian context, but we think it should be investigated further and should inform any future debate on forming an Australian national body.

Our vision for a future National Consumer Advocacy Framework

We expect that a suitable blueprint for a national body lies somewhere between the CFA proposal and the Consumer Focus model.

Indeed we would like to see a representative National Consumer Body that is appropriately resourced and sustainably funded for the long term. The organisation would nonetheless retain its independence and retain its prerogative to be a free and frank ‘critical friend’ of both government and industry on behalf of consumers.

The organisation would work with, and indeed complement the work of other national level advocacy bodies as well as maintaining excellent relations with peak consumer advocacy bodies in the States and Territories.

The organisation would also have a broad mandate to progress consumer advocacy across multiple streams as detailed below.

Advocacy Models ¹³	
Developmental Advocate	Foster a culture of developing new initiatives to make change or to build the organisational capacity to make change. Aid the development of consumer advocacy groups in the States and Territories to improve capacity.
Research Advocate	Link with dedicated consumer policy research units/specialists to progress in-depth studies on key sectors to generate policy recommendations
Think Tank Advocate	Using expertise and research resources to focus on ‘big picture’ issues pertaining to consumers.
Watchdog Advocate	Open, public lobbying on issues important to consumers.

¹¹ The Public & Community Services team promotes innovative models for sustainable community services and amenities, including post.

¹² The Regulated Industries team examine energy prices – both retail and wholesale; price controls – including the Distribution Price Control Review; the Transmission Access Review; competition issues; industry governance, including Consumer Focus representation upon industry Codes and governance groups.

¹³ Adapted from Consumer Focus (2008) *Work Programme to March 2010*.

Should a national body be established, we would like to reiterate the importance of ensuring that there is appropriate capacity at the State and community level and ensure that there are mechanisms in place for Western Australia's voice to be heard.

Part Two: Questions and Answers

Question One:

What existing institutional frameworks, at both the national and state levels, can consumers utilise to make their views known?

The Consumers' Association of WA is the only generic consumer organisation in Western Australia. The Association runs entirely on a voluntary basis and consequently capacity is extremely limited. In addition, the Association does not currently attract sufficient or sustainable funding to move forward.

WA also has several funded consumer bodies that have a specialised focus. These include the Consumer Credit Legal Service, Health Consumers Council, Council on the Aging WA, Advocare, Older People's Rights Service, People with Disabilities (WA) Inc and the Tenants Advice Service.

There is also a variety of existing institutional frameworks that can be accessed by consumers to make their views known. For example, WA has a variety of industry-specific regulatory boards and committees that carry out licensing and supervisory functions for their respective industries. These include (but are not limited to):

- Real Estate and Business Agents Supervisory Board (REBA)
- Land Valuers Licensing Board (LVLB)
- Settlement Agents Supervisory Board (SASB)

Not surprisingly, these Boards are comprised of mainly industry representatives and people with legal backgrounds. However, what is apparent to members is the lack of consumer representation on these bodies.

In addition, these Boards function within their jurisdictional expertise, but it is noted that their focus is narrowly defined with matters dealt with as they arise. This can have the unintended consequences of working against consumers. Indeed a somewhat myopic view can develop where a Board's focus is on a particular case (or series of cases) but is detached from the broader situational context underpinning the presentation of the cases in the first place.

Perhaps the most dramatic case of this occurring is the Western Australian Finance Broker's Scandal in the late 1990's.¹⁴ In this case, the (then) Board responsible for Finance Brokers dealt with numerous cases but did not identify these cases as part of a broader systemic problem.

What is missing is a body that is linked into these Boards, yet is sufficiently detached to have a broad, overarching strategic role.

Ombudsman Western Australia

The Ombudsman is an independent and impartial person whose office investigates complaints from individuals about Western Australian Government agencies, statutory authorities, local governments and public universities. The Ombudsman also has the authority to initiate an enquiry or investigation

¹⁴ Western Australia (2001) *Royal Commission into the Finance Broking Industry*.

about any of these public bodies, even when no specific complaint has been received.

In addition, an Energy Ombudsman has been established in WA to investigate electricity and gas complaints. Other WA sectors that have specific Ombudsmen include Insurance, Private Health Insurance, Banking and Financial Services and Telecommunications.

Department of Commerce –Consumer Protection Division

The Consumer Protection Division of the Department of Commerce also has a variety of mechanisms in place to capture the views of consumers.

For example, the Department’s call centre provides advice and information on any consumer protection and fair trading issue. It currently handles about three thousand phone calls a week from consumers, along with around 8,000 general inquiry emails a year.

Consumer Protection provides a service to help consumers resolve complaints with traders or business in Western Australia and in some circumstances; the Department may be able to assist with interstate complaints.

