

Retailer Authorisation and Exemption Review: Issues Paper

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Public Interest Advocacy Centre
ABN 77 002 773 524
www.piac.asn.au

Gadigal Country
Level 5, 175 Liverpool St
Sydney NSW 2000
Phone +61 2 8898 6500
Fax +61 2 8898 6555

About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is leading social justice law and policy centre. Established in 1982, we are an independent, non-profit organisation that works with people and communities who are marginalised and facing disadvantage.

PIAC builds a fairer, stronger society by helping to change laws, policies and practices that cause injustice and inequality. Our work combines:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change and public interest outcomes.

Energy and Water Consumers' Advocacy Program

The Energy and Water Consumers' Advocacy Program works for better regulatory and policy outcomes so people's needs are met by clean, resilient and efficient energy and water systems. We ensure consumer protections and assistance limit disadvantage, and people can make meaningful choices in effective markets without experiencing detriment if they cannot participate. PIAC receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

Contact

Douglas McCloskey
Public Interest Advocacy Centre
Level 5, 175 Liverpool St
Sydney NSW 2000

Website: www.piac.asn.au



Public Interest Advocacy Centre



@PIACnews

The Public Interest Advocacy Centre office is located on the land of the Gadigal of the Eora Nation.

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Introduction

PIAC welcomes the opportunity to respond to the Australian Energy Regulators' (AER) 'Retailer Authorisation and Exemption Review: Issues Paper' (the Paper). PIAC supports a comprehensive review of the regulatory framework to assess its ongoing capability to promote good outcomes and provide robust protections for all consumers throughout the transition of the energy system.

The Paper outlines an intent to assess the adequacy of the current energy consumer protection framework in the context of the transitioning energy market. PIAC considers it more appropriate to consider the transitioning of the energy 'system', to include both market and non-market aspects of the transition determining consumer outcomes.

Regulatory frameworks and consumer protections must support consumer outcomes relating to the affordable, efficient, and equitable access to the energy essential to support household health and wellbeing. The development and implementation of new energy services and products that can deliver these outcomes will be incentivised and enabled by providing transparent and consistent indications of what good consumer outcomes look like and what is required to meet consumer needs. This may or may not be best delivered through competitive markets. A narrow commitment to developing competitive markets would repeat the failures of the past 20 years in prioritising the development of a 'mechanism' over the 'outcome', on the assumption benefits.

It is not possible to assess future effectiveness without assessing the past operation of regulatory frameworks. This review should not be restricted to a prospective assessment of the regulatory frameworks' effectiveness in a transitioned energy system. It should commence with an assessment of consumer outcomes under the existing energy system, market, and regulatory frameworks. This assessment should consider how the market and the framework which shapes it have delivered against assumptions of better and more efficient service delivery. It should also examine where the market and regulatory framework have failed and assess why, and what lessons these failures have for the future energy system and how good consumer outcomes can be assured.

It is not clear from the Paper whether the AER intends to assess outcomes to date.

While PIAC welcome this review as a crucial step in the process to ensure the energy system meets consumers needs throughout the transition, we consider that a number of aspects of the Paper and its background and assumptions are flawed and will undermine an effective consideration of the future needs of consumers.

Essentiality

The Paper recognises energy as essential and focuses on certain uses for electricity to define essentiality. PIAC does not consider this approach fully recognises the nature of energy essentiality. Essentiality refers to the nature of electricity itself and the relationship consumers have to it as a result. Electricity is essential because it is (and will be increasingly) a fundamental enabler and support for household health and wellbeing and because people do not have the market power to 'refuse purchase' (such as when services are not appropriate, not affordable or where consumers do not feel confident available services meet their needs or preferences). In

these circumstances purchase is often (mostly) not an exercise of intention or active preference, but simply an inability to make another decision due to a need to use energy. This understanding of why electricity is essential and what implications that has for regulation, is crucial to reforming regulations and protections for consumers.

