

Dr Richard Chadwick
General Manager Adjudication Branch
Australian Competition & Consumer Commission
GPO Box 3131
CANBERRA ACT 2601



20 April 2011

Your Ref: 43916

Dear Dr Chadwick

Energy Assured Limited application for authorisation A91258 & A91259 - draft determination

I am writing to express the Public Interest Advocacy Centre's (PIAC) support for the recent Australian Competition and Consumer Commission (ACCC) Draft Determination. This Draft Determination proposes to deny authorisation to Energy Assured Limited's (EAL) proposed scheme to regulate door-to-door energy sales (the EAL Scheme).

PIAC is an independent, non-profit, law and policy organisation that works for a just and democratic society by taking strategic action on public interest issues. PIAC has, as a key area of work, energy and water policy. The Energy + Water Consumers' Advocacy Program (EWCAP) represents the interests of low-income and other residential consumers of electricity, gas and water, including social housing residents.

PIAC is in general agreement with the views canvassed in the ACCC's Draft Determination. PIAC also appreciates the thorough nature of the Draft Determination and the clear communication of concerns regarding consumer awareness, compliance, enforcement, redress for consumers, public benefit and public detriment. In concert with the ACCC, PIAC takes the view that any code of practice designed to protect consumers should add value to the laws already in place. In practice this means that code documents should set out minimum requirements to comply with the law, in addition to processes and procedures designed to provide increased levels of protection for consumers. As clause 4.58 of the ACCC's Draft Determination notes, a sales agent's obligation under clause 74 (b) of the *Australian Consumer Law (ACL)* to advise a consumer that 'the dealer is obliged to leave the premises immediately on request' is not included in the EAL's requirements of sales agents. Should the EAL Scheme be approved and implemented a consumer would need to be aware of their rights under both the EAL Scheme and the ACL in order to fully enjoy their rights while being marketed to by an EAL registered sales agent. PIAC contends that this places undue responsibility on the consumer, minimising any benefit the scheme may aim to offer. Should any costs of running this scheme be passed on to consumers, PIAC believes any public benefit would be even further reduced.

Yours sincerely

A handwritten signature in dark ink that reads "Edward Santow". The signature is written in a cursive style with a clear, legible font.

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