



**QUEENSLAND
CONSUMERS
ASSOCIATION**

**A non-profit, volunteer
organisation, advocating to
advance the interests of
consumers in Queensland**

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**SUBMISSION TO ACCC ON ENERGY ASSURED LIMITED
APPLICATIONS FOR AUTHORISATION - A91258 AND A91259**

BACKGROUND

The Queensland Consumers' Association (QCA) is a non-profit organisation which exists to advance the interests of Queensland consumers. QCA's members work in a voluntary capacity. QCA is a member of the Consumers' Federation of Australia, the peak body for Australian consumer groups.

QCA's members specialise in particular policy areas, including energy.

QCA is represented on a range of energy related bodies including the Queensland Competition Authority's Consumer Consultative Committee and the Energy Ombudsman of Queensland's Advisory Council.

Wherever possible given its limited resources, QCA participates in consultations, etc. on public energy policy issues in Queensland and nationally, including relevant interstate consultations.

QCA welcomes the opportunity to make a submission on these applications because of its long standing and continuing concerns about the substantial problems and detriment experienced by many consumers in south east Queensland as a result of unsolicited approaches by door to door marketers of energy contracts. (Although, full retail competition is allowed throughout the state, in practice at present competition and door to door marketing of energy contracts only occurs in the Energex area in south east Queensland.)

QCA is also concerned that many door to door marketers do not comply fully with existing legislative requirements.

Therefore, QCA welcomes the recognition by Australian energy retailers that there are significant problems with door to door marketing of energy contracts and considerable scope for improvement .

However, QCA has many substantial concerns about the proposed Energy Assured scheme. These concerns are presented below as general and specific comments.

The contact person regarding this submission is: Ian Jarratt (email: ijarratt@australiainmail.com)

GENERAL COMMENTS

QCA is concerned that ERAA/Energy Assured do not appear to have followed the ACCC's Guidelines for developing voluntary codes of conduct.

Specifically we are unaware of:

- meaningful consultations with consumer organisations and public interest groups to gain an understanding of the problems that the code should address
- the involvement of any consumer organisations and public interest groups in the development of the code submitted to the ACCC for authorisation.

Accordingly, we recommend that prior to making any decision on the applications the ACCC should require Energy Assured to consult with consumer and public interest groups on the code's objectives and contents and then either submit new applications or resubmit the current applications. If this recommendation is not accepted by the ACCC we recommend rejection of the current applications.

QCA is concerned that Energy Assured has relied heavily its interpretation of the impacts of the similar UK scheme EnergySure to assess the potential impacts of the proposed code. Yet it only refers to "a significant reduction in customer complaints about the conduct of door to door salespeople".

QCA is further concerned that it is unwise and misleading to use the number of complaints, especially to regulators and eternal dispute resolution schemes, as an indicator of consumer dissatisfaction with, and of the consumer detriment resulting from, door to door marketing of energy contracts. This is widely accepted view and is due to massive unreporting by consumers of problems with door to door marketing.

Furthermore, our investigations indicate that despite the EnergySure scheme in the UK there are still major problems there with the door to door marking of energy contracts. For example, a Consumer Focus survey¹ in July 2009 revealed that nearly seven out of 10 consumers who had received a direct sales call from an energy supplier rated the experience as negative and a third described the experience as intimidating.

Also, research by the UK energy regulator Ofgem in 2008 revealed that just under half of customers who switched supplier in response to a direct sales approach ended up on a worse deal.

We also note that on 2 September 2010 Ofgem announced an investigation into doorstep and telephone energy sales practices by four of the 'Big Six' UK energy suppliers.

Therefore, QCA recommends that the ACCC undertake further research into, and require Energy Assured to provide more detailed information on, the impacts of the EnergySure scheme on the quality of door to door marketing and the outcomes for consumers in the UK.

