

# SUBMISSION TO CARBON POLLUTION REDUCTION SCHEME - GREEN PAPER

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10 September 2008

By email: [emissionstrading@climatechange.gov.au](mailto:emissionstrading@climatechange.gov.au)

Green Paper Submissions  
Department of Climate Change  
GPO Box 854  
Canberra Act 2601

Dear Sir/Madam

### **Carbon Pollution Reduction Scheme Green Paper**

Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to provide a submission to the Carbon Pollution Reduction Scheme Green Paper (the **Green Paper**), as released by the Department of Climate Change in July 2008.

We broadly support the government's initiatives to implement a well designed Carbon Pollution Reduction Scheme (**CPRS**), with strong trajectories and targets that should result in significant greenhouse gas emissions reductions. It is widely accepted that Australian consumers will pay for the cost of the CPRS, primarily through higher electricity bills, but also indirectly through other goods and services. Considering this, while consumers have a significant interest in ensuring that the CPRS meets its policy objectives, they also have a strong interest in ensuring that they are not burdened by extra financial costs and associated disadvantage. In our view, a strengthened consumer protection framework will assist in ensuring consumers are not disadvantaged by the CPRS.

We are increasingly concerned, however, that the proposed CPRS will fail to reach emissions reductions necessary to ameliorate the effects of carbon pollution on the environment. In particular, we are concerned that a CPRS with a low emissions reduction target removes the incentive for business to innovate to reduce emissions, undermining the objective of the scheme. The CPRS represents a massive cost to the economy which should not be borne unless it will achieve its policy objectives.

In our view, the success of the CPRS as a market mechanism to reduce greenhouse gas emissions will largely depend upon:

- limited exclusions (ie, wide coverage);
- very limited compensation for emissions intensive trade exposed industries;
- no compensation for coal-fired electricity generators;
- its ability to provide incentives for business to find least cost abatement measures;

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- compensation to ameliorate the price impacts of the CPRS on households; and
- a strong consumer protection framework to ameliorate the impact of the CPRS upon consumers.

## **About Consumer Action**

Consumer Action is an independent, not-for-profit, campaign focused, casework and policy organisation, providing 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, with a prominent voice in the media, and in the community directly.

## **Assistance for Households**

### *Consumer Protections*

As consumers typically represent the ‘end of the line’ in terms of pass through of costs, it is highly likely that they will be subject to price increases following the introduction of the CPRS. Higher electricity prices, for example, will result in many more consumers being unable to pay their bills on time, risking late penalties and/or disconnection. It will also result in further increases in levels of consumer debt, at a time when such debt is at record high levels.

A framework for national energy consumer protection is currently being negotiated through the Ministerial Council on Energy. In our view, this framework should reflect the consumer protections currently set out in the Victorian Energy Retail Code (the **VERC**) and related regulation. These protections currently represent best practice in the Australian market and should be implemented nationally. The VERC and other Victorian energy regulation provide essential assistance to consumers for the management of their electricity bills; including:

- a framework of minimum standards for the issuing of energy bills, associated reminder notices and account collection practices;
- the provision of alternative payment arrangements for those experiencing difficulties with bills;
- the prohibition of late payment fees;
- compensation for consumers who are wrongfully disconnected;
- links to appropriate assistance and services, including energy efficiency advice and information; and
- additional assistance for consumers experiencing financial hardship.

The Victorian consumer protection framework for energy was developed consultatively in line with the development of the competitive Victorian energy market. We strongly urge the Government to apply these basic principles nationally.

Broader consumer protections have been recommended by the recent Productivity Commission's review of consumer policy which highlights the need for improved consumer protection measures. Recommendations of the Productivity Commission include:<sup>1</sup>

- a new objective for consumer protection regulation, being to improve consumer wellbeing by fostering effective competition and enabling the confident participation of consumers in markets in which both consumers and suppliers trade fairly and in good faith;
- the prohibition of unfair contract terms;
- improved access to remedies for consumers who have experienced loss or disadvantage due to a trader's actions (such as collection policies that might be unfair, harsh or oppressive);
- improved enforcement by consumer regulators, such as the imposition of civil pecuniary penalties and the recovery of profits from illegal conduct; and
- empowerment of consumers, through improved information disclosure requirements that enable consumers to understand and compare offers from traders in the marketplace.

We recommend that these proposals be adopted immediately, and that they apply to energy markets throughout Australia.

**Recommendations:**

- Apply the Victorian consumer protection framework for energy across all jurisdictions; and
- Strengthen consumer protection measures following the recommendations of the Productivity Commission.

*Price impacts*

We strongly support the Green Paper's proposal to provide assistance to households to compensate them for the increased costs relating to the implementation of the CPRS. In our view, effective assistance for households is essential to the success of the CPRS.

