



18 April 2008

By email: [contactus@garnautreview.org.au](mailto:contactus@garnautreview.org.au)

Garnaut Review Secretariat  
Level 2, 1 Treasury Place  
East Melbourne, Victoria 3002

Dear Sir/Madam,

### **Garnaut Review – Emissions Trading Scheme Discussion Paper**

Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to comment on the Emissions Trading Scheme (**ETS**) Discussion Paper (the **Discussion Paper**), released by the Garnaut Climate Change Review (the **Review**) on 20 March 2008. This submission is supported by the St Vincent de Paul Society and Consumer Utilities Advocacy Centre.

#### **About Consumer Action**

Consumer Action is an independent, not-for-profit, campaign focused, casework and policy organisation. Consumer Action provides free legal advice and representation to vulnerable and disadvantaged consumers across Victoria, and is the largest specialist consumer legal practice in Australia. Consumer Action is also a nationally-recognised and influential policy and research body, pursuing a law reform agenda across a range of important consumer issues at a governmental level, in the media, and in the community directly.

#### **Emissions Trading Scheme Discussion Paper**

It is widely accepted that Australian consumers will pay for the cost of any ETS scheme, primarily through higher electricity bills (but also indirectly through other goods and services). Considering this, consumers have a significant interest in ensuring that the ETS meets its policy objectives, but also in ensuring that they are not burdened by extra financial costs without a concomitant reduction in greenhouse gas emissions.

This is of particular significance with the current increasing cost pressures on the supply of electricity in Australia, the result of increased demand and the implications of drought. Estimating a carbon cost of \$30/t, the typical impact on a household will average between \$210 and \$495 for electricity, gas and transport fuel costs (this changes depending upon fuel

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mix available where consumers live).<sup>1</sup> An imputed carbon cost on other goods and services would be in addition to this (and may in fact double the cost).

With this background, Consumer Action supports the Review's recommendation for the establishment of an ETS, with the primary policy objective of reducing harmful greenhouse gas emissions. However, it is essential that care be taken to ensure that consumers, and particularly low-income and vulnerable consumers, are not unfairly bearing the burden of the costs of establishing and managing an ETS.

While we acknowledge that the intention of an ETS is for consumers to receive price signals relating to their greenhouse gas emissions, it is our strong opinion that there should be complementary policies and protections in place that help consumers manage cost increases and assist them in changing their behaviours. In particular, we ask the Review to recommend that an ETS be implemented that:

- is complemented by a comprehensive consumer protection framework that ensures consumers maintain access to essential services;
- allows consumers, particularly low income and vulnerable consumers, to engage in actions that will reduce their greenhouse gas emissions;
- promotes increased energy efficiency and renewable energy production outcomes; and
- is environmentally robust, so that it will deliver real reductions in greenhouse gas emissions.

### **A strong consumer protection framework can help mitigate consumer impact of ETS**

We believe that Governments must establish policies to ensure that consumers are not disconnected from essential services due to the increased costs flowing from an ETS. Services such as electricity, gas and water (which will be impacted by the establishment of an ETS) are essential to health and wellbeing and an ETS should not have the unintended impact of reducing consumers' access to such services.

This can be achieved through the establishment of the ETS in conjunction with a comprehensive and robust consumer protection framework. Such a framework can assist consumers deal with the increased costs resulting from climate change. In particular, consumers should be protected through:

- Fair contract terms and conditions, including restrictions on businesses' rights to disconnect or restrict consumers from essential services due to their inability to make financial payments obligations;
- Mandatory hardship policies supported by businesses and governments, which ensure that businesses take active steps to provide extra assistance to consumers who have identified as suffering from financial hardship;<sup>2</sup> and

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<sup>1</sup> ACF, ACROSS and CHOICE, *Energy & Equity: Preparing households for climate change: efficiency, equity, immediacy*, April 2008, p 10.