Essentiality must not be defined in a way that considers some uses more 'essential' than others. Essentiality must be related to the nature of electricity itself and the implications this has for consumers access and the management of risks and potential harms in protecting that access.

Regulation and consumer protection is not in conflict with innovation

The paper contends that consumer protections and other measures to achieve consumer outcomes must be balanced against the employment of innovative technology and responses that transition to a zero-carbon economy. PIAC strongly disagrees with this framing.

Innovation is a way to achieve an outcome. It is not an outcome itself. Innovation is often a 'new' way of responding to restricted parameters (such as cost or freedom to operate) in the achievement of an objective. Defining the required consumer outcomes, including fair and protected provision of essential services, must not be regarded as a restriction on innovation but simply the parameters guiding its employment. Promoting better outcomes for all consumers and preventing consumer harm must be the priority and should not be traded off or 'balanced' with a potential freedom to innovate.

Embedded networks are raised in the Paper and are an example of where regarding 'freedom to innovate' as an end has resulted in poor outcomes and significant consumer harm. Importantly embedded networks have not been a platform for innovation based on 'freedom to innovate'. Without the important guidance and 'incentive' of consistent regulation and protection, embedded network arrangements have simply provided most operators with an opportunity for greater business opportunity at consumers' expense.

Avoiding assumptions regarding consumer uptake of DER

The Paper repeats a common assumption regarding consumer uptake of solar and other Distributed Energy Resources (DER) that has implications for how a future regulatory and protections framework should operate. specifically:

- That DER and new technology is impacting consumer control and oversight. This is the case for some consumers with access to these resources and the capability and motivation to use them in the most effective way. But this is not the case for most consumers. Many consumers with solar do not have a good understanding of its benefits and limitations or how to operate it effectively to control their usage and bills.
- That all consumers who have taken up DER technology and services have demonstrated a capability and desire to engage with the energy market and access greater choice. This is likely for a small subset of consumers with DER. However, for most consumers who install solar or take up new technology options, the motivation is to reduce their burden of engagement with energy and the energy market and avoid the costs and impacts (including social and environmental impacts) of doing so.

- That successful transition of the energy system will be dependent on consumer uptake of DER. This framing is not correctly focused on the key objective of a successful transition, which is consumer, community, and climate benefit. For instance, it is possible (and likely) that a focus on uptake of DER could sacrifice these benefits for the sake of greater uptake (focusing on quantity over quality). It is crucial that this review recognise that a successful transition will be dependent upon consumer and community benefit from DER, regardless of uptake.
- That there is no consideration of consumers who do not and will not be able to take up DER. While a primary consideration of this review is ensuring adequate protection for consumers, it is the role of the regulatory framework to actively promote the consumer interest and better outcomes for all consumers. This review should consider the outcomes for consumers without access to DER and how the future energy system can promote better outcomes for them through the implementation of DER. If consumers without DER cannot benefit from it, the transition will simply have recreated the failures of the current energy system and the costs involved in the transition will leave many of the most vulnerable consumers worse off.
- That consumers will need to be ‘positioned to readily participate and be actively encouraged to engage with new products and services’. PIAC rejects this as a continuation of failed assumptions underpinning the current energy system that would increase the potential for consumer harms and inequality of consumer outcomes. The transition, and this review, are an opportunity to assess the success or failure of the assumption that consumer engagement is an effective basis for good consumer outcomes, good energy system outcomes and effective consumer protection. PIAC contends that any benefits reliant on consumer information, technology uptake, participation and engagement are ‘contingent’ and unlikely to be realised by most consumers. We highlight the AER’s recognition of the impact of market structures on consumer vulnerability in its Consumer Vulnerability work and recommend this review reassess the reliance on consumer engagement as the foundation of good outcomes for all consumers.