The Department has a comprehensive website featuring an overview of its services. It can be accessed at www.commerce.wa.gov.au/ConsumerProtection

WA Tenancy Network

The WA Tenancy Network, funded by the Residential Tenancy Fund¹⁵ is an interesting example of providing assistance to individual consumers within a coordinated framework.

Under the model, a central support unit (Tenants Advice Service) is funded to act as a source of specialist assistance and coordination and twelve local service units are funded in metropolitan and regional areas to provide localised consumer advocacy and support self-advocacy.

In addition, consumer legal centres and financial counsellors also provide assistance to consumers when their capacity allows. However, their ability to provide feedback into consumer policy and law development is limited by their resources and expertise.

During discussions amongst members, it was noted that the current contractual emphasis on casework also contributes to a myopic view. Recognising this as a key gap, several member organisations indicated that they wanted to broaden their focus to include advocacy but were prevented from doing so because either the terms of their funding contracts prohibit this, or unfavourable tax treatment prevents such investment.

Consequently, it will be important that any changes to the consumer policy framework will overcome or minimise the barriers we have discussed and furthermore, foster development amongst workers and organisations with on-ground consumer experience to engage at policy and advocacy levels.

¹⁵ Through interest on tenant bonds.

Question Two:

How can Australia's governments facilitate more effective presentation and advocacy of consumer views?

In our view, there are several ways that Australia's governments facilitate more effective presentation and advocacy of consumer views.

Social Impact Statements in Policy Design

Perhaps most important is to embed a strong, specific focus on social impact in all policy design. Currently, it is accepted practice for newly proposed legislation to include a Regulatory Impact Statement. However, regulatory impact assessments should include **all** the costs and benefits of regulation, not just those that are easily quantifiable in financial terms. For example, our society holds certain values with regards to social justice, equality and fairness. These should be meaningfully incorporated into future regulatory assessments.

Connectivity between Organisations

In addition, we propose that Australia's governments can better facilitate more effective presentation and advocacy of consumer views by balancing a 'national' level policy approach with a multi-level State and community focus.

Western Australia has many consumer organisations that are well linked to the communities they serve. Engaging with these groups will be paramount with regard to accessing the 'grass roots' awareness of consumer issues. But the volunteer-based nature of many of these organisations means that their engagement will need to be supported from the centre.

Due to the unique geography of Western Australia, consideration for engaging with remote communities will also be important.

Question Three:

Do existing Australian Government consumer policy consultation processes allow consumer representatives an effective opportunity to participate?

We feel that in general, Australian Government consumer policy consultation processes are inconsistent and more often than not, the timeframes do not allow sufficient time to give a considered response.

We have alluded to the fact that many of WA's consumer organisations are run on a voluntary or part time basis. Therefore they may not have the time or capacity to share their expertise and opinions in the time that the Government requires a response. Even organisations that are better resourced face this issue. Some kind of support system to facilitate the collection of views could be implemented.

Case Study – Gaps in Consultation Processes

Consultation on Consumer Voices, Sustaining advocacy and research in Australia's new consumer policy framework: Issues paper.

This paper was released on 8 May 2009. Unfortunately, at no stage were the members contacted by the Federal Treasury to respond. Instead, WACOSS first learned of the document through a chance encounter with the CFA in early June 2009. WACOSS alerted fellow organisations soon after.

Given the time and capacity restraints on the various member organisations, the first available opportunity to meet and discuss this paper was on Friday 3 July 2009. We had 50 minutes to workshop and debate the issues posed by the paper. For a matter of this importance, this was not nearly enough time.

We were fortunate that the Department of Commerce were able to provide a meeting room and allocated staff resources. If not for the good relations between the Department and the members, it is unlikely we would have been able to meet in the first place let alone develop a response derived from workshop discussions.

We would have found it extremely useful to have been forewarned that this paper was coming. We would also have welcomed the opportunity to engage with someone at the Treasury to clarify matters with. Unfortunately there was no contact name in the document.

An additional barrier to effective consultation was the fact that the document was released solely in PDF format. People with vision impairments would find it difficult to access the document.

While the opportunity to comment on this paper is appreciated, the process certainly seems rushed and we would not be surprised if other community organisations were unable to participate because of the process.

Case Study – Effective Consultation Can Benefit Everyone

Deaf Community Sends a Clear Message to Telecommunications Companies on Inter-network Connectivity .

GSM phones capable of sending and receiving SMS (Short Message Service) texts emerged in Australia in 1993.¹⁶ But surprisingly, their text messaging capability was not enabled until the mid to late 1990's. Even then, a user could only send SMS messages to phones within the same network (e.g. Telstra to Telstra). If you wanted to send a SMS to someone on a competing network, you were out of luck. The owners of the mobile phone networks would simply not

¹⁶ GSM stands for Global System for Mobile Communications

allow it.

