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VCOSS submission on the *Protecting consumers of distributed energy resources* consultation paper

VCOSS welcomes the opportunity to contribute to the Victorian Department of Environment, Land, Water and Planning (DELWP's) current thinking on the consumer protection dimensions of the evolving landscape for distributed energy resources (DER) in Victoria.

Given DELWP's acknowledgement that this consultation paper serves as the start of an exploratory phase into potential next steps for reform, VCOSS' focus at this time is on articulating both some areas for immediate actions, alongside our foundational priorities in this evolving area.

What is happening, and what is at-stake, with DER

DELWP's consultation paper provides a robust summary of both the broader energy transition context of DER and the "life-cycle" of issues from a household consumer perspective.

For present purposes, the paper broadly defines DER as those "behind-the-meter" (or around-the-premises) products – such as solar panels, domestic batteries, electric vehicles and their chargers, and various digital home energy management technologies – that enable households and businesses to self-generate, store, actively manage and potentially sell energy.

On that basis, the paper subsequently canvasses the main issues in the lifecycle of DER products *from an individual household consumer's perspective*:

- Obtaining information and marketing
- Purchasing and financing
- Operating, maintaining, and disposing
- Dispute resolution
- Regulatory system design and linkages

Importantly, however, the passing reference in Box 1 (where the paper defines DER) to include "neighbourhood batteries" is a timely reminder of what makes DER so distinctive.

As the paper notes, households with DER can be both consumers and participants in the energy system. This is not a minor definitional nuance, but is instead critical to understanding both the household appeal and systemic potential of DER.

Getting solar panels or a household battery can represent a long-term financial investment, with multiple contractual relationships or ongoing processes, and may in-turn incorporate (or enable) a range of market, funding, ownership or future regulatory arrangements.

At the outset of this next exploratory phase, it is important to remain alert to this risk that our starting assumptions and mental models could slip back into pre-existing concepts, which would limit our shared regulatory imagination. For these reasons is it important to that these distributed energy flows and digital technologies are conceived (and approached) in such broad terms (i.e. as more than just one-off transactional product purchases by individual consumers).

As the paper recognises, DER growth (along with its full utilisation, including the adequate maintenance of past investments) will continue to be a big part of Victoria's ongoing energy transition.

While the focus of this paper naturally starts with the adequacy (or otherwise) of consumer protections within our current regulatory landscape, VCOSS is keen to explore and emphasise in this work the transformational social equity potential of a

well-designed *retail-and-DER* regulatory environment.

From this broader perspective, fit-for-purpose consumer protections are also enablers of ongoing participation in the benefits of new energy technology – and form part of an underlying obligation on government to continue to support the pathways, innovative funding programs and other community partnerships required to ensure that low-income and disadvantaged households can fully benefit.

Known risks and gaps

In preparing this submission, VCOSS has consulted informally with a range of our members and community sector counterparts.

Those conversations consistently reflected some of the clear findings from the VOICES project report – that many of the same households that would most benefit from the energy bill relief that flows from a suitable DER arrangement are also the most at-risk of being targeted by unscrupulous providers.

Given both rising concerns about retail electricity prices and increased ubiquity of household solar, it is inevitable that shonky “fly-by-night” operators will target households in financial stress, and/or those who are less able to do the intensive personal research that is associated with better outcomes from complex technology.

For these reasons, current bans on high-risk practices such as door-to-door sales and cold-calling, and the unregulated use of buy-now-pay-later (BNPL) credit, should be expanded to all unsolicited DER sales. Stronger regulation around BNPL options include “known knowns” like the need for proper capacity assessments at the time of purchase, and the availability of hardship provisions where an ongoing financial relationship exists.

Current multi-layered funding and quasi-regulatory arrangements constrain or ban these practices in DER sales by legitimate participants in relevant Victorian subsidy or support programs (such as Solar Homes and the Victorian Energy Upgrades programs).

But these issues, particularly the potential use of unregulated BNPL arrangements in unsolicited sales, still pose an unacceptable risk to Victorian households.

The VOICES report findings particularly noted asset-rich, cash-poor elderly Victorians being at particular risk. VCOSS would add to that watch-list people from culturally and linguistically diverse backgrounds, and also people living with disabilities and/or higher energy-related health needs (such as electric scooters).

No-brainers and other unfinished business

These underlying information asymmetry and household financial capacity issues also have an important flip-side.

There is a common thread between the specific lessons from the lifecycle of dominant DER products (such as solar panels), and the broader possibilities of household digital energy management services.

Across all of these issues – for their risks to be avoided and their benefits to be fully realised – there is a clear need for an ongoing suite of independent energy advice services across the household and community levels, to join-the-dots on new technology (DER), household energy efficiency issues, and effective retail market engagement.

This need can be heard in the VOICES report, which captured the feedback from industry experts that the one actor incentivised to ensure successful resolution of suitable DER purchase, installation, and ongoing optimisation is the householder – who typically has the least knowledge and power. VCOSS heard similar concerns in our consultations with members.

Recognising that the nature and growth of DER adds to an already complicated energy system, VCOSS also encourages the Department to pursue with greater urgency the outstanding recommendation from the 2017 *Independent Review of the Electricity & Gas Retail Markets in Victoria* to expand the scope of the Energy and Water Ombudsman Victoria scheme to cover emerging energy businesses, products, and services.

Future directions for an evolving essential service system

The risks and harms of unscrupulous providers over-promising and under-delivering on household DER are, of course, just one dimension of the challenges bound-up in Victoria's ongoing energy transition.

The potential benefits – and perils – of new digital technology in managing energy use and leveraging household consumer data require careful regulatory consideration. Again, this is an area where cost, legitimate data security concerns, and complexity could limit equitable up-take. Maximising the promise of these technologies requires both good regulation and effective pathways to participation.

In addition, as part of this consultation an immediate area that DELWP could explore is the potential intersection of DER consumer protection issues with rental properties.

VCOSS has heard anecdotal concerns in relation to pre-existing solar systems that suggest the potential for inappropriate residential electricity arrangements between private rental providers and tenants.

More broadly, current trends in household, neighbourhood and network-level generation, storage and digital demand management are fundamentally transforming some of the key conceptual foundations of a regulatory system built on the supply of energy as an essential service.

As DELWP considers the need – and develops potential options for – the most suitable regulatory framework for DER in Victoria, VCOSS recommends a continued focus on embedding fairness and equity objectives within the energy system.

In unpacking potential options for the structure and implementation of DER sector regulation, and in learning from the past to avoid future gaps, such a focus would suggest that there are policy merits in those options that bring DER providers into a single-yet-multidimensional energy licensing system.

VCOSS looks forward to participating in future policy development processes that explore these options further, and support regulatory arrangements in Victoria that protect all consumers, while untapping and maximising the potential collective public benefits of DER in the ongoing energy transition.



VCOSS is the peak body for Victoria's social and community sector, and the state's premier social advocacy body.

We work towards a Victoria free from poverty and disadvantage, where all people and communities experience genuine wellbeing.