Embedded Networks

The frameworks governing embedded networks have failed consumers and failed to deliver the intended outcomes. The recognition in the Paper that embedded networks present an example of poor regulation leading to consumer harm, is welcome. However, PIAC does not see the scope and materiality of consumer harm adequately presented in the Paper, and we do not consider the Paper has drawn the correct conclusions on the aspects of embedded networks that have failed consumers. Specifically:

- Access, or otherwise, to retail competition is not a harm in itself. On market consumers consistently get poor outcomes, paying more than is necessary or efficient, not receiving the assistance they need, being wrongfully disconnected, and being unhappy and frustrated with their service. Access to competition can enable better outcomes, but these are contingent on factors which are often not met ‘on market’. Retail competition is a potential mechanism for the delivery of intended outcomes (quality, affordable services delivered with required supports and protections). It is not the absence of competition that harms consumers, but the insufficient delivery of these outcomes.

The correct framing for the harm in relation to embedded networks is that the framework does not ensure that embedded network providers meet the expectations of affordable, quality services with required supports and protections for consumers. This is compounded by the lack of access to alternatives that may be able to do so. This nuance is important as the solution is not necessarily to introduce competition (which may or may not improve actual outcomes) but ensure that embedded network providers deliver outcomes to the same standard.

- The harm of potentially higher prices is not appropriately framed. The issue is not the lack of 'competitive pressure' but the absence of regulation and protection focussed on the outcome (that is, consumers paying a fair or efficient price for an essential service that affordably meets their needs and is protected by consistent support).

The AER approach

Objectives

PIAC supports this review setting explicit objectives to direct consideration, test assumptions and shape recommendations. However, the objectives identified in the Paper do not provide sufficient focus on developing a regulatory and protections framework focused on better outcomes for all consumers.

1. *To identify gaps in the NECF that may inhibit consumers capacity to effectively engage in a transforming energy market*

PIAC has identified several problems with this objective:

- It assumes the NECF is an effective starting point and does not assess its effectiveness in delivering intended consumer outcomes, and
- It sets consumer engagement, rather than consumer outcomes, as the objective of a regulatory and protections framework, and
- It is focussed on potential inhibitions of consumer action arising from 'gaps in the NECF' rather than potential harms arising from such gaps.

PIAC strongly recommends this objective be redrafted. It should focus on an assessment of the NECF against its intent to promote the consumer interest, consumer benefit and ensure consumer protection. It should explicitly consider where the NECF has/has not delivered the intended outcomes for consumers before assessing if or where the NECF could be extended to deal with emerging issues that may create opportunity for harm or prevent equitable consumer benefit.

2. *To recommend potential reforms to the National Energy Retail Law and/or Rules, and/or other regulatory or non-regulatory initiatives to mitigate the specific consumer harms identified through the review.*

This objective is not focussed on promoting good consumer outcomes. In focusing on mitigating specific potential harms identified in this review, it sets a narrow remit that is unlikely to be effective in protecting against consumer harm.

The reform of existing frameworks should focus on promoting defined outcomes and benefits for consumers in their access to essential energy services (and other services which enable equivalent outcomes for consumers) and should protect key outcomes for consumers. Mitigation of harms should be a consideration in the formulation of these protections.

3. *To identify the consumer harms that should be subject to ongoing monitoring by the AER because recommended regulatory reforms may not adequately mitigate identified harms.*

This is an unacceptably low standard to set for this review and does not align with the requirement for regulation to promote and protect the interests of consumers. It is not in the interest of consumers for the regulatory framework to intentionally leave scope for unmitigated consumer harms. Accepting this at the outset of a reform process is likely to compromise the ability to identify and implement an appropriately robust consumer protection framework.

Robust consumer protections must be implemented from the outset to provide clear direction to the market and potential service and product providers of the standard expected, and the consumer outcomes that must be delivered. The experience with embedded networks, advanced metering, and even retail pricing itself, has shown that an approach of ‘ramping up’ regulations and protection after the fact, does not work. Specifically:

- This approach does not identify positive outcomes which the framework intends to deliver
- It accepts that there is a level of acceptable consumer harm without any framework to show how that is determined
- It intentionally allows consumer harm to occur
- It does not recognise that by the time consumer harms are apparent and evidenced a significant period of time (and duration of harm) will have occurred (as has been the experience with embedded networks)
- Service or product providers create a business case on the basis of market conditions (and the absence of regulation and protection), and the viability of these businesses becomes a consideration to balance against addressing consumer harm (as has been the experience in embedded networks) when introducing protections to address harms
- The interests of consumers, the promotion of better outcomes for them, and their protection from harm in accessing an essential service, is compromised for sake of market development.