There are obvious commercial reasons why the networks would take this position. But by placing these limits on SMS, it was hindering the take up and usability of arguably GSM's most compelling feature.

The Deaf community were quick to recognise the potential of text messaging as an empowering, liberating technology. SMS was a new, convenient and cost effective way for deaf people to be connected not only to one another, but also their broader communities. However, the (artificially imposed) network limitations were stifling the full communication potential for deaf users.

With the impending closure of the analogue phone network in 2000, views were sought from users about the new digital network replacement. Despite the telecommunications companies not wanting to offer SMS connectivity between networks, strong submissions by the Australian Association of the Deaf and others informed the eventual agreement on enabling cross-network SMS connectivity in April 2000.

While the Deaf community have certainly benefited from enhanced connectivity, the rest of the community has also gained with reports noting the exponential growth of text messaging since April 2000.¹⁷

Question Four:

How could these processes be improved?

The members welcome the opportunity to engage on all policy matters that will affect consumers in Western Australia, and indeed nationally. But current processes do not allow us to engage in an optimal manner. We believe that the following key principles would enhance consultation:

Early Engagement

It is appropriate to involve agencies at the earliest stages of policy development. This allows organisations to plan and allocate resources as required.

Realistic Timeframes

We have found that the window for commenting on consultation documents to be demanding and sometimes arbitrary. This problem is exacerbated when members are not made aware of the document in the first place.

¹⁷ Horstmanhof, L and Power, M R (2005) *Mobile Phones, SMS and Relationships, Issues of Access, Control and Privacy*. Accessed at http://epublications.bond.edu.au/cqi/viewcontent.cgi?article=1076&context=hss_pubs

The members would value a more transparent and predictable process of engagement.

Continual Feedback Loop

We do not see consultation as a 'one-off' process, particularly where major consumer reforms are involved. Rather there needs to be an 'ongoing conversation' with affected parties with multiple opportunities to engage at all the various levels of policy development.

Direct Communication

Many of our members happened upon the Consumer Voices document through word of mouth. If it were not for the strong relations between our member organisations, it is likely that this opportunity to comment may have been missed.

Consultation processes should be more systematic than this. We would like to see direct contact being made to members. This may include direct letters or emails from the responsible agency inviting participation.

On the consultation document itself, it would be helpful to have the name and contact details of a staff member, preferably a senior policy officer, that we can clarify issues with while we are formulating a response.

Facilitated Consultation

Across our member organisations, we have both vast experience and expertise pertaining to consumer issues. Naturally, we also have a lot to say on changes that affect the people that we work with, our communities and our organisations. However, due to capacity issues, we are not always in the best position to ensure that our voice is heard at the decision-making levels –particularly when it comes to formulating written submissions. Therefore we believe that resources are needed to facilitate consultation, or at the very least, a more flexible, user friendly model for seeking views from smaller, organisations like ourselves.

Multiple Channels of Communication

While it is noted that calling for written submissions is a valuable tool for garnering feedback, there are additional means that could be used to good effect.

For example, the members would value the opportunity to meet with representatives from Treasury (for example) to thoroughly work through the issues and allow for our perspectives to be heard, and our questions to be clarified face-to-face.

Other channels of communication might include web forums, newsletters and email updates, Skype (or similar programs) tele and video-conferencing.

The following case study shows an example of what we consider to be a good consultation process.

Case Study – Transparent Consultation Process for WA Gas, Electricity and Water Consumers

The Economic Regulation Authority, Western Australia: Public Consultation Guidelines for Electricity, Gas and Water Licenses; Standard Form Contracts and Customer Service Charters

The Economic Regulation Authority (ERA) is the independent economic regulator for Western Australia. The Authority regulates monopoly aspects of the gas, electricity and rail industries and licenses providers of gas, electricity and water services. The Authority also inquires into matters referred to it by the State Government. In addition, the Authority has a range of responsibilities in the retailing of gas and surveillance of the wholesale electricity market in Western Australia.

