



public interest
ADVOCACY CENTRE LTD

Clean and Fair:

**Submission to the Senate Select Committee on
Climate Policy**

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1. Introduction

1.1 The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action on public interest issues.

PIAC identifies public interest issues and, where possible and appropriate, works co-operatively with other organisations to advocate for individuals and groups affected. PIAC seeks to:

- expose and redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate on issues affecting legal and democratic rights;
- promote the development of law that reflects the public interest;
- develop and assist community organisations with a public interest focus to pursue the interests of the communities they represent;
- develop models to respond to unmet legal need; and
- maintain an effective and sustainable organisation.

Established in July 1982 as an initiative of the Law Foundation of New South Wales, with support from the NSW Legal Aid Commission, PIAC was the first, and remains the only broadly based public interest legal centre in Australia. Financial support for PIAC comes primarily from the NSW Public Purpose Fund and the Commonwealth and State Community Legal Services Program. PIAC also receives funding from the NSW Government Department of Water and Energy for its work on utilities, and from Allens Arthur Robinson for its Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, consultancy fees, donations and recovery of costs in legal actions.

1.2 Energy + Water Consumers' Advocacy Program (EWCAP)

This Program was established at PIAC as the Utilities Consumers' Advocacy Program in 1998 with NSW Government funding. The aim of the Program is to develop policy and advocate in the interests of low income and other residential consumers in the NSW energy and water markets. PIAC receives policy input to the program from a community-based reference group whose members include:

- Council of Social Service of NSW (NCOSS);
- Combined Pensioners and Superannuants Association of NSW (CPSA);
- Park and Village Service;
- Ethnic Communities Council NSW;
- Rural and remote consumers;
- Institute of Sustainable Futures (ISF), University of Technology (UTS);
- Indigenous consumer representative; and
- Western Sydney Community Forum (WSCF).

2. Overview of submission

PIAC welcomes this opportunity to provide comment to the Senate Select Committee on Climate Policy (the Committee) on the proposed Carbon Pollution Reduction Scheme (CPRS) and the Government's response to climate change. PIAC notes that there have been a number of consultations that have led to the CPRS as proposed, not least the Garnaut Review and the CPRS Green and White Papers. Climate science emphasises the importance of the swift introduction of effective climate change policy to the future wellbeing of all the people of Australia and other nations.

PIAC has a ten-year history of working on behalf of low-income and vulnerable households through the Energy and Water Consumers' Advocacy Program (EWCAP) to highlight and minimise the impact on these households of increases in the cost of and limited access to energy and water. In this submission, PIAC critiques the CPRS and other climate change responses with a focus on how these programs affect low-income and vulnerable households. This critique is informed by PIAC's experience of consumer advocacy in energy markets.

PIAC seeks to highlight the risks of further uncertainty around climate change policy. The likelihood of further uncertainty leading to deferred capital expenditure, in turn reducing security of energy supply and driving up wholesale energy prices, must be avoided. Steeply rising energy costs are already putting pressure on household budgets.

In this submission PIAC argues that the proposed CPRS will fail low-income households by inadequately protecting them from rising energy costs, excluding income-constrained households from becoming active in climate change measures, and ignoring repeated calls from the community sector for energy efficiency measures targeted towards these households.

PIAC also calls on the Committee to avoid re-opening concluded debates about appropriate climate change policies, which risk sidelining efforts for swift action. For example, questions of whether climate change is occurring and whether climate change is the result of human action should not distract from the current need for action. The scientific evidence is settled. PIAC commends the majority of Members of Parliament who acknowledge the need for action on climate change.

Another debate to be avoided is the carbon cap versus carbon tax debate. Whilst both of these approaches have merit, this discussion has been concluded and the carbon cap was decided as the most appropriate measure, potentially because of the ability to accurately target the level of carbon reduction and the compatibility with international carbon trading. The issue of voluntary action, which is aligned with support for a carbon tax, is addressed below.