While PIAC supports the intent to monitor and ‘iterate’ regulatory reforms, robust protections from the outset must be the priority.

Consumer risk assessment

PIAC supports the consumer risk assessment tool, but recommends it be re-evaluated and updated. The tool is a useful aid to considering how to ensure the regulatory and protections framework delivers good outcomes for consumers and minimises the harms which impact them. But it should be updated to focus on consumer outcomes and incorporate more recent experience and the AERs evolving of understanding of consumer vulnerability. The principles should be updated accordingly:

- 1 Access to energy – energy is an **essential enabler of household health and wellbeing**, and people must have ongoing, affordable access to at least one source of electricity **capable of supporting their needs**.
- 2 Switching providers – **where multiple service providers exist**, consumers should be able to change **providers if they wish**.
- 3 Access to information – Consumers are enabled to make meaningful decisions when they choose, though access to information that is sufficient, accurate, complete and timely, where complexity is minimised. **Consumer information should not be required to receive a fair outcome**.
- 4 Vulnerable consumers – **The impact of the energy market and the procurement of energy services on the vulnerability of all consumers will be considered**.
- 5 Dispute resolution – easy access to no cost dispute resolution should be available to consumers should things go wrong.

Considering regulatory reforms to manage energy transition challenges

Proposed changes to the authorisation and exemption frameworks should not be narrowly focussed on supporting consumer engagement in new energy products and services but focussed on ensuring all consumers benefit from improved outcomes accessing the energy they need to support their health and wellbeing, supported by new energy products and services.

Expanding the scope of the NECF

Where products and services impact the access of consumers to the energy they need to support health and wellbeing (defined by a range of specific outcomes) they should be covered by the NECF. This may involve amendment as well as expansion of the NECF, to focus not on the 'retail relationship' but the essential energy consumer outcomes provided or supported by a product or service.

Designing fit for purpose authorisation and exemption frameworks

Authorisation

The authorisation framework should include all providers of a service or product on which a consumer relies (directly or indirectly) for defined, essential energy consumer outcomes supporting health and wellbeing.

Exemption framework

The exemption framework should be fundamentally reformed to recognise the key determinant is not the business model of the product or service provider, but the reliance of the consumer on the product or service for their ability to achieve essential energy outcomes (supporting health and wellbeing).

Responses to questions

1 Do you agree with the approach of using use cases/business models to identify the harms and risks of new energy services and products? Please explain why.

PIAC agrees there is value in assessing potential risks and harms to consumers. However, a risk based approach to regulating against harm implies there is a level of risk or harm to consumers is acceptable. If this approach is taken PIAC recommends the definition of unacceptable harm or risk be clearly defined and set extremely low.

Importantly, potential for harm or risk to consumers must not be weighed against potential ‘harm’ to the market that may result from regulatory or protection frameworks. Harms and the risk of harms have real impacts and consequences to consumers which are both predictable (that is, they result logically from actions) and tangible. Whereas, the market is a construct which adapts to circumstances. Any potential harms to markets are hypothetical, compared to an unrealised ideal. These harms are real not or calculable. The interests of the market cannot be given equal weight to consumers.

The framework presented in Table 1 of the Paper is a useful tool in considering how certain business models may relate to consumers, and presents issues for consumer interest and protection. However, we caution the AER about undertaking a process that only considers potential consumer harm relating to certain business models, rather than a wider consideration of the outcomes for consumers in accessing an essential service and being protected in that access. A focus on specific business models risks repeating the mistakes of embedded networks.