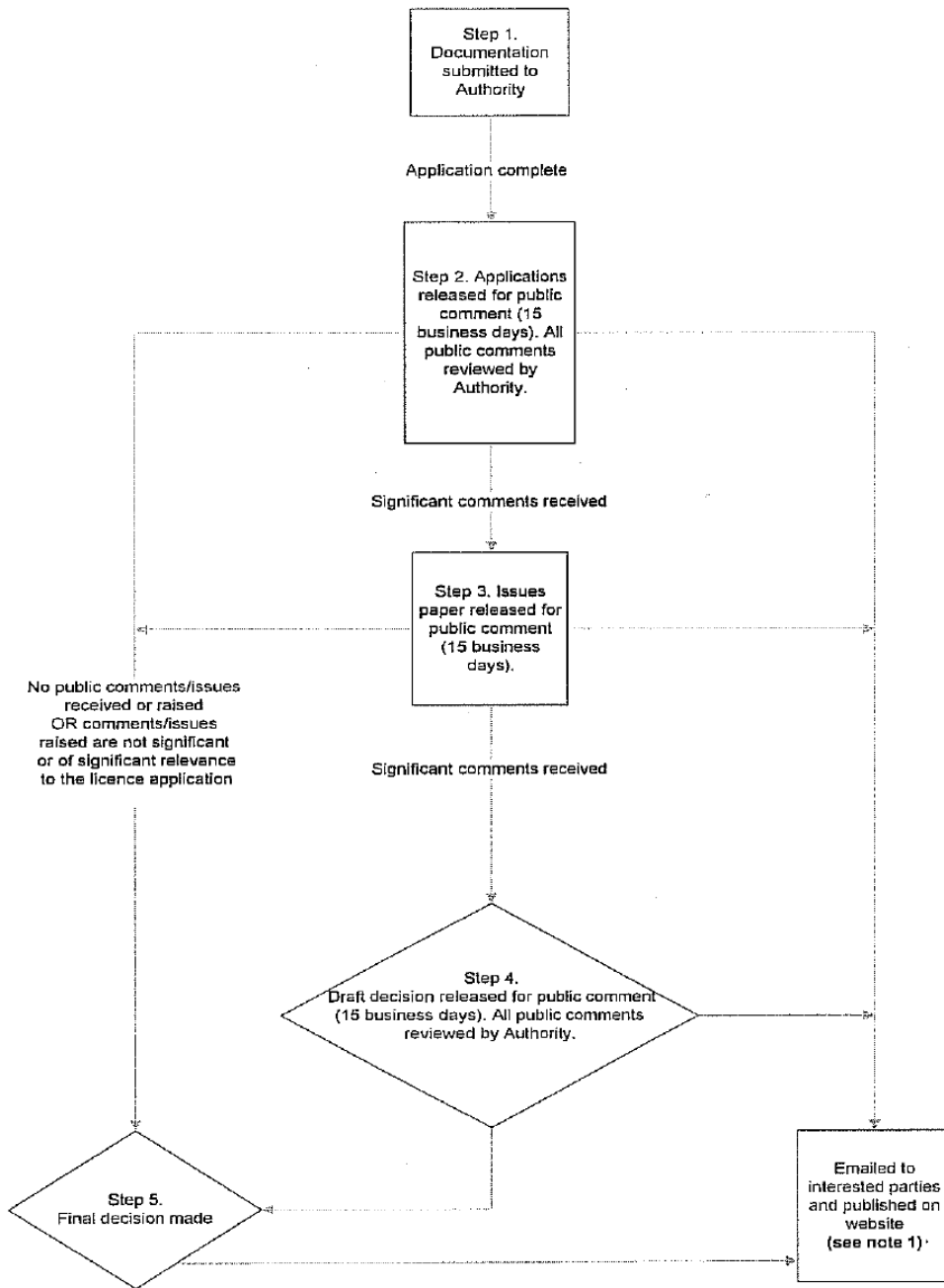
The Authority's functions are designed to maintain a competitive, efficient and fair commercial environment, particularly where businesses operate as natural monopolies, for the benefit of the Western Australian community.

In January 2006, the ERA released its Public Consultation Guidelines for Electricity, Gas and Water Licenses; Standard Form Contracts and Customer Service Charters (the guidelines).

The purpose of the guidelines is to formalise a transparent standardised approach to the ERA's decision making process regarding electricity, gas and water licenses, thereby providing consistency/surety for all concerned.¹⁸

The model (pictured below) features clear step by step processes with predictable consultation timeframes (in this case, at 3 different points) and is enhanced with transparent decision pathways. While opportunities to engage with ERA are advertised, interested parties can also register to a broadcast list so they can receive all communications from the ERA.

¹⁸ Economic Regulation Authority of Western Australia (2006) Public Consultation Guidelines for Electricity, Gas and Water Licenses; Standard Form Contracts and Customer Service Charters.



Note 1: After each step, the relevant licence application, draft decision or final decision will be placed on the Authority's website and emailed to interested parties

Question Five:

What other formal mechanisms could be used to provide consumer views to governments?

