

17 February 2020

Australian Energy Market Commission (AEMC)

Submission regarding consumer protections in an evolving market: traditional sale of energy

The Brotherhood of St Laurence (BSL) welcomes this opportunity to comment on the issues paper released by the AEMC regarding energy consumer protections in relation to the traditional sale of energy. This submission comments only on the question related to explicit informed consent (EIC) and third parties, drawing on our consumer advocacy and experience designing and delivering Your Energy Broker (YEB).

We commend the AEMC for considering how consumers can be protected as the energy market changes, and believe that allowing third-party services to give consent on behalf of customers could enable the customers to more easily get a better deal. However, it will be important to protect customers from unscrupulous services, and to recognise the limits of small regulatory changes to a market that is failing many customers, especially vulnerable people. Enabling easier switching will help some consumers but it is not a panacea nor a replacement for fundamental reform.

Should energy consumers be able to provide EIC to a third party to interact with the retail market on their behalf? If so, what arrangements should be in place?

Energy customers should be able to provide EIC to an impartial third party to enable them to switch on their behalf. Arrangements should be put in place to ensure that only government or not-for-profit organisations that work in a customer's interest may act on their behalf. These organisations should not be allowed to have commercial arrangements with energy retailers.

Our experience indicates that it is presently unviable for an impartial third party to switch for customers (see below), which can lead to vulnerable customers staying on expensive offers. Some commercial switching services advertise that they switch for customers, but we understand that this is only possible by striking business arrangements with energy retailers¹, which compromises the service impartiality and works against consumers' interests.

¹ For example, iSelect states: 'We'll even arrange the switch on your behalf [...] We don't compare all energy providers or plans in the market. The availability of plans will change from time to time. Not all plans available from our providers are compared by iSelect and due to commercial arrangements or availability, not all products compared by iSelect will be available to all customers.' See <https://www.iselect.com.au/energy/switch-electricity-providers/>

Illustrative examples from Your Energy Broker and other switching services

This section provides examples from our experience with Your Energy Broker and from other impartial switching services. In all cases, being unable to provide EIC on behalf of clients has created problems and worked against the interest of consumers.

1. **Your Energy Broker:** Your Energy Broker (YEB) was a Victorian Government – funded pilot operated from 2018 to 2019, in which the Brotherhood engaged with over 1,000 vulnerable households to find and switch them to better electricity and gas offers, primarily through home visits. The free service was independent of retailers.

At the direction of the state government, the Brotherhood investigated the feasibility of YEB switching offers on behalf of households. Our intent was to collect participants' needs and preferences (e.g. paper billing, GreenPower, pay-on-time discounts or not, any preferred retailer) and impartially choose and switch to the best offer for them. This would reduce the effort and technical knowledge required of households.

We concluded that switching on participants' behalf was not viable, largely due to the inability of third parties to provide EIC for customers. Other related barriers were a) the need to convey the terms and conditions of the new offer to the household before they could consent to them, and b) the fact that many retailers do not allow a third party to make a switch via their (public) phone or internet channels.

Instead of being able to switch energy offers for participants, which would have fulfilled the government's intent to provide the simplest service for participants, YEB staff generally had to travel to the participant's home and call the desired retailer with them, which was a resource-intensive and often lengthy process. Allowing third parties to give EIC on a customer's behalf would enable a service like YEB to operate more efficiently and better for the people it serves.

2. **Choice Transformer:** Choice's 'Transformer' service formerly switched energy offers on behalf of fee-paying customers but has ceased operating and was only able to serve customers willing to receive electronic bills and pay via direct debit, which excludes certain vulnerable customers. Choice explained why it was difficult to switch customers:

*"Energy retailers have varied, often cumbersome, processes for taking on new customers. Some retailers with the most competitive offers didn't have efficient online systems. This **meant switching customers took us a lot of time, and it was hard to effectively automate the process.** Energy regulations also slowed us down. **Retailers often needed to contact our customers by phone or email to get their consent to switch.** This slowed us down and was understandably frustrating for our customers. [...] our cost of delivery was higher than the amount we felt we could fairly charge consumers."*²

3. **NSW Energy Switch:** The NSW Government's 'Energy Switch' service impartially compares offers and then requests switches from retailers, but requires the retailer to contact the customer to gain EIC. This adds several days to the switching process and there is anecdotal evidence that retailers sometimes 'upsell' customers to more expensive offers, or households sometimes find it confusing and are unsure

² <https://choice.community/t/the-future-of-choice-transformer-energy-switching-service/17358/6>

of the new retailer's legitimacy when they are contacted. In our view, Energy Switch would serve consumers better if it were able to switch on their behalf.

Please contact Damian Sullivan (e: dsullivan@bsl.org.au m: 0405 141 735) or David Bryant (e: dbryant@bsl.org.au ph: 03 9483 2470) for further information about this submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Damian Sullivan', with a long horizontal flourish extending to the right.

Damian Sullivan

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