5 Do you agree with the proposal to take into account the need to encourage the uptake of DER-based energy services and products when considering what measures are appropriate to address or mitigate potential harms and risks.

PIAC strongly disagrees with the premise of this question and rejects any proposal to trade off consumer protections, and potential consumer harm, against the uptake of DER based services. The consistent evidence of the past 20 years – provided in advanced metering, embedded networks, retail competition – clearly shows good consumer outcomes and innovative responses do not flow from regulatory flexibility or freedom. Regulatory frameworks and consumer protections must identify desired/required consumer outcomes and be designed to guarantee good/fair outcomes.

Such frameworks provide the guidance to indicate where and how innovation should be directed, such as:

- developing the quality of products and services
- improving the efficiency of products and services
- assuring the reliability and safety of products and services
- providing better energy-enabled health and wellbeing outcomes more affordably.

Regulatory frameworks must be determined by what is required to promote good outcomes for consumers and ensure protections effectively prevent and mitigate potential consumer harms.

7 Are the current authorisation and exemption frameworks fit for purpose?

The current authorisation and exemption frameworks are not fit for purpose and should be reformed to focus on the needs and interests of consumers more appropriately.

It is in the consumer interest to have essential energy access protected regardless of the business model of their service provider, or whether that provider has 1 or 100,000 customers. It is not relevant to the consumer whether the energy they rely on is provided 'incidentally' or as part of the providers main business. These factors should not be a consideration of the regulatory or protection framework. The existing criteria for exemptions are not appropriate. PIAC contends exemptions in residential energy provision should only be allowed where energy is provided as a community service or at/below cost, where this can be demonstrated on an ongoing basis.

PIAC notes the range of issues with the current framework highlighted in the Paper and supports the proposed reforms identified, including:

- Reforms to the 'point in time assessment' to give AER an ongoing ability to assess the performance and suitability of authorised retailers and exempt sellers and ensure they demonstrate a capacity to provide required consumer outcomes and protections.
- Scope for the AER to set ongoing conditions for an authorised retailer or exempt seller. This should be able to restrict the scope of operation of a retailer, and potentially limit the range of activities a retailer can engage in.
- An ability for authorised retailers and exempt sellers to serve certain classes of customers. This scope should be limited and should only differentiate between customers with clear differences of need (that is residential differentiated from large business). Differentiation between groups of residential customers should not be allowed as it would provide a means to create different classes of residential energy service that may result in some consumers being served and protected differentially. It is also likely to create the basis of a competitive advantage for a retailer that may be able to select more profitable customers. This would repeat the mistakes of the current exemption framework.
- The ability for the AER to revoke an authorisation or exemption. The AER should consider avenues to make this power effective, including specifying a broad range of circumstances in which a re-assessment and/or revocation of authorisation would be triggered.
- The power for the AER to compel exempt entities to obtain an authorisation. This would help to ensure that residential consumers who become reliant upon exempt entities for their essential energy needs, are equivalently protected and have equivalent outcome expectations.

8 Is the point in time assessment for retailer authorisations and individual exemptions fit for purpose? Why/why not?

The point in time assessment is not fit for purpose, as outlined in the Paper. PIAC recommends assessments be ongoing, as outlined in our response to question 7.

9 How can we limit the risk of consumer harm when retailers or exempt sellers significantly expand/change business activities and capabilities after authorisation and exemption?

Retail authorisations and exemptions should be subject to conditions where any material change in business operation or model triggers a re-assessment of the suitability of the entity and their authorisation and exemption approval and conditions.

10 How can the AER better address serious misconduct of authorised retailers and exempt sellers?

Serious misconduct of any sellers should be subject to strong penalties and scope for the AER to revoke authorisations or exemptions, or impose new conditions at their discretion. Serious misconduct resulting in actual consumer harm must outweigh any consideration of potential cost implications for the retailer or seller.

11 Do you agree with our proposed approach to identifying the risks and harms that new energy products and services may pose to consumers? Please explain why.

