



Between a door-knock
and cyber-space:
The problems with electricity
switching sites

Super-complaint to
NSW Fair Trading

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About CHOICE

CHOICE exists to unlock the power of consumers. Our vision is for Australians to be the most savvy and active consumers in the world.

As a social enterprise we do this by providing clear information, advice and support on consumer goods and services; by taking action with consumers against bad practice wherever it may exist; and by fearlessly speaking out to promote consumers' interests - ensuring the consumer voice is heard clearly, loudly and cogently in corporations and in governments.

To find out more about CHOICE's campaign work, visit www.choice.com.au/campaigns and subscribe to CHOICE Campaigns Update at www.choice.com.au/ccu

What is a super-complaint?

CHOICE signed a memorandum of understanding in September 2011 to give effect to an eighteen month pilot of a super-complaints process with NSW Fair Trading. The super-complaints process provides a mechanism by which CHOICE can bring evidence of issues that are or appear to be significantly harming the interests of consumers in NSW to the attention of NSW Fair Trading. Under the process, the regulator is required to publicly respond within 90 days of receiving the super-complaint.

CHOICE's switching sites

CHOICE operates its Compare, Ditch and Switch site located at choice.com.au as part of its Better Banking campaign. The service, powered by Mozo.com.au, enables consumers to objectively compare credit cards, home loans, savings products and transaction accounts. CHOICE does not receive any payments as part of this service.

CHOICE operated CHOICE Switch from August 2008 to March 2010. CHOICE Switch allowed the user to compare gas and electricity providers by postcode. CHOICE received a standard flat fee from electricity providers for customers that switched using CHOICE Switch. There was no other fee payable by users for the service. CHOICE compared all available providers and plans. However, a user was only able to switch to the plans by providers with whom CHOICE had a commercial arrangement.

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Executive Summary

The scope of CHOICE's super-complaint to NSW Fair Trading is that:

- NSW consumers that visit only one commercial switching site may not find, contrary to their reasonable expectations, the 'best' electricity deal available.
- Some of the switching sites are arguably making representations (directly or by omission) that lead consumers to incorrectly believe a user would find the 'best' deal on their site.
- In some instances, different switching sites recommend the same electricity plan but with different estimated levels of savings, which raises questions over the accuracy of the calculations used by some of the sites.
- Some of the commercial switching sites do not provide the user with all the relevant terms and conditions associated with electricity plans so that a user can make an informed decision before switching.
- The characteristics of retail plans, including tariffs and relevant fees and charges, make it difficult for a user to compare plans effectively.

Recommendation 1:

CHOICE recommends that a voluntary or compulsory code or accreditation system for commercial switching sites be introduced.

Recommendation 2:

CHOICE recommends that NSW Fair Trading investigate whether any of the commercial switching sites are engaging in misleading or deceptive conduct with regard to whether a user would find the 'best' plan using their site or other related representations.

Recommendation 3:

CHOICE recommends that a project similar to the UK Midata project be pursued in Australia.

The Midata project is aimed at giving consumers in a usable and portable format their personal consumption data that companies such as their energy provider possess. If used in combination with co-operating parties such as switching sites or retailers, consumers would be better able to make an informed decision in an efficient manner about the 'best' products for their individual circumstances.

Introduction

1. There are compelling reasons for NSW electricity consumers to consider switching providers in the current energy market.
2. NSW electricity costs have increased sharply over recent years.¹ While ABS data suggests energy costs as a proportion of total household expenditure are not far ahead of the long-term average², significant cost increases have occurred over a relatively short period of time, and the drivers of these increases appear set to continue³. This indicates why energy costs have been identified by Australian households as their foremost cost-of-living concern.⁴
3. Recent changes in the ownership of some NSW energy retailers have been accompanied by more proactive and in some circumstances aggressive marketing practices, including through door-to-door sales.⁵
4. For some NSW consumers, this may be one of the few times they've considered changing their electricity plan. IPART reports that about 65% of NSW small retail consumers are on regulated contracts⁶.
5. With the increasing use of switching sites for services such as banking, it is likely that NSW consumers will turn to switching sites to access information on and change electricity plans. As electricity retailers typically do not have many or any bricks-and-mortar retail outlets, and consumers can be hesitant to trust energy telemarketers or door-to-door salespersons, it is likely that the use of switching sites will become more common as NSW consumers seek out independent advice on the electricity plans available.
6. CHOICE considers there to be problems with some selling techniques adopted by energy door-to-door sales persons having received negative feedback from consumers on this issue.