3. The choice of emissions trading as the central policy to reduce Australia's carbon pollution

PIAC supports cap-and-trade as the central policy to decrease carbon emissions to a level identified by science as necessary in avoiding further human-induced climate change. As a cap-and-trade system allows the setting of an overall target for Australia's emissions, it is an appropriate central policy to be supported by complementary measures as required.

On its own, the CPRS will not always lead to the cheapest and easiest reductions in carbon emissions. In many cases consumers will not act 'rationally' as expected by the CPRS. Consumer inertia or the inability of

low-income households to afford the upfront cost of carbon abatement measures such as solar hot-water systems are two examples of barriers to finding the lowest-cost solutions to climate change.¹ The inability of renters to make capital improvements to properties due to tenancy arrangements is another issue that needs to be addressed by additional measures.

Complementary measures should be judged on their success in overcoming barriers to the most efficient operation of the CPRS rather than their ability, or inability, to reduce emissions further than the cap set in the CPRS.

The effectiveness of a cap-and-trade system, such as the CPRS, relies on emission targets based on scientific evidence about the level of emission reduction required to avoid further climate change. If the target is based upon political compromise and timidity about taking the tough measures required to protect the Australian and global population, Australia will continue to contribute towards climate change. Recent polls show that the community does not consider this to be an acceptable outcome.²

3.1 Reducing carbon pollution at the lowest economic cost

In addition to considering the relative economic cost of carbon policies, PIAC requests that the Committee consider which mechanisms will achieve the necessary reduction in carbon pollution at the lowest social cost. This should include responding to the disproportionate impact of carbon policy on vulnerable sectors of the community, for example households on low incomes or not-for-profit organisations with limited funding.

Considering social impacts would also address concerns about the potential for climate policies to exacerbate the divide between resource-wealthy and poor citizens, and to entrench new class divisions in society. Possible reasons for not being able to reduce an individual's, household's or community's carbon footprint include a lack of resources and wealth, or administrative difficulties such as those faced by tenants. Division and stigma between households that can partake in climate mitigation and households that cannot must be avoided.

Attempts must be made to enable all Australians to reduce their carbon footprint, to avoid a situation where some communities face further isolation or discrimination because of an inability to reduce emissions, for reasons beyond their control.

To avoid this, the role of household energy efficiency as a low-cost method for reducing emissions must be acknowledged, and the inability of low-income households to meet the upfront cost of such measures must be addressed. These measures include home-insulation, energy efficiency behavioural audits, household retrofits, efficient hot-water systems and the replacement of old carbon-intensive appliances with newer, carbon efficient models.³

Different levels of government and a number of non-government organisations have tried to address this through No-Interest Loans Schemes (NILS), such as the Commonwealth Green Loans Program. The limitation of NILS is that whilst they work well for those able to access the program, for many of the most

¹ Professor Ian McAuley, 'Carbon and Consumers' (Paper presented at the Energy & Water Consumers' Advocacy Program Carbon & Consumers conference, Sydney, 27 February 2009) 5.

² Essential Media, *Essential Report: 23rd March 2009* (2009) [4]
<http://www.essentialmedia.com.au/Media/Essential_Report_230309.pdf> as at 1 April 2009.

³ Australian Council of Social Services, Australian Conservation Foundation and CHOICE, *Energy and Equity, Preparing households for climate change: efficiency, equity, immediacy* (2007) [16]
<<http://www.acoss.org.au/Publications.aspx?displayID=1&subjectID=11>> as at 5 April 2009.

vulnerable these programs are inappropriate. Those with a bad credit history cannot access these programs and it would be irresponsible to increase debt to a household whose income level would not allow the repayment of a loan. For these households, alternatives must be available.