The price impacts on electricity will be the most direct and severe considering the carbon intensity of much of Australia's electricity generation. Electricity is also a unique product that is essential for health and wellbeing. This means that the Government must ensure that continued access to electricity for all Australians is not compromised by the introduction of the CPRS. The ability for many households, in particular low income households, to respond to price signals is already limited. It is well known that the elasticity of demand for energy services is low. Further, there is some evidence that many low-income households who do reduce usage in response to prices subsequently under-consume, to the detriment of their health and wellbeing.<sup>2</sup> As such, all efforts need to be made to ensure Australian consumers are not restricted from energy services due to incapacity to pay.

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<sup>1</sup> Productivity Commission, *Review of Australia's Consumer Policy Framework*, April 2008.

<sup>2</sup> Ministerial Council on Energy, *Cost Benefit Analysis of Smart Metering and Direct Load Control Phase 2 Report – Consumer Impacts*, NERA Consulting, February 2008, p32

Consumers across Australia have already been impacted by rising energy prices during 2007/2008. For example, electricity prices in Victoria when up between 12 and 17 per cent on 1 January 2008. This was largely justified by the ongoing drought and levels of network augmentation due to increased peak demand. There is other evidence that, in Victoria, prices have risen disproportionately since the introduction of full retail competition. For example, the recently released Victorian Utilities Consumption Survey documents that Victorians have been hit with disproportionate price increases of 38% since 2001 for the average annual electricity bill.<sup>3</sup> During this period, there has only been a 7% increase in consumption levels and Victoria has enjoyed low inflation rates. The current move towards full price deregulation in Victoria from 2009, combined with the difficulty consumers face in understanding and comparing tariff offerings, may mean that consumers face even more price increases – before the CPRS takes effect. The combination of ongoing price increases and the pending introduction of smart meters and tariff structures based upon time of use or critical peak pricing may expose consumers to electricity price volatility not currently experienced in the market resulting in price shock and an increase in late payments and disconnections. In our view, the CPRS must be implemented in conjunction with a sophisticated action plan to ensure consumers maintain continued access to affordable energy services.

We are particularly concerned that the Green Paper does not recognise that the impact on electricity prices will vary in different geographical areas because of varying generation sources. In areas where generation is largely from brown coal (ie Victoria), the price impacts will be larger compared to areas where there is predominant reliance on hydro-electricity (ie Tasmania). The Green Paper fails to recognise that consumers will be disproportionately penalised by their geographic location.

In an effort to ameliorate the effects of these price impacts, we strongly support the need for increased income payments (ie Centrelink, Family payments) and tax cuts for low/middle income earners to ensure consumers have sufficient income to cover increased living costs from a carbon price. We also support concession payments being extended and applied across essential services nationally. Concessions should be applied as a percentage of a total bill (currently in Victoria the Winter Energy Concession for electricity and gas is 17.5% and available for those on Pensioner Concession Cards or Health Care Cards) as opposed to fixed dollar figures.

Further, initiatives such as regulated standards that highlight low emissions intensive buildings, goods and services need to be introduced to assist consumers make low emissions intensive purchasing decisions. This would enable consumers to actively reduce their overall consumption and their emissions.

**Recommendations:**

- Conduct State based analysis monitoring and indexation to ensure Australian consumers are not disproportionately penalised by their geographic location based upon fuel type (brown/black coal vs hydro vs LNG) when determining appropriate compensation for households;
- Address issues of fuel poverty through providing thermal efficiency and

<sup>3</sup> Department of Human Services, *Victorian Utility Consumption Survey 2007*, August 2008.

compensatory measures;

- Introduce national concessions on a percentage basis to assist with increased energy costs; and
- Implement mandated standards for disclosure of low emissions intensive goods and services.

### *Tariff structures*

To further minimise the effects of increasing electricity prices, it is essential that Government directs energy regulators to ensure tariffs and prices are not restricting access to energy services or that they are being applied unfairly. In particular, we are concerned that the cost of carbon will be imposed as part of fixed charges on bills, which will have a regressive impact upon low-income consumers. Those consumers that do not have the capability to meet rising energy prices (due to low or fixed incomes), or who can not actively reduce consumption through living circumstances (eg. as tenants in private or public housing with poor energy efficiency), are at risk of bearing a disproportionate cost burden from the implementation of a CPRS.

We believe that the costs of an ETS should be passed on primarily to larger users of electricity, 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.

### **Recommendations:**

- The Government and regulators should develop tariff principles that ensure non-discretionary energy use is maintained at an affordable level.

### *Energy Efficiency*

So as to limit the impact of CPRS on consumers, it is essential that there is a complementary policy framework for developing programs for energy efficiency in low-income households. Such programs should have clearly defined and understood objectives, whether they are to reduce emissions and/or improve affordability. Programs should also have processes that measure outcomes and impacts. So as to target the most disadvantaged consumers effectively, we recommend such programs are implemented through community partnerships with organisations that regularly assist low-income people.

Policies and programs that should be considered as part of this framework include:

- Large scale energy audits and retrofitting for high consumption low income households;
- Education campaigns;
- Immediate retrofitting of public housing;
- Tax rebates for energy efficiency activities in private rental properties;
- Improved mandatory energy efficiency performance standards; and
- Nationally mandated housing standards/ratings for energy efficiency.