Promoting Best Practice

Western Australia, through the Department for Communities, manages the www.citizenscape.wa.gov.au website. This site contains several examples of consultation best practise. In particular:

- Working Together: Involving Community and Stakeholders in Decision-Making (2006)
- e-Engagement: Guidelines for Community Engagement using Information and Communications Technology (ICT) (2005)
- Consulting Citizens: Engaging with Aboriginal Western Australians (2004)
- Consulting Citizens: A Resource Guide (2002)¹⁹

These documents were influenced by the 2001 OECD report: *Citizens as Partners: Information, Consultation and Public Participation in Policy*²⁰ and similarly they acknowledge the links between consultation and improving the quality of decisions, building trust in government institutions and raising the quality of democracy.

In particular, *Consulting Citizens: A Resource Guide* contains a continuum of public empowerment that could be used to inform future mechanisms to facilitate consumer input.

Moreover, documents need to meet the accessibility needs of all consumers to ensure effective participation within the regulatory process.

The Disability Services Commission has developed publications to assist Government and other organisations respond to the needs of people with disabilities. Key documents include the 'State Government Access Guidelines for Information, Services and Facilities' available at www.disability.wa.gov.au/dscwr/assets/main/guidelines/documents/pdf/stategovernmentaccessguidelines.pdf and the Access Resource Kit, which has comprehensive checklists for access and inclusion, at www.disability.wa.gov.au/aud/accesspublications/ark.html

Further information about facilitating access for and inclusion of people with disabilities can be found at www.disability.wa.gov.au/aud.html

¹⁹ These documents can be accessed at <http://www.citizenscape.wa.gov.au/index.cfm?event=ccuPublications>

²⁰ Caddy, J. & C. Vergez, 2001, *Citizens as Partners: Information, Consultation and Public Participation in Policy Making*, report prepared for Organisation for Economic Cooperation and Development (OECD)

INCREASING LEVEL OF PUBLIC EMPOWERMENT



INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
<p>Objective</p> <p>To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, and/or solutions</p>	<p>Objective</p> <p>To obtain public feedback on analysis, alternatives and/or decisions</p>	<p>Objective</p> <p>To work directly with the public throughout the process to ensure that public issues and concerns are consistently understood and considered</p>	<p>Objective</p> <p>To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution</p>	<p>Objective</p> <p>To place final decision making in the hands of the public</p>
<p>Promise to the Public</p> <p>We will keep you informed</p>	<p>Promise to the Public</p> <p>We will keep you informed, listen to and acknowledge concerns, and provide feedback on how public input influenced the decision</p>	<p>Promise to the Public</p> <p>We will work with you to ensure that your concerns and issues are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision</p>	<p>Promise to the Public</p> <p>We will look to you for direct advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible</p>	<p>Promise to the Public</p> <p>We will implement what you decide</p>
<p>Example Tools</p> <p>Fact Sheets Web Sites Open Houses</p>	<p>Example Tools</p> <p>Public Comment Focus Groups Surveys Public Meetings</p>	<p>Example Tools</p> <p>Workshops Deliberative Polling</p>	<p>Example Tools</p> <p>Citizen Advisory Committees Consensus-building Participatory Decision Making</p>	<p>Example Tools</p> <p>Citizens' Juries Ballots Delegated Decisions</p>

Question Six:

Which models for supporting consumer advocacy by the States and Territories have proven particularly effective? Please provide evidence to support your views.

Review of WA retirement villages legislation

In 2006, the Department of Consumer and Employment Protection (DOCEP) commenced a review of legislation regulating the retirement village industry in Western Australia.

In July 2006 Consumer Protection commenced Stage 1 of the review. This involved a series of 18 public consultation meetings that were held in metropolitan and regional areas over a three month period. In this time over 900 people attended and almost 200 written submissions were received.

These consultation meetings were well publicised and were held in venues that were accessible and convenient for the respective communities DOCEP was targeting. Furthermore, the overarching, multistage consultation process was transparent and clearly communicated. The meetings were convened by an experienced, independent facilitator who was skilled in handling the dynamics of the workshop audience.

The feedback from the consultees (some of whom are members of this joint submission) was extremely positive regarding the choice of venues and the level of engagement with DOCEP. In addition, the facilitator was singled out for praise. Attendees appreciated her ability to balance the range of participant views, many of which were hostile, and turning this feedback into something positive. Consequently, attendees felt that their concerns were listened to and their feedback taken on board. Attendees left feeling positive about the process and confident that their views would be incorporated into subsequent policy decisions.

This example encapsulates the components of consultation best practice as discussed in Question Four and is also weighted toward the “Involve” stage of the public empowerment continuum outlined in our response to Question Five.

Health Consumers’ Council WA

The Health Consumers' Council was established in 1993, with support from the then WA Minister of Health, with a mandate to be an independent patient group who would bring a different and unique perspective to matters of health and policy.