The most effective alternative would be for energy efficient appliances and energy audits to be provided free of charge by government.⁴

Complementary measures to the CPRS, whilst essential to overcoming barriers to the most efficient operation of the scheme, should only be supported if they are shown to be the lowest-cost solution to a need not otherwise met. Otherwise, they risk achieving carbon reduction at a *higher* cost to consumers, rather than at the lowest cost.

Some complementary measures may only be required to meet a temporary need in addition to the CPRS. Such measures should include a sunset clause so that they can be rolled back once they are no longer the most efficient policy.⁵

3.2 Putting in place long-term incentives for investment in clean energy and low-emission technology

In considering this point, the Committee must keep in mind that the CPRS is not the only policy proposed to address climate change. Complementary measures such as the Renewable Energy Target (RET), research and development funding and state-based policies such as Feed-in-Tariff schemes must also be considered.

PIAC is concerned that the form of compensation to Emission Intensive Trade Exposed (EITE) industries and Strongly Affected (SA) industries presents a wasted opportunity to increase research and development of low-emission technologies.

The Climate Change White Paper proposes the compensation of EITE and SA industries in the form of carbon permit allocations.⁶ PIAC would like to see all, or part, of this compensation in the form of research and development grants. The free allocation of permits does little more than encourage business to maintain a business-as-usual approach. PIAC would like to see compensation that encourages or requires businesses to upgrade technologies and practices that enable them to remain strong in a post-carbon pricing economy.

Above all, PIAC considers the strongest incentive for investment in clean energy and low-emission technology to be certainty about the regulations and market conditions that will be seen into the future.

3.3 Contributing to a global solution to climate change

PIAC is not an expert in the area of global negotiations on climate change solutions, but makes the two following points in respect of Australia's approach to the negotiations.

Firstly, it seems to make little sense to go into international negotiations with a maximum emission cap of 15 percent, a level below what the science states is required to stabilise global temperatures. The

⁴ KPMG, the Brotherhood of St Laurence and ECOS Corporation *A National Energy Efficiency Program to Assist Low-income Households* (2008) [3] <<http://www.bsl.org.au/main.asp?PagelD=5394#KPMG>> as at 4 April 2009.

⁵ Joel Pringle, *A Good FiT: Designing a Fair and Effective Feed-in Tariff Scheme for NSW* (2009) 4. <http://www.piac.asn.au/publications/pubs/sub2009011_20090113.html> as at 5 April 2009.

⁶ Commonwealth of Australia *Australia's Low Pollution Future: White Paper* (2008) [12-2, 13-27] <<http://www.climatechange.gov.au/whitepaper/report/index.html>> as at 1 April 2009.

government must be willing to achieve higher emission cuts if that is required to reach global agreement on climate change policies.

Secondly, PIAC sees that the developed world has a responsibility for greater contribution towards the research and development of new technologies that will assist developing nations to continue bringing citizens out of poverty whilst contributing to lower global emissions.

4. Relative contributions to overall emission reduction targets from complementary measures

If the emission target is set at an adequate level to stabilise human-induced climate change, then measures additional to the CPRS will be required to ensure that barriers to the most efficient and equitable operation of the scheme are overcome. Barriers such as consumer inertia, discretionary income constraint and issues faced by tenants have been discussed above. Additional government action may be needed to foster the development of new technologies.

Other complementary measures include state and local government emission targets, as well as the emission reductions of organisations under the control of government, including state-owned corporations, government enterprises and government departments. These should be considered as valuable policies where they are demonstrated to achieve lower cost and more timely emission reductions than could be achieved through a market mechanism such as the CPRS.

Voluntary action has been raised as an issue under a cap-and-trade scheme.⁷ PIAC considers that voluntary action is of only marginal importance to the overall design of climate change policy.

