



## Department of Justice

Director  
Consumer Affairs Victoria

Level 17, 121 Exhibition Street  
Melbourne, Victoria 3000  
GPO Box 123  
Melbourne, Victoria 3001  
Telephone: (03) 8684 6017  
Facsimile: (03) 8684 6040  
Email: [consumer@justice.vic.gov.au](mailto:consumer@justice.vic.gov.au)  
DX210220

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Mr Gavin Jones  
Director – Adjudication Branch  
Australian Competition and Consumer Commission  
GPO Box 520  
MELBOURNE VIC 3001

Dear Mr Jones

**RE: Energy Assured Limited applications for authorisation 491258 & 491259 - interested party consultation**

Thank you for your invitation to comment on this application. Consumer Affairs Victoria would support a national code of practice and complaint handling that improves outcomes for consumers in the area of energy marketing. Therefore, any new scheme would need to clearly demonstrate additional consumer benefits, be aligned with current state and territory codes of practice and interact consistently with the regulatory framework.

Consumers are currently experiencing a level of confusion around codes of practice (for example, the *Code of Conduct for Marketing Retail Energy* in Victoria) and energy regulation. The National Energy Customer Framework (NECF) is moving toward a national energy reform process and includes a range of energy-specific consumer protections. The role of the Essential Services Commission in Victoria is changing with the introduction of the NECF which is anticipated in Victoria in June 2011. The new Australian Consumer Law which has relevance around telemarketing, door to door sales and contracts more generally combines the State and Territory Fair Trading Acts and Commonwealth Trade Practices Act, to become the single law nationally, commencing 1 January 2011. There are also the current Ombudsman schemes and specifically Energy & Water Ombudsman Victoria (EWOV) which has specific functions within the State of Victoria with regard to complaint handling. It is not clear how this new scheme would fit within the current regulatory framework, and specifically how it interacts with the Ombudsman complaint scheme. In addition, it should take account of any national complaint handling processes that national, state and territory regulators are implementing in conjunction with the introduction of the Australian Consumer Law.

Energy Assured Limited (EAL) is seeking authorisation for its Code of Practice and Complaints Process. They note that the 'Code is designed to regulate door-to-door energy sales that are undertaken on behalf of electricity and gas retailers'. Consumer Affairs Victoria notes that much of the code of practice is already required by law. Therefore, questions around how the Code would work when dealing with breaches of the law through its sanctions, and how it would function or report breaches or

systemic issues to all relevant regulatory authorities should be addressed. The interaction (overlap) between the industry code and regulatory requirements is not clear in this application.

For any organisation handling dispute resolution it is important that best practice initiatives, such as clear independent governance arrangements, are incorporated. Consumer representation is an important aspect to be considered to ensure a good level of transparency. It is suggested that EAL be directed to guidance on best practice regulatory principles; for example, as set out in ASIC's Regulatory Guide 139.

As a minimum the introduction of a voluntary code of practice and complaints handling scheme needs to improve outcomes for consumers to minimise misleading energy marketing tactics, and improve consumer understanding with regard to their rights and responsibilities in choosing or switching an energy retailer.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Claire Noone', written in a cursive style.

Claire Noone  
**Director**