PIAC supports a process which identifies the range of consumer outcomes (and protections) the energy system should deliver. While it is useful to consider the range of ways these outcomes may be impacted by new services and products, PIAC does not consider it useful to focus on the characteristics of consumers. The essential health and wellbeing outcomes energy supports should be the primary consideration. A regulatory and protections framework effectively focussed on outcomes should deliver and protect those outcomes regardless of circumstances. Testing specific circumstances of consumers is useful to ensure outcomes are durable and able to be delivered equitably (for instance, testing how contingent good outcomes may be on consumers being able to engage, act or participate in a certain way).

PIAC recommends the process of risk identification focus on potential risk to the delivery of energy that supports consumers ability to affordably maintain health and wellbeing. This could be:

- A direct risk. Where a service or product is directly involved in maintaining this outcome, such as where it directly supplies energy or where it materially subsidises the direct provision of energy, or where it supports or impacts a material proportion of energy required by the consumer.
- An indirect risk. Where the product or service may involve a relationship which undermines a consumer's ability to maintain this outcome. This may include where the product is provided by the same entity who the consumer relies on to sustain essential energy outcomes, and where their relationship in relation to another product or service may impact their ability to support essential energy related outcomes.

13 Do you agree with the proposed approach to use the consumer archetypes developed by the ECA when assessing the identified risks? Please explain why. What other consumer types should we consider?

The consumer archetypes presented are useful tools to examine the range of essential outcomes energy supports in different households. However, focus on consumer circumstances risks viewing potential risks and harms as being derived from the circumstances of the consumer,

rather than from the nature of the product or service and the essential outcomes of health and wellbeing it supports.

The risks and potential harms are related to the nature of energy, the functions energy supports and the essential outcomes that require it, not the circumstances of the consumers who use it. PIAC recommends the archetypes be used to test the durability of outcomes and protections, rather than the identification of risks related to narrow circumstances of certain consumers.

16 Do you agree with this review considering the need to expand the scope of the NECF where appropriate?

PIAC strongly supports consideration of expanding the scope of the NECF where it is beneficial to consumers. Consideration of expanded scope should also assess the consumer outcomes currently supported by the NECF and identify opportunities for NECF reform and improvement as well as expansion.

19 Would it be preferable to tailor retailer obligations to the specific set of proposed retailer activities? For example – should there be a core set of obligations on all retailers?

It may be practical and preferable to implement an ‘escalating’ or tiered set of obligations on different retailers according to their range of activities. PIAC recommends this be considered carefully and may include:

- All retailers should meet a set of core financial, transparency, and suitability obligations.
- Any retailer to commercial or industrial entities should meet a higher level of service, support, and reporting obligations.
- All retailers proposing to serve any residential customers must meet the full range of obligations for information provision, assistance and support provision, efficiency and other reporting and suitability standards.

PIAC does not support the creation of differentiated obligations for retailers intending to service different ‘classes’ or types of customers (with the exemption of retailers proposing to operate for public, community or non-profit purposes). The regulatory and authorisation process should not encourage differentiation of service obligations between residential consumers or groups of residential consumers

20 Should the AER be able to impose ongoing obligations on authorised retailers to require them to undertake, or limit them from undertaking, particular activities?

The AER should be able to impose ongoing obligations on authorised and exempt entities.

21 Should retailers be required to apply to a variation if changing their business model or customer type from what was approved.

Any variation in business model or type of customer served (where allowed) should trigger a re-application or reassessment process.

22 Should the AER audit retailer activities and organisational capacity against arrangements set out in retailer authorisation applications, and if so, what should be the trigger and/or frequency?

The AER should audit retailer activities against the conditions of their authorisations and a defined set of consumer outcome performance measures. Audits should be both periodic, and triggered by:

- Evidence of consumer harm or violation of key consumer protection conditions
- Material change in business structure, control, or suitability
- Material change in the nature of operation, particularly the type of service provided and the types of consumers served (for instance a change from business to residential consumer services).