In total, households only account for around 12 percent of national energy use.⁸ The concept of voluntary action excludes actions motivated by the saving of money through lowering the use of energy (or otherwise reducing carbon emissions). By looking at action taken to reduce emissions for altruistic intentions and excluding actions intended to gain a cost benefit, the total contribution to overall emission cuts would be negligible. Further, the notion that voluntary action should be additional to the CPRS does not take into account that individuals, as well as corporations and industry, have a responsibility to contribute to achieving the emission targets under the CPRS. A structural response to climate change, as under the CPRS, does not obviate individuals from responsibility for action at the expense of other actors in the economy.

Essentially, the issue of voluntary action could be resolved if the emission target was set at a level adequate to avoid further climate change due to human action.

There is, however, one important exception to this.

The GreenPower Scheme has been instrumental in creating new renewable generation in Australia⁹, and has reached ten percent of households. GreenPower is comprehensively audited, making it a suitable addition to the CPRS. GreenPower has equity benefits that set it aside from other voluntary action schemes.

⁷ R Dennis, *Fixing the Floor in the ETS* (2008) <https://www.tai.org.au/file.php?file=fixing_the_floor_in_the_ets.pdf> as at 30 March 2009.

⁸ McAuley, above n1 3.

⁹ NSW Department of Water and Energy, *National GreenPower Accreditation Program Annual Compliance Audit 2007* (2008) [24].

The GreenPower Scheme has been successful in encouraging the generation of significant amounts of renewable energy without additional cost to low-income households, unless those households have chosen to pay extra to take part. This is in contrast with a universal scheme such as the RET, which spreads the cost across all consumers. This is not to suggest that GreenPower should replace the RET, as it does not have the capacity to achieve targeted outcomes as does the RET, but highlights the importance of finding a place for GreenPower under the CPRS, including the additionality of GreenPower to other climate policies and targets if that is required.

PIAC was dismayed to see that the CPRS White Paper failed to make energy efficiency measures available to households on low-incomes. This oversight fails the equity test that should have been applied to the CPRS. Energy efficiency not only reduces the energy bills and thermal comfort of households, but also reduces the carbon footprint of that household. Additionally, a roll-out of energy efficiency retrofits and audits to low-income households would allow these households to take part in the broader efforts to reduce carbon gases and avoid further stigma being attached to this part of the community.

Energy efficiency can be a relatively cheap and effective method of reducing carbon emissions, without lowering welfare or living standards.¹⁰ Even though this is the case, many households cannot afford the upfront cost of energy efficiency measures or are otherwise excluded from their application, as in the case of tenants. This issue is discussed above.

As part of the economic stimulus package, the Government announced rebates for the installation of ceiling insulation across the country. The statements upon release of this scheme showed an understanding of the ability of energy efficiency to reduce household bills and reduce carbon emissions. However welcome, this program does not represent a comprehensive energy-efficiency package for low-income households.

A nationally co-ordinated roll-out of household retrofits and behavioural energy audits, funded by CPRS revenue, is required.¹²

5. Whether the Government's Carbon Pollution Reduction Scheme is Environmentally Effective

For the CPRS to be environmentally effective the emissions target must be set with regard to science as opposed to political compromise. PIAC asks the Committee to take leadership on this issue and make it clear that anything less is unacceptable.

As noted, it makes little sense to enter international negotiations with a maximum cap of fifteen percent, a level below the level that science states is required to stabilise global temperatures. The Government must be willing to make higher emission cuts if that is required to reach global agreement on climate change policies.

<http://www.greenpower.gov.au/admin/file/content9/c14/greenpower_compliance_audit_report_2007.pdf> as at 30 March 2009.

¹⁰ Australian Council of Social Services, Australian Conservation Foundation and CHOICE, above n3 15.

¹² KPMG, the Brotherhood of St Laurence and ECOS Corporation, above n 4, 3.

6. An appropriate mechanism for determining what would be a fair and equitable contribution to the global emission reduction effort

Whatever Australia's contribution to the global emission reduction is to be, Australia must not avoid responsibility for emission reductions at the expense of nations with less ability to meet emission cuts without pushing citizens into poverty. Whatever mechanism is deemed appropriate must be suitable to encourage a global agreement that will see carbon emissions cut to levels that will stabilise human induced climate change.