1

http://www.ipart.nsw.gov.au/Home/Consumer_Information/Understand_the_Issues/Current_Prices_and_Price_Increases/Current_Energy_Prices_Price_Increases Last accessed 15 December 2011

² ABS (2011) ABS Household Expenditure Survey; ABS (2006) ABS Household Expenditure Survey; ABS (2000) ABS Household Expenditure Survey. See background paper at <http://www.choice.com.au/green-home/energy-campaign/campaign-news/energy-at-home-conference.aspx>

³ <http://www.aemc.gov.au/Market-Reviews/Completed/Future-Possible-Retail-Electricity-Price-Movements-1-July-2010-to-30-June-2013.html> Last accessed 16 January 2012.

⁴ See <http://www.cleanenergycouncil.org.au/resourcecentre/research-polls.html> for further details. Last accessed 12 January 2012.

⁵ <http://www.ewon.com.au/index.cfm/news-articles/changes-to-electricity-suppliers/> Last accessed 16 January 2012.

⁶ New South Wales Energy Prices July 2009 – July 2011, A Report from the NSW Tariff Tracking Project by May Mauseth Johnston, August 2011. (**NSW Energy Prices Report**). See page 13. This report is accessible at <http://www.vinnies.org.au/nsw-energy-prices-nsw>.

NSW introduced full retail contestability in electricity allowing all customers to enter a contract with their retailer of choice in 2002. Retail price regulation continues to apply in NSW with IPART setting regulated prices. These regulated prices are 'standing offers' and are the prices that Energy Australia, Integral Energy and Country Energy charge customers who have not signed a market contract with them or another retailer. The market offers are influenced by changes in the regulated price. See <http://www.ipart.nsw.gov.au/Home/Industries/Electricity> for more details.

This is an area that would benefit from investigation by NSW Fair Trading. The issues surrounding door-to-door sales persons make it even more critical that NSW consumers are able to obtain independent, accurate and all relevant information from energy switching sites as an alternate way of changing their electricity plan or simply of comparing offers in the market.

“ I need to be able to compare products in an objective place without pressure from salespeople. This is never provided by door-knockers or over the phone in my experience ”

“ The door-knockers always seem to think I have nothing better to do but listen to their 'big sell'. It is so clear they are money-makers. I do not trust door knockers ”

“ Not once have I found anything they [telemarketers and door-to-door salespeople] have provided as useful, clear or easy to understand... It's the variables. If 'this' comes into play, then 'that' may happen, unless of course, 'something else' is taking place, in which case – well, you get my drift ”

Source: All quotes in this document are from CHOICE research conducted Sept/Oct 2011.

7. CHOICE believes consumers should be encouraged to be savvy and active participants in markets. By looking for better deals, savvy consumers encourage greater amounts of competition by industry participants and reward those that are prepared to compete. Switching sites have an important role in providing easy-to-understand and easily accessible information to consumers on the range of products available to them. This is particularly significant given that, for complex products, consumers may not be willing to spend a lot of time and effort making a decision about choosing a particular product. However, it is important that consumers using switching sites have confidence in the accuracy of the information being provided to them. Consumers have indicated to CHOICE that **transparency and independence are factors they value highly when looking at energy switching sites:**

“ I was going to say something similar to [brand of online switching site] would help in comparing providers, but unless they were totally transparent with the information they provided, then that would be pointless ”

“ It was hard to know which comparing websites to trust ”

“ This [an online comparison site] would be useful provided it was genuinely independent ”

8. It can reasonably be assumed that switching sites have a greater understanding than consumers of:
 - the electricity retailers in the market;
 - available plans; and
 - relevant terms and conditions of plans (e.g. late fees, moving fees).
9. An issue will arise if **switching site operators exploit this information asymmetry to selectively provide information about particular products**. Arguably switching site operators market themselves as a one-stop shop for consumers looking to get the ‘best’ deal. That is, the switching sites do the shopping around for the ‘best’ deal for the consumer.
10. Our analysis compared the first recommended plan and associated estimated level of savings for each of the commercial sites using the same information. That is, the same postcodes with the same usage levels over the same period all looking to switch from the standing offer to a market offer. Across the sites analysed, there were a range of different plans recommended with different associated estimated level of savings. Therefore a consumer that accessed only one of the sites could not be certain that they were getting the **‘best’ deal available as opposed to a ‘better’ deal** contrary to what they reasonably expected.
11. As this analysis indicates based on the commercial sites analysed, there is a range of systemic issues regarding **transparency, accuracy and provision of all relevant information** that may lead to consumer detriment.
12. CHOICE considers that the super-complaints process is an effective and appropriate mechanism for addressing the identified issues.

