Submission to the Australian Treasury in response to the issues paper Consumer voices: Sustaining advocacy and research in Australia’s new consumer policy framework, 8 May 2009.

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The former Minister for Consumer Affairs, the Hon. Chris Bowen sought the views of interested parties on “how the Australian Government can build on the work of the Productivity Commission and work with our state and territory colleagues, through the Ministerial Council on Consumer Affairs, to find sustainable approaches to support consumer advocacy and consumer policy-focused research in the medium to long term”\(^1\). In November 2008, the Centre for Regulatory Studies at Monash University provided Minister Bowen with a proposal relating to the establishment of a National Consumer Policy Research Centre and it is assumed the Treasury will consider that proposal along side other responses to its issues paper.

The Productivity Commission’s review of the Australian Consumer Policy Framework was the most comprehensive review of this subject undertaken to date. Significant efforts were made to assist consumer organisations and consumers to participate in this review by the Commission and by other bodies, such as Consumer Affairs Victoria, which I was Director of at the time. The review recognised the problems consumers have in engaging fully in the policy processes of governments and this has been widely recognised in the economics literature as a factor allowing inefficient sector-specific regulation to prevail.

The Productivity Commission made modest recommendations to help deal with the problems consumers face in this regard by proposing that increased funding be provided for consumers to organise and for consumer policy research. Given that the Productivity Commission saw the Australian Government as taking a more significant role in consumer policy than in the past and that the Australian Government has done little to support consumer participation in policy making over the past decade, it was appropriate that it looked to the Australian Government to take a lead in this area.

The current consultation is, I believe, largely unnecessary. The Productivity Commission’s recommendations were clear and specific proposals have been put to the Government to advance

them\textsuperscript{2}. It is disappointing that the Government was unable to fund these proposals, particularly in the context of one of the most expansionary budgets in many years. The Government needs to ‘bite the bullet’ on funding. The issue of sustainability is one that will emerge over time. It will depend on how important the community as a whole perceives the outcomes achieved by the funding to be. No arrangements set in place by governments today can ever guarantee long-term sustainability. The best governments can do is ensure the initial funding is adequate and the terms and conditions of its use are consistent with desirable criteria.

*Criteria for funding sustainability*

I submit that funding for consumer advocacy and policy research should meet a number of key criteria. In particular, it should be:

- relevant and driven by consumers;
- independent in its use;
- non-partisan in its use; and
- transparent and accountable in its allocation and use.

I elaborate briefly on each of these in turn.

*Relevant*

The issues paper outlines a framework used by Treasury in evaluating consumer policy concerns. It seems also to adopt a narrow perspective of only wanting to address consumer issues which impact on the Treasury portfolio. It is submitted that a broader perspective needs to apply. In particular, it needs to be recognised that issues of sustainability and social justice as well as efficient market operation are core consumer concerns.

Governments should not attempt to impose a straight jacket on consumer participation in the policy making process by only considering funding for activities that fit government perceptions of relevance. What consumers and their representatives regard as being relevant is more important. The priorities consumers express may sometimes be uncomfortable and how they express these may sometimes be different from the neat conceptual framework used by policy makers, but that makes them no less relevant. Other groups in the community are not constrained in the way they approach governments, as the issues paper suggests consumers should be constrained. There is no clear reason as to why consumers should be treated differently from others who advocate to governments. It is the role of governments to determine the course of action on any particular matter based on all the views put forward, including those with a particular consumer focus.

It is important that governments accept that consumer organisations have their own priorities and that these do not always conveniently align with current government concerns. If governments want specific involvement from consumers, as they should if they are interested in driving reform,

\textsuperscript{2} Consumers’ Federation of Australia, Strengthening Consumer voices: A proposal for a sustainable peak body for consumer organisations, September 2008; Monash University Faculty of Law and Centre for Regulatory Studies, Proposal for a National Consumer Policy Research Centre, November 2008.
they need to pay for this. By way of example, in the mid 1990s, as a Director of KPMG Consulting, I conducted a National Competition Policy review of taxi regulation in Victoria, an area which some consider continues to cry out for economic reform. I sought unsuccessfully to involve consumer groups in this review, but was told that they had too many other matters to focus on and insufficient resources to make a useful contribution to the taxi review, even though they had real concerns about aspects of the industry. Although this was frustrating, I had to accept that the priorities of these groups had to be their own. In the absence of being able to provide funding to allow for their informed participation the review, I could not involve them in the review process, and consequently their ability to lobby for reform was also constrained.

**Independent**

Where funding is provided for specific advocacy and research projects there is a reasonable expectation that the terms of the arrangements made will be met. This should not extend, however, to undermining the independence of advocacy or research bodies in undertaking their tasks. Indeed, it can be expected that creditable advocacy and research bodies will insist on both the perception and actuality of independence. Governments also need to accept that independent advocacy and research bodies may undertake work that could involve criticism of existing policy. Any threats by governments, implied or otherwise, not to provide future funding in these circumstances would be unfortunate. This assumes that advocacy and research are undertaken in good faith. Clearly acceptance of this principle of independence by governments is crucial for the sustainability of funding.