7. Whether the design of the proposed scheme will send appropriate investment signals

Under the proposed CPRS, with a potential emissions cap of five percent and with overly-generous compensation payments and free permit allocation, PIAC finds it difficult to see how there will be anything other than minimal change in the energy sector in response to climate change.

PIAC believes that the proposed CPRS is likely to see only marginal effect on green collar jobs, research and development, and manufacturing and service industries, other than what was already occurring based on industry expectations that climate change policies would be introduced at some stage in the future.

One success in the government's climate change response is likely to be the RET, which will guarantee new renewable generation. The RET should be maintained until the CPRS targets are sufficient to ensure that new electricity generation comes from renewable sources, or from gas when renewable technologies are not adequate to supply base-load power.

Rather than being allocated as compensation to industry, monies raised through the CPRS should be invested in the research, development and deployment of low-emission technologies. Any compensation scheme provided to industry must have a timetable for roll-back and compensation to EITE industries must roll-back upon the introduction of international agreements that will protect against carbon leakage.

8. Related Issues

As noted, an obvious omission from the CPRS is a co-ordinated roll-out of energy efficiency programs, targeted to low-income households which would not otherwise have access to these measures. This would solve market failures produced under the CPRS and would not only allow the CPRS to operate at a lower cost, but would insure these households against further rises in the cost of energy.

Further, the structure of the increased payments and tax offsets to low-income households, as outlined in the Climate Pollution Reduction Scheme White Paper, does not adequately address the risk to low-income households of introducing the CPRS and other climate change policies. The White Paper states that:

The Government will provide direct cash assistance to households upfront to coincide with any increase in the cost of living flowing from the Scheme. This will help low- and middle-income households maintain their standard of living and take advantage of mitigation opportunities.

Low- and middle-income households will receive assistance from 1 July 2010 to meet the higher cost of living resulting from the Scheme's introduction.¹³

The increased payments and tax offsets are based on Treasury modeling on the impacts and cost of the CPRS. The scale of the modeling project is vast and the design of the low-income assistance must acknowledge that any modeling of this type, especially of this scale, relies on a number of assumptions that may not come to pass.

A Concept Economics report, prepared for the Senate Select Committee on Fuel and Energy, highlighted the limitations to Treasury modeling.¹⁴ The report also discussed the potential unreliability of the projected costs to low-income households.¹⁵ As the payment and taxation changes are one-off, PIAC asks the Committee to consider regular reviews of the cost-impact of the CPRS on low-income households and to guarantee adequate protection where the cost is greater than the estimates provided through Treasury modeling.

In addition, the measures to assist low-income households must include a nationally co-ordinated roll-out of energy efficiency programs, for the reasons outlined above.

9. Conclusion

PIAC supports Government action to avoid human-induced climate change and, if the cap is set at a level based on the scientific evidence, supports the use of a cap-and-trade scheme as the central policy. PIAC also sees the need for complementary measures that overcome barriers to the most efficient operation of the CPRS, where these policies are shown to be the lowest cost and most equitable solution.

In addition to increased payments and tax offsets to compensate low-income and vulnerable households, PIAC ask the Committee to consider a comprehensive program of energy efficient household retrofits and energy audits to reduce the carbon footprint and energy bills of these households.

¹³ Commonwealth of Australia *Australia's Low Pollution Future: White Paper* (2008) [17-9] <<http://www.climatechange.gov.au/whitepaper/report/index.html>> as at 3 April 2009.

¹⁴ B Fisher, *A Peer Review of the Treasury Modeling of the Economic Impacts of reducing Emissions*. (2009) [6] <http://www.aph.gov.au/SENATE/committee/fuelenergy_ctte/senate_ets_report_020209_final.pdf> as at 5 April 2009.

¹⁵ *Ibid* 51.