

Submission to the Economic Regulation Authority

**Inquiry into reform of business licencing in Western Australia**

*26 November 2018*

The Western Australian Council of Social Service Inc. (WACOSS) welcomes the opportunity to make a submission on the Economic Regulation Authority's draft *Inquiry into reform of business licencing in Western Australia* report.

WACOSS is the peak body of community service organisations and individuals in Western Australia. WACOSS stands for an inclusive, just and equitable society. We advocate for social and economic change to improve the wellbeing of Western Australians and to strengthen the community services sector that supports them. WACOSS is part of a national network consisting of ACOSS and the State and Territory Councils of Social Service, who assist people on low incomes and experiencing disadvantage Australia wide.

In particular, we will be responding to information requests 4 and 5 relating to consumer input and representation in business licencing.

**How can agencies increase consumer input to reviews of licensing schemes?**

The [Service Priority Review](#) highlighted community expectations for genuine engagement in identifying local needs and co-designing solutions to complex problems to deliver better outcomes. It also found that WA lacks a sector-wide approach to community engagement, and that the kind of genuine cross-agency co-design required to deliver integrated place-based service systems "relies on a level of operational maturity and capability, risk acceptance, and flexibility that is not currently apparent across the WA public sector." We believe there is more capability in this area than is readily apparent and the community sector could make a greater contribution to these endeavours, if provided the opportunity.

The *Service Priority Review* advocated putting citizens at the centre of public service reform to drive the necessary cultural change within the public service and shift its focus to the delivery of public outcomes. WACOSS supports the Review's [recommendations](#) to establish whole of government targets to improve outcomes for the community; to improve the quality of engagement with the community to enable a sharper focus on community needs; and to improve the coordination of service delivery in the regions using co-design processes and place-based models. We believe there is genuine high-level commitment to achieve these outcomes within our public sector leadership, but are concerned there is currently a lack of capacity to focus on these issues inside the public sector, due to the pressing demands of machinery of government reforms and a tendency to fall back on old practices in times of uncertainty (see the [WACOSS submission](#) for more detail).

The Consumer Policy Research Centre recently published the report [Five preconditions of consumer engagement - a conceptual framework: Product information, consumer choice and market engagement](#). This report suggests that before intervening in markets, policymakers and regulators should first identify the specific problem being experienced by consumers and the outcomes desired from the intervention. To ensure that interventions meet consumer needs and preferences, it recommends rigorous customer journey mapping research be undertaken to assist regulators and policymakers better understand how, when and why consumers engage throughout the product acquisition and decision-making process and where they encounter difficulties.

The report also recommends trialling interventions and reforms with consumers, with those trials and tests co-designed and facilitated by a range of organisations, including businesses and community organisations. The outcomes of consumer trials and regulatory intervention should then be published by policymakers, regulators and industry to develop a stronger evidence base that better informs all parties about the effectiveness of various consumer intervention strategies.

Energy Consumers Australia, the Australian Energy Regulator and Energy Networks Australia are currently in the process of [trailing a new approach to regulation](#) to ensure that energy consumers' priorities and stated preferences should drive business proposals and regulatory outcomes. This trial involves the establishment of a 'Consumer Forum'. While composed of consumers, the forum is not intended to 'represent consumers' as such, but rather the consumer perspective. It takes information from a wide variety of sources to develop a composite of consumer preferences.

### **Would establishing a body to represent the interests of consumers in business licensing review and reform processes be useful?**

Effective consumer advocacy requires specifically skilled technical and legal analysis of market regulation and the operating environment, combined with the ability to secure trusted and effective engagement with consumers with lived experience of the range of consumer experiences including market failure and resulting hardship. Submissions, research and advocacy that effectively represents diverse consumer interests requires consultation with a range of stakeholders state-wide. For that to occur, it is essential that there is continuous funded capacity in order to proactively engage with changing need, industry developments and regulatory innovations.

Western Australia has fallen behind other states when it comes to having representation and advocacy for the interests of consumers. WA remains the only state in Australia, for example, without funded consumer research and representation in our energy market.<sup>1</sup> Without it, WA consumers cannot be confident that their interests are being protected at a time of heightened concern around energy policy, energy prices and disconnections.

WA's regulatory systems for electricity, gas and water in particular were all designed with an expectation that consumer representation would be an active component of market regulation. The presence and availability of capable consumer representatives with the capacity to understand regulatory proposals, monitor market trends, the changing needs and expectations of consumers, and the changing face of utility hardship is assumed in the consumer codes. Retailers are required to consult with relevant consumer organisations, including on their financial hardship policies, meaning that the lack of funded representation impacts not only on customers, but also on industry.

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<sup>1</sup> Australian Energy Regulator (2017) – Retail Markets: National Energy Customer Framework, AER website

The input of consumers is especially important in markets where there is limited competition because one supplier has dominance, prices are regulated, and the product is a vital service. Funding for consumer research and representation in Western Australia can overcome barriers to unequal participation in policy and provide a balance to the interests and claims of business. Maintaining a transparent flow of information and dialogue with consumer groups and frontline community services is necessary to ensure that providers are responsive to the needs of consumers.

There are at least three potential models to enable this, including:

- Funded capacity for a peak organisation to provide that service;
- Funded capacity for a community legal centre to provide that service;
- Establishing an independent consumer policy research centre; and
- Establishing a new specialist peak consumer advocacy organisation.

Examples exist across the country of all four models. Over time, Councils of Social Service, as well as other peak bodies such as the Ethnic Communities Council of New South Wales, have had funded capacity to provide consumer representation in the regulatory space.

WACOSS, for instance, was funded to provide consumer research and advocacy in the energy market between 2005 and 2013. Recognising the importance of consumer representation in essential service markets, the Minister for Water and the Water Corporation provides funding to WACOSS for a part-time role since 2017 in water market regulation.

Two prime examples of the community legal centre model can be observed in New South Wales with the [Public Interest Advocacy Centre](#) (PIAC) and in Victoria with the [Consumer Action Law Centre](#) (CALC).

These organisations are better positioned to engage in effective consumer dispute resolution, as well as undertake litigation. PIAC, for instance, have provided advice and representation in test cases, representative or class action and have appeared in court in cases that raise significant public interest issues.

Since 2002, Victoria has also had a specialist consumer policy research organisation in the form of the Consumer Utilities Advocacy Centre. It has recently been transformed into the [Consumer Policy Research Centre](#) with a remit to look at consumer issues beyond the energy and water space.

The examples provided above are all funded by their respective State Governments.

Nationally, [Energy Consumers Australia](#) (ECA) and the [Australian Communications Consumer Action Network](#) (ACCAN) not only provide examples of the fourth model-type, but also alternative funding mechanisms. ECA was established in 2015 as a Council of Australian Governments (COAG) initiative to give residential and small business energy consumers a national voice in the market. It advocates within the national energy market and funds grants for consumer protection and policy development. ACCAN functions as a peak body, with member groups including include community legal centres, disability advocates, indigenous organisations, financial counsellors, regional organisations, farmers' federations, parents' groups, seniors' organisations and other individual members. The funding for ACCAN is recovered through charges on telecommunications carriers and the ECA through a levy on market participants.

In Western Australia, funding for consumer representation could potentially be levied through business licencing fees.

If you would like to discuss this submission further, please contact the WACOSS Research and Policy Development Leader Chris Twomey at [chris@wacoss.org.au](mailto:chris@wacoss.org.au) or 9420 7222.

Yours sincerely,

A handwritten signature in black ink, reading "L. Giolitto". The signature is written in a cursive, flowing style.

Louise Giolitto  
Chief Executive Officer  
WACOSS