



# **Submission to the Expert Advisers on the National Energy Consumer Advocacy Panel:**

## **Proposal for a National Energy Consumer Advocacy Body**

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## Background

Ministers at the Council of Australian Governments meeting on 7 December 2012 sought a paper at which would examine the regulations under which the Consumer Advocacy Panel “allocates grants to ensure it continues to operate in the interests of energy consumers”.

The consultants commissioned to address the issue have published an interim report. This expands the scope and size of the proposal as initially envisaged. As announced by the Prime Minister, the new body was have staffing of 9.5 people. The review panel has upped this to 15 Full Time Equivalents with a budget of \$5-7 million a year to cover:

- Administration
- Consultancy fees and “capacity building”, seed funding to state based consumerist groups matched dollar for dollar by state governments; and
- Project funding for existing advocacy organisations.

In this respect the NAB would build upon and absorb the extant Consumer Advocacy Panel, which already funds NGOs for analysis and advice on the energy market. The body will supplement work of the already established Consumer Challenge Panel, providing an additional source of, “commentary and insights from a consumer impact and interest perspective”.

## Need for the Proposed National Advocacy Body (NAB)

The logic in explaining why yet an additional advocacy body is necessary is difficult to understand as no evidence is provided to suggest that the public will be better served if money is diverted from incomes/through higher energy charges to provide the advice that the program proposes.

In principle, there is little justification for a body representing consumers in competitive industries. Consumers represent themselves in their purchasing decisions and suppliers’ rivalry prevents the exercise of exploitative market power. In competitive markets, like energy retailing and generation, firms have vital interests in assessing consumers’ needs and meeting these cost-effectively. An interceding body is likely to seek benefits that cannot be justified on cost grounds.

This balanced outcome might not occur with “natural” monopolies where rivals cannot move in to exploit any super-profitable opportunities. But governments already have regulatory agencies to prevent this. Moreover, the naturalness of such monopolies often proves to be transitory – ports and railroads were monopolies in earlier times but their monopoly strength has been eroded. Gradually most areas of telecommunications and electricity have become competitive as have airports. Against this framework, the rationalization expert advisers offer for the energy advocate proposal is threefold.

First, it is argued that energy services are “essential”. But this is equally true of food, shelter, petrol and a host of other goods and services.

Secondly, the expert advisers claim the energy market is especially complex. All markets are complex, which is why central planning cannot work. But markets for homogenous goods like gas and electricity have far fewer complications than markets for goods and services where suppliers have considerably more options for sourcing inputs and have numerous outlets for their products. For example, the food market involves firms seeking out consumers' needs and preferences in taste, nutrition, convenience; assembling dozens of product inputs from across the world, inputs that the consumer will not recognise; getting the goods to retailers and selecting retailers: informing and persuading consumers about the merits of the particular offerings.

Thirdly, it is said there is an asymmetry of information between energy suppliers and users. But this asymmetry in energy pales into insignificance compared with some other goods and services. Contrast energy with, for example, motor vehicles which comprise thousands of components that must be meshed together into assemblies with many variations in performance standards, design life, price, reliability and so on.

Nor is there empirical evidence of need. For over a dozen years, monies have been allocated from electricity ratepayers to groups claiming to represent consumers. But the expert advisers present no review of any insights provided and cost lowering outcomes from the millions of dollars already expended. This is notwithstanding that the report was to, "consider current energy advocacy work, both in Australia and internationally, and the extent to which current consumer groups engage in national advocacy". Such an analysis might even show that, far from justifying additional sums, the community as a whole would be better served by eliminating, existing expenditures!

As the experts must report to governments in less than a month such an analysis is clearly not contemplated.

In addition to these points there is some confusion about the role the NAB and its funding will play with its proposed "capacity building" agenda. This involves matching grants for state based consumer lobbyists. Some concern is held from the NGO sector about whether the matching grants will be forthcoming. That aside, if the NAB is to be operating in the NEM (with similar bodies for WA and the Northern Territory) it is difficult to see a role for it in state-by-state matters. The market has national rules and though there are local issues these are not primarily associated with energy but with wider social matters on which energy impinges.

### **Future Progression**

The experts have argued, presumably on the basis of submissions received, that there is a consensus in favour of the additional body and that the issues are how it will be constituted, and funded.

But, this seems to rest on submissions from 17 taxpayer funded organisations that seek additional public support. It is hardly surprising that organisations which stand

to gain from increased public funding view the initiative favourably. And the report records their views without recognising the irony of having taxpayer supported organisations spending taxpayers' money to canvass support for increased taxpayer funding!

Guarded backing is also offered by some energy suppliers, though these businesses may feel that an even more invasive bureaucracy might be the alternative.

No evidence is provided that the increased spending will advance the public interest. Validation of the case for the NAB is that the consumer needs representation for negotiations with suppliers. This serves no purpose for retailing and generation where there is fierce commercial rivalry for the consumers' dollar. The only case for such an imposed representative body is where natural monopoly exists, where the consumers' interest is served by a supposedly neutral regulator. It is, moreover, not possible to devise means by which consumer representation can be determined. In the case of prevention of abuses of market power and the provision of stimuli automatically available in competitive markets we have in place regulations that determine charges and provide incentives designed to mimic market situations. Governments need to ask, what additional information would the NAB bring to bear on this determination? How would we ensure that its personnel are truly representative of the consumer and that its internal work and grants do not become monopolised in activities traditionally seen with anti-business inner-city personnel that populate consumerist agencies?