The Council is directly funded by the Department of Health WA, and has received specific funding for health advocacy work since 1994, and Aboriginal health advocacy work since 2006. Through the resourcing and support from the Health Department, the Health Consumers’ Council has the capacity to not only assist with individual advocacy but also identify broader patterns and trends that (where appropriate) can then be fed back the Health Department for their action.

Recent examples of the Council’s work include; better community participation in hospital decision making, improved complaints management in hospitals, Consumer Carer and Community Engagement for WA Health and the Review of Language and Interpreting Services in WA Hospitals.

The members note that the Department of Health is unlike most WA government departments in that it provides ongoing funding for consumer advocacy and indeed welcomes, and acts upon, the outcomes of

this advocacy.

CREATE Foundation: Be.Heard Programme

When appropriate mechanisms are in place, even some of Australia's youngest, most vulnerable consumers can find their voice and ensure that their views are heard.

The CREATE Foundation is an Australia organisation expressly established to advocate on behalf of children and young people in care. The key goals of CREATE is to:

- CONNECT children and young people with one another;
- EMPOWER and resource children and young people with a care experience, and;
- CHANGE the care system from the inside out through the participation of children and young people themselves²¹

The Foundation has offices in all the Australian States and Territories and works closely with relevant government agencies. Resourcing for the Foundation come from a mix of government and private sector funding.

Be.Heard is a project where children and young people in care (between the ages of 5 and 18) can share their thoughts about the care system, including the good points, bad points and what needs to be changed.

CREATE conducts face to face interviews or provides online surveys to collect consumer feedback. All the information is gathered from the surveys and put into a report which is given to the Department responsible for the Care sector. All comments and information are submitted but they are aggregated to ensure anonymity. The programme originally began in Queensland and has been so successful that CREATE intends to extend Be.Heard to the other States and Territories.

Question Seven:

What role does government support play in consumer advocacy at the national and state levels and how effective is it?

Consumer advocacy plays a critical role in the creation of competitive, efficient consumer markets and effective consumer protection frameworks, and, even more broadly, in working towards social justice.²² Indeed empowered consumers spur business to innovate and thus drive competition and productivity.²³ On the other hand, effective consumer advocacy can also act as an early warning system to alert markets and regulatory bodies to market inefficiencies and other sub optimal outcomes.

Therefore, governments have a clear role in helping consumers understand their rights and protect their interests. To date, government's role has been weighted toward consumer protection (laws and

²¹ CREATE Foundation (2008) *Annual Review 2008*.

²² Consumer Affairs Victoria (2006) *Consumer Advocacy in Victoria, Research Paper No.7 March 2006*.

²³ Organisation for Economic Cooperation and Development (2008) *Policy Guidance for Protecting and Empowering Consumers in Communications Services*.

regulation) rather than advocacy. We would like to see this imbalance change, starting with appropriate resourcing at the State level.

In Western Australia, there is little ongoing, independent policy development from a consumer's perspective. As noted previously, the Consumers' Association of WA is the only generic consumer organisation in the State. The Association runs entirely on a voluntary basis and consequently capacity is extremely limited. In addition, the Association does not currently attract sufficient or sustainable funding to move forward.

In 2004, Consumer Advisory Council of WA (a Ministerial Body reporting to the then Minister of Commerce) noted that:

*"The ability of consumers to provide organised, researched and considered input has been hindered not only by the lack of an organising mechanism and few resources, but also by the increased complexity of the issues consumers are being to give input into such as market deregulation, financial services, licensing and new technologies."*²⁴

The Council went on to recommend that a combined consumer research and advocacy centre be established in WA. This recommendation was partially implemented with the establishment of the Centre for Advanced Consumer Research at the University of Western Australia (see response to Question Thirteen below). However a consumer advocacy centre never went ahead.

What about other organisations?

Our members have noted that their organisational remits, while consumer related, do not allow sufficient scope to engage in advocacy even though many would like to. Moreover, the terms of their respective funding contracts focus on their core activities and do not allow for branching into advocacy in any meaningful way.

Effectiveness

Given the gaps in Government support that we have identified, we believe that there is certainly room for improvement. Resourcing a generic State consumer body and increasing the flexibility of contracting arrangements would be a useful starting point.

It should be noted that efforts to support/resource consumer advocacy need to be sustainable. Advocacy is a long-term project, rather than a short term project. It is about building relationships and adding value. These traits are not easily captured by arbitrary quantitative measures that are a feature of many funding contracts in place.

²⁴ Consumer Advisory Council of WA (2004) *Proposal for the Establishment of a Consumer Research and Advocacy Centre in Western Australia*.

Question Eight:

What models for government support of consumer advocacy are effective? Please provide evidence to support your views.

