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Mr Gavin Jones
Director
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 520
Melbourne Vic 3000

Via email to: gavin.jones@accc.gov.au

Dear Mr Jones

Energy Assured Limited applications for authorisation

Thank you for providing the opportunity to provide consumer comment on Energy Assured Limited's (EAL) proposed scheme for the self-regulation of door-to-door energy sales.

COTA Seniors Voice (CSV) has a number of concerns regarding the application in regard to the benefit to consumers of the Code of Practice (the Code) in particular.

Older people are some of the most vulnerable to door-to-door marketing practices, and CSV does not believe that the Code as presented will mitigate the inherent incentive for salespeople paid on commission to maximise sales at the expense of these consumers.

Additionally, the lack of consumer involvement prior to lodgement does not reflect well on EAL, and its amended application is clearly flawed as a result.

CSV's has specific concerns regarding the following:

Clause 12.2

There is a general lack of detail in clause 12.2 of the Code in relation to 'respecting...ethnicity and diversity' and 'recognition at treatment of vulnerable consumers'. Requirements for the provision of information and for explicit informed consent are laid out in various legislative instruments and industry codes. If the EAL Code is to represent an approach that exceeds these requirements it needs to provide the detail on how it will achieve this.

Section 15

Section 15 of the Code outlines three levels of breaches for EAL-registered sales agents. CSV is concerned that the link between these breaches and remedial actions is not clear. More importantly, both level 1 and level 2 Code breaches in some cases constitute breaches of jurisdictional energy marketing codes. Breaches 2(b) and (c) are of particular concern in that they show misleading conduct in a contractual area in which many consumers have little knowledge. Additionally, it is not clear why lower level breaches must occur in different months to be escalated. If a sales agent has on more than

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Rear Admiral Kevin Scarce AC, CSC, RANR
Governor of South Australia

two occasions breached the EAL Code or jurisdictional industry codes in the same month then the issue should be escalated.

Definitions

The definition of 'stakeholders' in the Code is limited to industry ombudsmen, regulators or government agencies and does not include consumers or consumer advocates. This is a serious flaw that, in conjunction with the lack of previous consumer consultation, brings into question the veracity and intent of the Code.

Overall, CSV does not consider that the EAL proposed Code of Practice fulfils the role of providing greater levels of consumer protection or consequently of public benefit.

Should you have any questions regarding these comments, please contact Tom Stead, Policy Officer, on (08) 8224 5515 or email tstead@seniorsvoice.org.au.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Ian Yates', written over a large, faint, circular watermark or background mark.

Ian Yates AM
Chief Executive

Cc: Neil Howes