23 As authorisation and individual exemptions are currently point in time assessment, should retailers and exempt sellers be required to provide ongoing certification of their suitability to maintain their authorisation or exemption.

Yes – many professions require ongoing education and re-certification in order to practice, in recognition of the potential for harm to the community presented by loss of capability. Licenced premises are subject to licence restrictions or revocation where their performance demonstrates they are unsuitable to undertake their business responsibly. Considering the potential harms to consumers and the community, it is reasonable to require authorised and exempt entities to engage in some ongoing process of recertification based upon demonstrating they are a responsible entity and are supporting and protecting essential consumer outcomes and capable of continuing to do so.

This should involve periodic audits, requirements to regularly re-apply or re-demonstrate suitability by performance against defined criteria, requirements to re-apply in the event of material change of operation. It is likely all these mechanisms will be required in some form.

24 If applying additional criteria and/or ongoing obligations on authorised retailers, how can we limit the additional regulatory cost?

PIAC considers regulation and protection promoting the consumer interest to be a necessary cost of business. Demonstrating delivery of good outcomes for consumers should be a priority concern of regulation and of the business itself. A requirement to periodically demonstrate outcomes and ongoing suitability is not an onerous burden and where an entity is incapable of supporting this function it is unlikely to be a sustainable business capable of consistently supporting good consumer outcomes.

25 What, if any, regulatory approvals should be required if there is change in control of an authorised retailer?

Change in control should trigger a total reassessment of the suitability of the authorised entity. This assessment need not recommence from scratch and could involve the authorised entity demonstrating that it remains suitable, against defined criteria specified by the AER.

26 If there are changes to the framework that applies to new retailers or exempt sellers, what changes should be made to existing retailers and exempt sellers?

Any changes to the framework should be applied consistently across all service and product suppliers regardless of whether they are existing or new entities. The material consideration is consumer interest and the essential outcomes the energy market supports for consumers. It is not in the consumer interest to differentiate between new and existing entities in the application of reforms. All retailers and exempt sellers should be re-assessed and covered by the new frameworks within a defined period from commencement (and no longer than 24 months).

28 How can we ensure the authorisation and exemption frameworks achieve effective regulations and balance the need for innovation and an appropriate level of protections for energy consumers?

As outlined earlier, PIAC does not consider there to be a 'balance' between innovation and consumer protection. Regulatory frameworks for authorisation and exemption should prioritise promotion and protection of consumer outcomes.

29 If changes are made to the authorisation and exemption frameworks, what (if any) changes should be made to apply to existing retailers and exempt sellers/embedded networks? Should there be a trigger for changes to existing authorisations and exemptions and, if so, what should they be?

Any changes to authorisation and exemption frameworks should be applied consistently to all retailers, exempt sellers and embedded networks, to ensure consistent outcomes for all consumers. Any triggers or transition arrangements should ensure consistency between new and existing entities within a defined period of no longer than 24 months.

30 Are the existing protections under the NECF adequate to protect consumers from the potential risks posed by the transformation of the energy market and the emergence of new products and services?

PIAC does not consider the existing framework and protections of the NECF adequate to equitably support outcomes for all consumers and consistently protect against consumer harm. Consideration of reforms to the regulatory framework and consumer protections must assess the outcomes delivered by the NECF as part of any process extend coverage of the NECF.

31 Should energy products and services not currently captured by the NECF be regulated and how?

PIAC supports extension of the regulatory framework and consumer protections to all products and services providing or materially supporting or impacting consumer outcomes of health and wellbeing enabled by or reliant upon energy.

34 Are there merits in implementing principles-based or outcomes-based regulation to support the energy sectors transition? What are the potential risks in taking this kind of approach to regulation?

PIAC supports a transition to or incorporation of outcomes-based regulation into the regulatory framework for energy. Any such framework must focus on consumer outcomes related to the essential functions energy enables, supporting health and wellbeing. It is likely that, at least in transition, a range of prescriptive consumer protection measures will continue to be required.