

23 December 2019



Director
Electricity Markets Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Dear Commission,

Subject: Submission regarding guideline for Prohibiting Energy Market Misconduct Bill

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in New South Wales. Established in 1982, PIAC tackles systemic issues that have a significant impact upon people who are marginalised and facing disadvantage. We ensure basic rights are enjoyed across the community through litigation, public policy development, communication and training. The Energy + Water Consumers' Advocacy Program represents the interests of low-income and other residential consumers, developing policy and advocating in energy and water markets.

PIAC welcomes the opportunity to respond to the Australian Competition and Consumer Commission's (the Commission) consultation on a guideline (the Guideline) for the Prohibiting Energy Market Misconduct Bill (the Bill).

PIAC does not consider the Prohibiting Energy Market Misconduct Bill is the most effective means of putting downwards pressure on energy prices. We do, however, support the monitoring and oversight powers the Bill will grant the Commission and consider this may encourage competitive conduct in the wholesale and retail energy markets.

PIAC considers the Bill may not have a material effect on energy prices or misconduct for the following reasons:

- The powers given to the Commission and the Treasury under the Bill may create investment uncertainty and inefficient commercial operations as it allows both bodies to interfere with energy companies' regular operations.
- The Bill allows for the politicisation of its enforcement by giving unusual powers to the Treasurer of the day to force energy companies to take actions. We believe powers to force behaviours from energy companies should rest with the Commission and the courts in a Bill such as this.
- The Commission has expressed dissatisfaction with the Bill and suggested it was unnecessary as the behaviour it seeks to curb is not currently occurring. Thus we consider the Commission is unlikely to make recommendations to Treasury, or issue warning or infringement notices.

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PIAC considers other, less disruptive measures can put downwards pressure on energy prices and these should be given priority over the Bill. These include the introduction of a demand response mechanism into the wholesale energy market, government underwriting of required new transmission infrastructure so new low-cost renewable energy can be brought online, the development of a cost-based DMO similar to the Victorian Default Offer across all NEM jurisdictions, and the implementation of the Integrated System Plan.

PIAC would welcome the opportunity to meet with the Commission and other stakeholders to provide further input and discuss these issues in more depth.

Yours sincerely

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