<sup>2</sup> We refer the Review to the work of the Committee of Melbourne and its Utility Debt Spiral Project which outlines how appropriately managed hardship policies can assist overcoming personal debt spirals and poverty traps. See:

[http://www.melbourne.org.au/120.0.html?&no\\_cache=1&sword\\_list\[\]=utility&sword\\_list\[\]=debt&sword\\_list\[\]=spiral](http://www.melbourne.org.au/120.0.html?&no_cache=1&sword_list[]=utility&sword_list[]=debt&sword_list[]=spiral)

- Fair and efficient dispute resolution procedures that ensure consumers can dispute increased costs or collection policies that might be unfair, harsh or oppressive.

It is our strong view that consumers should not be pushed on to expensive or even exploitative credit arrangements to pay for basic essential services. We are already concerned about the increasing incidence of low-income and vulnerable consumers using credit cards or even pay day loans to pay for basic household goods and services. A comprehensive consumer protection framework can ensure that consumers have fair billing procedures and payment terms, ensuring that businesses accept alternative payment arrangements should the need arise.

We note that work is currently being done through the Ministerial Council on Energy to establish a national consumer protection framework for energy.<sup>3</sup> We support this work, and ask the Review to recommend that the protections established by the framework be comprehensive and robust. There has been a great deal of research and investigation of these issues in Victoria, resulting in a regulatory regime that provides sufficient protection for consumers without impeding competition. We recommend the Victorian regulatory regime be recognised as best practice.

We also believe that tariff protections (particularly for electricity, but also gas and water) must be established as part of a consumer protection framework. We are not calling for price regulation, which would jeopardise the objectives of an ETS. We do, however, believe that tariff structures need to ensure that consumers, particularly low-income and low-consumption consumers, are not unfairly penalised by an ETS.

Low-income households spend a higher percentage of their income on essential services compared to other consumers.<sup>4</sup> Further, research has demonstrated that lower income groups consume energy at a rate below average household use.<sup>5</sup> If an ETS resulted in a flat increase on the cost of essential services, then low-income consumer would be penalised. This penalty is exacerbated by the fact that low-income / low-consumption consumers are not the consumers who need to be receiving signals to reduce their usage.

We believe that the costs of an ETS should be passed on primarily to larger users of energy and water, so that the price for non-discretionary use is maintained at an affordable level. We note that this would not require any additional government funding, and could be achieved through governments and regulators developing tariff principles and/or regulating tariff structures for residential consumers. It would have the added benefit of specifically targeting the levels of consumption that are intended to be curtailed.

It must be remembered that there will however be those in the community whose income is simply insufficient to meet the costs of their energy bills, and so depend on Government concessions and rebates to ensure they retain access to this essential service. We recommend the Review reinforce the need for appropriate Government intervention and

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<sup>3</sup> We further note that the level of consumer protection in this new framework remains uncertain. The MCE's Standing Committee of Officials will release a policy paper for public consultation in May 2008.

<sup>4</sup> ACF, ACOSS and CHOICE, above n 1, p 6.

<sup>5</sup> Australian Bureau of Statistics, *Household Expenditure Survey, retailed expenditure items*, 2003-04.

financial assistance to ensure that all Australians are able to experience an acceptable standard of living.

## **Design of ETS must be environmentally robust**

### *Auctioning permits*

Consumer Action supports the Review's recommendations for the auctioning of permits as opposed to allocation of free permits, with minimal compensation to Trade Exposed Energy Intensive Industries (**TEEII**). The auctioning of permits should go some way to preventing organisations, such as electricity generators, receiving windfall profits as occurred subsequent to the establishment of the European Union ETS, where significant costs were borne by consumers while environmental objectives were not achieved.<sup>6</sup>

### *National Energy Market Alignment*

In an effort to achieve greatest outcomes and minimise payments to TEEII, the design of the ETS needs also to consider the design of the National Energy Market (**NEM**). We are concerned that the NEM is undergoing significant reform without consideration for environmental and social objectives.<sup>7</sup> This can be contrasted to the UK economic regulator, Ofgem, which has social and environmental objectives that are aligned with the Government's goal of a low carbon economy.<sup>8</sup> We are concerned that until the NEM objectives are aligned with ETS objectives, consumers will further bear the costs of an inefficient market. We strongly urge the Review to recommend to Government an alignment of NEM objectives with those of the ETS to ensure TEEII, specifically generators, respond in a strategic and coordinated manner to energy supply and energy security issues for Australia - with environmental and social objectives.