In contrast to the our example in Question Seven above, Victoria consumers are resourced through both a generalist consumer body (Consumer Action Law Centre) and a specialist consumer body (Consumer Utility Advocacy Centre). Both agencies provide independent research and policy input from a consumer perspective and have the ability to advocate on behalf of consumers.²⁵ Certainly looking at the arrangements in place in Victoria would be useful to inform Treasury's thinking when developing consumer policy.

There is also a need to rebalance the weight of influence in decision making. It has long been the case that consumer voices are drowned out by the 'big end of town'. This is no doubt due to the larger resources and capacity of many businesses and the ability to organise bodies that lobby on their behalf.

We accept that it is natural for business to influence policy in ways that align with their organisational objectives. But Governments have an obligation to be fair and balanced and incorporate a wide range of views in policy design.

With regard for consumer policy, the Hon Chris Bowen reinforces this view in the foreword of Consumer Voices:

"A range of consumer voices, articulating the concerns, interests and aspirations of Australian consumers at the heart of government, is not only desirable, but essential to the long term integrity of consumer policy in this country."²⁶

Perhaps the most productive way forward is to establish formal mechanisms for proactively seeking (and resourcing) a diverse range of representatives to sit at the decision-making table.

At the national level, the Australian Tax Office (ATO) has instituted a range of formal mechanisms for a variety of groups to be heard.

For example the Personal Tax Advisory Group (PTAG) provides an opportunity for a cross section of organisations representing individual taxpayer key client groups and senior Tax Office leaders to discuss issues relating to the administration of the tax system and work collaboratively to develop solutions.

In addition to this, the ATO's Non-English Speaking Background (NESB) Community Advisory Group provides an opportunity for the NESB community to discuss administration issues of the tax system and work collaboratively with the Tax Office to develop solutions, products and services.

The ATO community consultation also have formal mechanisms in place to access the views of Tax professionals, the superannuation industry, business and the not for profit sector.²⁷

²⁵ Consumer Advisory Council of WA (2004) *Proposal for the Establishment of a Consumer Research and Advocacy Centre in Western Australia*.

²⁶ Commonwealth of Australia (2009) *Consumer Voices Sustaining Advocacy and Research in Australia's New Consumer Policy Framework Issues Paper 8 May 2009*.

²⁷ Australian Tax Office Website (2009)

<http://www.ato.gov.au/corporate/content.asp?doc=/content/00131220.htm&mnu=43019&mfp=001/001>

Question Nine:

Are there problems associated with current models? If so, what are they?

In response to this question, we would like to draw attention to our previous concerns regarding the:

- Inadequate resourcing of consumer advocacy bodies at the national and State levels
- Gaps in consultation processes
- Unbalanced weight of influence in decision-making

Question Ten:

Having regard to the existing government support for consumer advocacy, how can such support for consumer advocacy be sustained over the medium and long term?

The members consider that dedicated, secure, long-term funding is essential for consumer advocacy to move forward.

We have pointed to Consumer Focus in the United Kingdom as being a particularly well resourced model. Although it is noted that government funding in this case is supplemented by funding from the energy and postal sectors. Depending on the eventual remit of a national body, similar arrangements here might be appropriate.

Other avenues of sustaining consumer advocacy might include accessing funds through successful litigation on behalf of consumers or levies on industry.

At a State level, members have noted that the ATO's tax treatment regarding investing in advocacy is a significant barrier to be addressed. At present, organisations cannot claim tax deductions for engaging in advocacy, thereby disincentivising investment.

Question Eleven:

What other key policy evidence issues exist in relation to consumer policy in Australia?

While the members support a general overarching consumer policy framework, this needs to be complemented by the ability to have internal mechanisms that can focus on industry specific issues. The members have noted the following areas for further examination;

Product Safety

The current use of standards is largely self-regulatory. There needs to be some generic minimum standards around safety and labelling that all products must adhere to. Consumer rights in relation to the safety of goods and services, and the provision of accurate information should be a priority.

New Technologies

There are a myriad of new and emerging technologies that are becoming a part of everyday life. E-trading, E-scams and identity fraud all require further attention. In addition we need to better understand technology related contracts, such as mobile phone contracts and prepaid phone 'Caps' to ensure customers are getting a fair deal.

New technology is also changing our companies interact with consumers. While this can be useful, we need to be mindful that some consumers are more proficient than others at such interaction. For whatever reason, consumers that wish to interact in more traditional ways should not be left behind.

Emerging Markets

As markets develop and evolve, inevitable consequences for consumers will emerge. In times of structural upheaval (such as the introduction of GST or opening markets to new competition), change can occur quickly and the effects on consumers can be acute.

Continuity of Access to Essential Services

The Australian Senate Community Affairs Reference Committee defines essential utilities as electricity, gas, water and telephone services and notes the importance of maintaining these services to low income households.