We have concerns with the reliance upon programs listed in the Green Paper, including the Green Loan, Low Emission Plan for Renters and Rebate Schemes. We are concerned at that these create barriers to low income consumers to increase their energy efficiency as these programs require upfront expenditure.

**Recommendations:**

- Conduct large scale energy audits and retrofitting for high consumption low income households;
- Implement ongoing and effective education campaigns;
- Immediately retrofit public housing;
- Consider tax rebates for energy efficiency activities for private rental properties;
- Improved mandatory energy efficiency performance standards; and
- Nationally mandated housing standards/ratings for energy efficiency.

**Assistance for industry**

*Emissions Intensive Trade Exposed Industries*

Consumer Action supports limited allocation of permits to the Emissions Intensive Trade Exposed Industries (**EITE**) on the basis that they apply to activities only – not to industries as a whole. The broad based expectation that entire industries will receive compensation is ultimately a poor outcome for the CPRS.

Further, the allocation of permits to EITE should be monitored, reviewed often and ceased following review, should a portfolio or activity cease or cease to be trade exposed.

We also hold concerns around the proposed 1500 tCO<sub>2</sub>-e/\$m revenue threshold for such compensation, specifically based upon the obvious incentive that those just under the threshold will increase emissions intensiveness to receive subsidies. We recommend measuring emissions intensity from a period of financial year 2006/2007. If such an approach is taken, businesses will be less able to manipulate results.

**Recommendations:**

- Limit the allocation of permits for EITEs to an activity-only basis;
- Allocate free permits for a limited period (e.g. maximum three years);
- Monitor and review (and remove allocation) where applicable, regularly; and
- Manage threshold on baseline for compensation to EITEs of 2006/2007 or prior.

*Electricity Sector Adjustment Scheme*

Consumer Action strongly opposes the Electricity Sector Adjustment Scheme (**ESAS**).

We have significant concerns regarding the proposal for direct assistance to individual, coal-fired electricity generators. The Government's decision to manage investment risk appears to be based on concerns of industry lobbyists, rather on sound evidence-based policy. In

our view, the incentive for businesses to innovate and abate will be diminished by the provision of subsidies. The ESAS will in fact be a wealth transfer from the public to a few privileged investors.

The government's proposal to define an asset as 'in operation' from a cut off date of 3 June 2007' overlooks the ample opportunities that have been available to generators over the past 15 years to diversify their portfolios and offset upcoming carbon costs. Specifically:

- the first international convention on climate change which was signed in 1992;
- the use of emissions trading was identified specifically by the Kyoto Protocol in 1997;
- an emissions trading scheme was originally discussed in 1999-2000 by the Australian Green house office as a policy approach;
- The implementation of the EU Emissions Trading Scheme and the Chicago Exchange has been operational and involving global markets with several international businesses engaged; and
- Polluter pays has been a principle of environmental law for many years and carbon has been acknowledged as a pollutant for 10-15 years plus.

Should the government introduce assistance to coal-fired electricity generators we strongly encourage this cut off date to be extended to 1 January 2000, acknowledging at least ten years of investment planning, without overlooking the potential that generators may have waited for the opportunity of compensation to retire assets.

The concerns the Government has about the scheme increasing risk assessment for future foreign investment could be overcome by linking any compensation that is determined through the ESAS to permit allocations tied to investment in renewable energy or alternative energy technology in Australia. This would prevent investors immediately pulling out of the Australian market, provide an incentive for and re-invigoration into the renewable energy sector with foreign investment and ensure generation mix is expanded at an accelerated pace.

#### **Recommendations**

- Coal-fired electricity generators should not receive direct or indirect assistance as part of the implementation of the CPRS.
- Any compensation provided to coal-fired electricity generators should be in the form of permits, linked to investment in renewable energy technology only.

#### **Governance**

The regulator appointed to the CPRS must have compliance and enforcement provisions and the ability to apply and uphold penalties. This should include unimpeded access to records and accounts of organisations through direct contact or by warrant as necessary. Lack of transparency in the scheme will undermine the scheme's success and the role of the regulator.

Consumer Action believes it is crucial that penalties are set at a level sufficient to deter businesses choosing to get a penalty rather than surrendering a permit. Penalties need to be meaningful and accompanied by 'make good' provisions. If there are not effective penalties, the CPRS will not result in reduced emissions.

**Recommendation**

- Appoint a regulator with compliance and enforcement provisions and the ability to apply and uphold penalties;
- Set meaningful penalties accompanied by 'make good' provisions.

Urgent action on climate change is necessary, yet we also need to assist consumers to prepare for increased prices. We view this Green Paper as an opportunity to ensure the success of a CPRS as well as a means of ensuring consumers are not unfairly burdened by price increases, but are able to actively participate in reducing greenhouse gas emissions.

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

Yours sincerely

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