### *Targets*

We support aggressive targets and reduction levels being set in accordance with agreed and up-to-date scientific opinion. In addition to this, however, is the equal and urgent need for targets to be set in consideration of the short term needs of low-income consumers and their ability to maintain access to affordable energy. It is our view that the targets set out in the Discussion Paper do not need to have deleterious impacts on consumers if the other complementary measures we suggest are implemented.

## **Assisting consumers adapt**

The Governance arrangements of the ETS will need to prioritise the distribution of funds from auction permits to specifically reduce the financial impacts on low income and vulnerable consumers. As acknowledged, individuals and households will be affected by

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<sup>6</sup> Garnaut Climate Change Review, *Emissions Trading Scheme Discussion Paper*, page 33.

<sup>7</sup> The National Electricity Objective, as stated in the National Electricity Law, is 'to promote efficient investment in, and efficient operation and use of, electricity services for the long-term interests of consumers of electricity with respect to (1) price, quality, safety, reliability, and security of supply of electricity; and (2) the reliability, safety and security of the national electricity system'.

<sup>8</sup> Department of Trade and Industry, *Social and Environmental Guidance to the Gas Electricity Markets Authority*, available at <http://www.ofgem.gov.uk/About%20us/Documents1/file37517.pdf>.

firms passing through costs, resulting in higher prices for consumer products and services. We recognise the Review's discussion of adjustments assistance to low income households, in particular the recommendation to assist households through the tax and welfare system assistance with a focus upon essential services.<sup>9</sup> Consideration should be given, however, to whether there are other more targeted measures which can be used to efficiently deliver assistance to low-income consumers. For example, we strongly support concessions on utility bills as provided by the Department of Human Services in Victoria. We believe that concession schemes should be expanded and strengthened to ensure consumers maintain access to affordable energy and water.

Additionally, ETS funds should be used to pursue policies that improve household energy efficiency. Energy efficiency has the dual benefit of reducing energy consumption and thus greenhouse gas emissions, while reducing consumers' bills. There is also evidence that an energy retrofit can achieve average energy savings of up to 30%<sup>10</sup> on an average household bill.

Efforts must be made, however, to ensure that low-income and vulnerable consumers have the capacity to engage in energy efficiency activities. We are concerned that in many cases they are prevented from doing so due to high upfront costs. Similar problems arise in respect of tenants, who are either not able to engage in energy efficiency (due to restrictions imposed by landlords) or are not incentivised to do so (due to the high upfront capital costs and the lack of long term benefit). While we have welcomed policies such as the Victorian Energy Efficiency Target which aims to improve energy efficiency in Victorian households, we believe that better targeted policies need to be developed so that those least able to are able to participate in energy efficiency activities. There is significant scope for the Review to consider how best to design and implement such policies.

Urgent action on climate change is necessary, yet we also need to assist consumers to prepare for increased prices. We view the Review as an opportunity to ensure the success of an ETS model as well as a means of ensuring consumers are not unfairly burdened by price shocks but are able to participate in actions that will reduce greenhouse gas emissions.

Should you have any questions about this submission, please contact us on 03 9670 5088.

Yours sincerely

**CONSUMER ACTION LAW CENTRE**



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<sup>9</sup> Garnaut Climate Change Review, *Emissions Trading Scheme Discussion Paper*, p. 44

<sup>10</sup> ACF, ACOSS and CHOICE, above n 1, p 3.