NSW energy switching sites

13. A report completed for the Consumer Utilities Advocacy Centre (CUAC) analysed energy switching sites available to Victorian consumers⁷. Analysis by CHOICE for NSW energy switching sites was conducted with reference to the CUAC VIC Switching Sites Report.

Methodology

14. This super-complaint presents the findings of an analysis of six privately operated comparison switching sites - specifically:

- goswitch.com.au (Site 1);
- switchwise.com.au (Site 2);
- compareelectricityprices.com.au (Site 3);
- youcompare.com.au (Site 4);
- ratedetective.com.au (Site 5); and
- shoparound.com.au (this site uses the same search engine as ratedetective.com.au and provided the same search results but was analysed separately in relation to transparency) (Site 6).

15. The privately owned comparison sites were identified and selected through Google searches, on the basis that this would be the primary method by which consumers would seek and find this information.

16. Other privately owned comparison sites were identified, but at the time the analysis was conducted they were not functional, were for new connections only (i.e. home movers) and / or required users to telephone to get search results. Accordingly, these sites were not included in this analysis.⁸

17. For the analysis presented in this super-complaint, we've assumed a typical household consumption of 8000kWh per annum for all electric households on a two-rate tariff (30% off-peak) for customers with controlled load.⁹ The same information was used to generate results for each of the switching sites analysed. That is, the same postcodes with the same usage levels over the same period all looking to switch from the standing offer to a market

⁷ Energy Switching Sites, An analysis of energy price comparison and switching sites available to Victorian consumers, May Mauseth Johnston, December 2010. (**CUAC VIC Switching Sites Report**). This report is accessible at http://www.cuac.org.au/index.php?Itemid=30&option=com_docman&limitstart=5. Last accessed 16 January 2012.

⁸ These sites were switchselect.com.au (compareelectricityprices.com.au uses the same search engine), makeitcheaper.com.au, energywatch.com.au, electricitywizard.com.au and connectnow.com.au.

⁹ New South Wales Energy Prices July 2009 – July 2011, A Report from the NSW Tariff Tracking Project by May Mauseth Johnston, August 2011. (**NSW Energy Prices Report**). This report is accessible at <http://www.vinnies.org.au/nsw-energy-prices-nsw>. Last accessed 16 January 2012.

offer. Site 3 asked for the number of persons in a household and number of bedrooms in the home. Averages were used as measured by the Australian Bureau of Statistics.¹⁰

18. As gas penetration is relatively low (30%) in NSW, we have not conducted analysis in relation to gas and dual fuel households.
19. The analysis considered that a user would be switching from the standing offer to a market tariff.
20. This analysis did not consider the accuracy of each of the switching sites when assessing the estimated savings that could be made when switching from one market plan to another. This issue will become more significant as a greater number of NSW households switch from the standing offer to a market tariff. Accordingly, it is an area that NSW Fair Trading should consider investigating.
21. The three distribution areas in NSW are Ausgrid, Endeavour Energy and Essential Energy. Searches were conducted using each of the following postcodes:
 - Ausgrid (2000 - Sydney) – regulated supplier: Energy Australia;
 - Endeavour Energy (2750 – Penrith) - regulated supplier: Integral Energy; and
 - Essential Energy (2430 – Taree) - regulated supplier: Country Energy.
22. Each postcode was chosen because they are serviced by a single distributor.
23. Each of the websites were assessed in relation to:
 - the first recommended plan and associated estimated level of savings;
 - the level of information provided in relation to the terms and conditions associated with the first recommended plan;
 - the ability to establish all the relevant terms and conditions before switching;
 - the level of information provided in relation to discounts and ongoing costs;
 - the range of plans (market and regulated) listed in search results; and
 - statements made regarding the range of plans.
24. Analysis was conducted between 5 December 2011 and 9 January 2012 for each of the commercial websites, with the exception of site 3, for which analysis was conducted

¹⁰ Average number of bedrooms in Australia

<http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/4130.0.55.001Main%20Features22005-06?opendocument&tabname=Summary&prodno=4130.0.55.001&issue=2005-06&num=&view=> Last accessed 7 December 2011.