**Non-partisan**

Any consumer advocacy or research input into the policy process could be seen by political parties as supporting particular positions adopted by particular political parties. Where a party expresses stronger support for consumer interests it will inevitably appear that there is a closer bond between consumers and that party. This is not the same as expressing a partisan view. However, consumer advocates in particular need to be careful in distinguishing their advocacy for consumer interests from advocacy for particular political parties.

**Transparent and accountable**

Government funding needs to be allocated on the basis of full transparency. Competitive tendering can have an important role to play in relation to specific projects, but there also needs to be regard for the desirability of developing a broader and on-going capacity for advocacy and research. This requires continuity of funding. Appropriate accountability for the use of government funding is also essential for achieving community acceptance and sustainability. It is impossible for private consumer organisations to be completely democratic in their representation of consumer interests. They will express the views of their members and staff as not all members of society will seek representation by them. This does not make them undemocratic, but it does lead to a greater requirement for openness of membership, organisational structures and processes of decision making. Transparency and accountability can also be promoted by ensuring information about advocacy and research work is disseminated and readily available to interested parties.
Assessment of existing consumer advocacy and policy research

Existing consumer advocacy and research funding falls short of meeting these criteria in many areas. Most particularly the gaps are at the Australian Government level, which provides little funding for consumer advocacy and policy research. The issues paper lists a number of areas where it is claimed the Australian Government funds consumer advocacy. Most of these areas cannot be regarded as consumer advocacy initiatives at all. For example, the FIDO website and the Understanding Money project are no more that what should be expected of regulators in informing and educating consumers. The Australian Youth Forum and National Disability Advocacy Program are not primarily focused on consumer issues, although these should be relevant considerations for them. The expansion of the Commonwealth Financial Counselling Program from a very low base is welcome, but most of this relates to service delivery not advocacy. The experience of financial counsellors in dealing with vulnerable and disadvantaged consumers is very important. It must be recognised, however, that this experience is not representative of all consumers. The sector specific funding for the Australian Communications Consumer Action Network is also welcome, especially given the emphasis placed on self-regulation in this industry. It is unfortunate that the Communications Law Centre, which had established significant expertise over a number of years, has apparently not been able to secure the necessary on-going funding to ensure its sustainability.

As the Productivity Commission highlighted in its report, there is a shortfall in support for significant consumer policy research. The Australian Securities and Investments Commission has commissioned some relevant studies in recent years, mainly from consumer organisations, but there has been little additional funding for university-based research. Such research is needed not just for new policy, but also to review the effectiveness and efficiency of existing policy and regulation.

The major existing general consumer advocacy and research institution established by the Australian Government is the Commonwealth Consumer Affairs Advisory Council. This body falls well short of what is required in Australia for effective consumer advocacy and research. It apparently meets infrequently, has little resource support and independence, and is not transparent in its operations. It reports only to the Australian Government Minister. Members of the Council are appointed at the discretion of the Minister and minutes of its meetings are not made available to consumers generally. In these circumstances it has little accountability and status as a representative of consumer views. It is relevant to note that the Council itself recommended to the Productivity Commission the establishment of a long-term, independent national consumer research body to be funded by the Australian Government with the option of additional funding from other parties for specific research projects.

National Consumer Council as the basis for sustainable consumer advocacy and policy research

The need for additional funding for consumer advocacy and policy research is clear and specific proposals have been given to the Government to meet the recommendations of the Productivity Commission in this area. However, since the issue has again been opened up to discussion, there is another option that needs to be on the table.

If the Government is seriously concerned to promote consumer advocacy on a sustainable basis it should look to the approach adopted in the United Kingdom. There a government funded, but
independent, National Consumer Council was established in 1975 and continues today in the recently modified form of Consumer Focus. For over thirty years it survived without a legislative mandate because it gained support from the community and respect from governments of quite different political persuasions. Much of its success arose from the quality of the people appointed to its Board and to its staff; to its extensive work in helping to build capacity and to tap into the experiences of existing consumer groups across the country; and its ability to identify issues of real concern to consumers and to undertake creditable research in relation to them.

In Australia the only consumer group engaging in advocacy that could claim to be established on, independent sustainable basis is CHOICE. This organisation has been able to build a significant business though its publications and memberships. As with WHICH in the UK, however, the organisation is primarily connected to well-educated middle class consumers. Whilst it does engage in campaigns which have important implications for vulnerable and disadvantaged consumers, it is constrained in representing their interests. This representation is often done by social welfare bodies, like the Australian Council of Social Service, whose main concern is low income rather than consumption. If Australia had a body like Consumer Focus in the UK, the interests of vulnerable and disadvantaged consumers as well as consumers generally could be better represented to all Australian governments. It could be expected that such a body would very easily develop a relevant research program in conjunction with its advocacy work.

This proposal for an Australian Consumer Council is of course not a new one. It was advocated by the Victorian Government and others in the course of the Productivity Commission review and comes out of the extensive consumer policy research program implemented by Consumer Affairs Victoria in recent years. Whilst the issues paper made reference to this work in general, it is surprising that it made no reference to the significant papers published by Consumer Affairs Victoria on consumer advocacy and on measuring consumer detriment in Australia, among others. It is submitted that there is no perceived shortage of appropriate topics for consumer policy research by those who are actively engaged in the area.