The definition of 'essential services' may not as yet be conclusively defined. However the members agree that such services should include housing, water, electricity, gas, telephone services, healthcare, pharmaceuticals, elementary education, postal services and public transport.

The lack of these essential services can lead to a number of health and safety issues for people in our community with the potential for adverse costs being incurred through other systems such as health, welfare and education. How we organise compassionate, user friendly means to facilitate the continuity of essential services will need to be considered.

Targeting of Vulnerable and Disadvantaged Consumers

The members have noted many examples where vulnerable or disadvantaged have been targeted. These include scams, high pressure door to door selling and pay day lending at exorbitant rates.

Highly Leveraged or High Risk Financial Products

Related to the current uncertain economic climate, the members have noted a rise in the promotion of highly leveraged investment products that could potentially result in a catastrophic financial loss. These losses can be further compounded if property or other personal property has been used as security of collateral. While the products themselves are not necessarily illegal, the emotive, high pressure sales pitches and excessively optimistic returns advertised may be misleading.

Rating the Regulators

Following similar work commissioned by Consumer Focus in the United Kingdom, we think it timely to

consider the effectiveness of Regulators. In particular issues such as transparency, access, how regulators grasp the broader perspective, how they intervene on behalf of vulnerable individuals, how they use enforcement tools when necessary - and aims to ensure that regulation of markets stays connected to its original purpose - namely to benefit the consumer.

Question Twelve:

What approaches can provide an effective mix of both advocacy-focused and objective qualitative and quantitative consumer policy research?

The members acknowledge that developing a sound, authoritative, independent research capacity is crucial to establishing a credible and persuasive evidence base to progress consumer advocacy. However, we qualify this support with the following provisos:

- There needs to be mechanisms in place to ensure that advocacy groups can engage with research units and have input into the research agenda.
- Research funds need to be contestable and funding arrangements need to be flexible enough to enable organisations to commission or engage in research. We are concerned that the current arrangements allow research to be dominated by academic institutions.
- Research needs to link with public interest.

Question Thirteen:

How effective are existing consumer policy research programs and bodies? Please provide evidence to support your views.

Drawing on Australian and international examples, what models are effective for funding effective advocacy-focused and objective qualitative and quantitative consumer policy research in the medium to long term? What other models are appropriate in this context? Please provide evidence to support your views.

In 2006, with the support of the (then) Department of Consumer and Employment Protection²⁸ the University of Western Australia created the Centre for Advanced Consumer Research (CACR). The Centre aims to improve the understanding of consumer markets and consumer protection frameworks, in part, by helping to prepare research proposals and tenders for externally funded research. The Centre also aims to contribute to consumer policy in Western Australia and other Australian jurisdictions, and also bids for contracts to undertake legislative review projects. Recent projects include research on the deregulation of retail trading hours and work with the Small Business Development Corporation (SBDC). In addition, the CACR runs an intensive 5 day workshop focusing on major current issues in consumer law and policy.

The CACR also features an example of an inclusive governance arrangement with its Advisory board comprised of the following:

- A Chair

²⁸ The Department of Consumer and Employment Protection became a division of the newly formed Department of Commerce on 1 January 2009.

- A senior member of the Law School nominated by the Dean of the Law School (who will also act as Chair as required)
- The Director of the Centre (or Co-Directors of applicable)
- A nominee of WACOSS
- Two representatives drawn from recognised consumer advocacy organisations
- A nominee of the Chamber of Commerce and Industry
- A nominee of small business
- Two representatives from disciplines other than Law School
- Two nominees of the Minister for Commerce.

The members are not aware of any evaluations of the CACR and are therefore unable to comment on the CACR's effectiveness. However the members note that the CACR has not long been established and remains an important piece in the broader consumer advocacy framework.

Conclusion

In this submission, we have drawn on our collective thoughts and experience to reflect upon the various workings of consumer advocacy within Western Australia and also at a national level, to address the questions put forward in the "Consumer Voices" issues paper. We trust that our responses are informative.

In addition, we strongly support the Federal Government in progressing recommendation 11.3 of the Productivity Commission's 2008 Review of the Consumer Policy Framework. In fact, it is our opinion that the establishment of a national advocacy body and a national level research centre are long overdue.

Of course, should these national initiatives be implemented, care will be required to ensure meaningful and continual engagement with interested parties, a structural design that is informed by best practice (domestically and internationally), is sustainably funded for the long-term, and calibrated to benefit *all* consumers.

However, we also note that consumer advocacy initiatives at a national level will be best supported by a strong, generic advocacy capacity within the states and territories. In this regard, Western Australia faces specific challenges that will need to be addressed in partnership with the Federal and State governments.

The member organisations thank the Federal Treasury for the opportunity to comment on the issues paper and look forward to further engagement in the future.

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