¹ a survey of 1008 adults referred to in <http://www.consumerfocus.org.uk/news/energy-firms-guarantee-to-respect-consumers-who-say-no-to-cold-callers>

As noted above, statistics on the number of complaints about door to door marketing do not accurately indicate the level of consumer detriment caused in terms of either consumer dissatisfaction, or consumer losses due to stress and frustration, and time and effort spent trying to rectify problems caused by such marketing, or unsatisfactory final outcomes (e.g. contracts etc which make the consumer worse off).

Therefore, the ACCC or Energy Assured should commission an independent, objective and comprehensive survey of consumer experiences of and outcomes from door to door marketing of energy contracts. This survey should be completed and the results be subject to public debate before the ACCC makes a decision on these or any new applications from Energy Assured.

The results of the survey will better inform consideration of the need for this type of code, and if there is a need, the contents. The results will also provide base line data required need to subsequently effectively assess the costs and benefits of any code introduced.

QCA is also concerned that the applications do not include any estimates of the likely financial costs and benefits of the code. If there is a net cost most of this will be paid by consumers via higher prices.

QCA also notes that there is a growing trend for consumers to want, and be able, to obtain information about available products and services (including energy contracts) from a variety of sources and make informed decisions in their own time not under pressure from uninvited door to door marketers selling only one retailer's products. This trend will continue and together with greater consumer interest in electricity prices, stimulated partly by expected price increases, is likely to result in substantially reduced consumer willingness to sign up for energy contracts at the door.

QCA supports this trend and measures taken to better assist consumers to obtain information other than from door to door marketers and is concerned that the development and promotion of these other sources of information for consumers by retailers may be adversely affected by their involvement with Energy Assured.

QCA notes that in its submission Energy Assured suggests that competition will be improved if the rate of switching between retailers increases. QCA disagrees with this simplistic approach to the measurement of the extent to which a market is effectively competitive. Competition is a means to an end not an end in itself. The rate of switching is not necessarily a good indicator of the extent to which a market is effectively competitive i.e. well informed consumers can participate effectively and confidently in the market, and competition results in net benefits equitably distributed between consumers.

QCA suggests that the ACCC take account of the growing consumer pressure for either a national ban on all forms of door to door marketing or the establishment of an official national DO NOT KNOCK register similar to the successful DO NOT CALL register on which now contains over 5 million phone numbers. If either of these measures were introduced, code costs could be either wasted or increase substantially per door to door visit.

QCA is very concerned that the code appears silent on how complaints by consumers to the code manager about agents will be reported publicly and about the extent to such complaints may result in consumers being less inclined to, or dissuaded from, using EDR processes and making regulators aware of systemic problems and possible breaches of legislation. These are extremely important issues on which extensive consultation is required by Energy Assured with consumer organisations, regulators and EDR schemes. Also, although the complaints process (2.2) says any person may make a complaint to the code manager about a breach by an agent or member, 4.1 excludes consumers or consumer organisations from lodging a complaint about a member. QCA considers that any person should be able to make a complaint about a member.

SPECIFIC COMMENTS

The standards in clause 12 of the code do not appear to:

- Cater for situations in which the Sales Agent is from the consumer's current retailer and the consumer signs a contract for a different contract with that retailer. (The focus is entirely on switching retailer.)
- Adequately deal with providing the consumer with clear and accurate information about when a contract with a new retailer will take full effect especially when the transfer will occur which is normally after the next scheduled meter read or a special read.. (This is an extremely important matter for consumers and it is important that (where meters are read manually) they know in advance when the next regular meter reading will be made and/or whether a special reading can/will be made and who would pay for it.)
- Indicate clearly in 12.3(9), in the case of sales agents employed by an Energy Marketer, whether the contact number provided on request will be the retailer's or the marketer's. (QCA considers that the retailer's number should be provided and that the consumers should be provided with more contact information than just a phone number.)
- Cover any other products (eg PV panels and solar hot water systems) offered by sales agents selling energy supply contracts. (QCA considers that the code should also cover the marketing of additional products.)