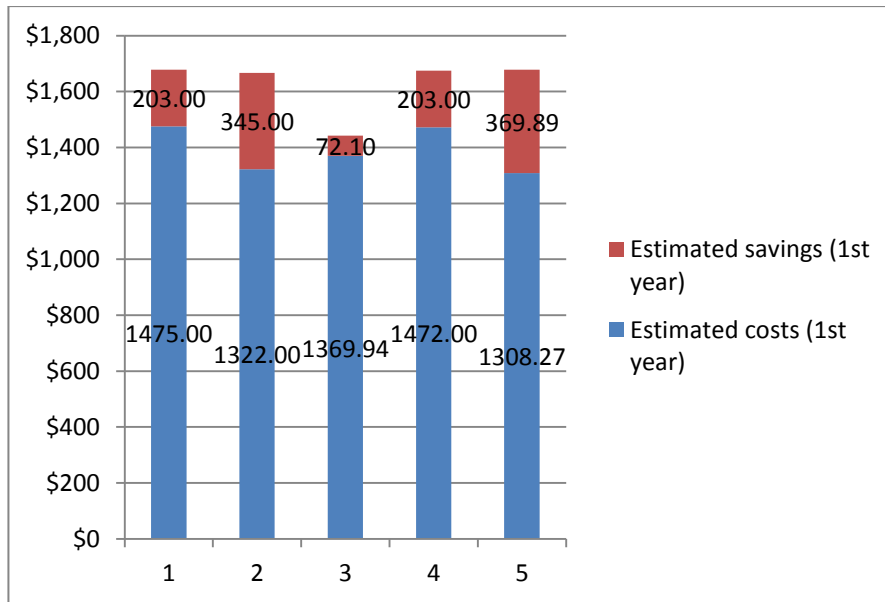
Average number of people <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4102.0Main+Features20Dec+2010> Last accessed 3 January 2012.

between 3 and 9 January 2012. This is because the site was not functioning during the times accessed in December 2011. The Ausgrid, Endeavour Energy and Essential Energy searches were conducted on 13 December 2011 for all of the sites, with the exception of site 3. The Ausgrid search was conducted on 3 January 2012 for site 3 and 6 January 2012 for the other two searches.

First recommended plan and associated estimated level of savings

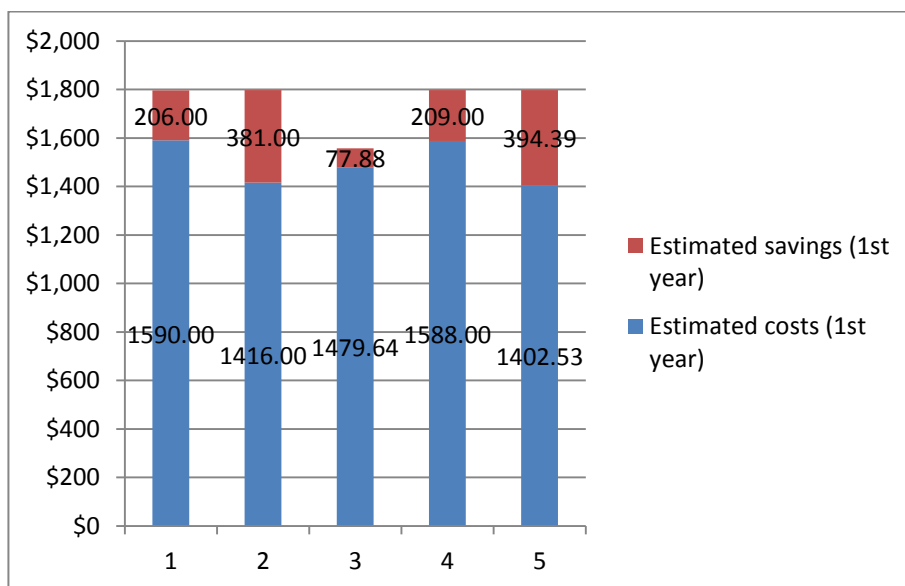
25. The same information was used to generate results for each of the switching sites. That is, the same postcodes with the same usage levels over the same period all looking to switch from the standing offer to a market offer. The results indicate that a person that accessed only one of these sites could not be certain that they were getting the 'best' deal available as opposed to a 'better' deal contrary to what they reasonably expected.
26. The results are not intended to highlight the 'best' offer available or the 'best' switching site.
27. As figures 1-3 below illustrate, there is a significant variance in the stated 'estimated costs (1st year)' and, correspondingly, the 'estimated level of annual savings' for the first plan in search results between some of the different switching sites across the searches conducted.
28. Site 3 presented a significantly different estimated cost of the base offer (i.e. the standing offer) for each search when compared with the other sites. Site 3 asked for the number of people and bedrooms in the relevant residence, which may be a reason for the differences.
29. All estimated costs and savings were stated by each site to be GST-inclusive.

Figure 1: Estimated costs and savings associated with first recommended plan for Ausgrid network if switching from standing offer as at 13 December 2011 (3 January 2012 for Site 3)*



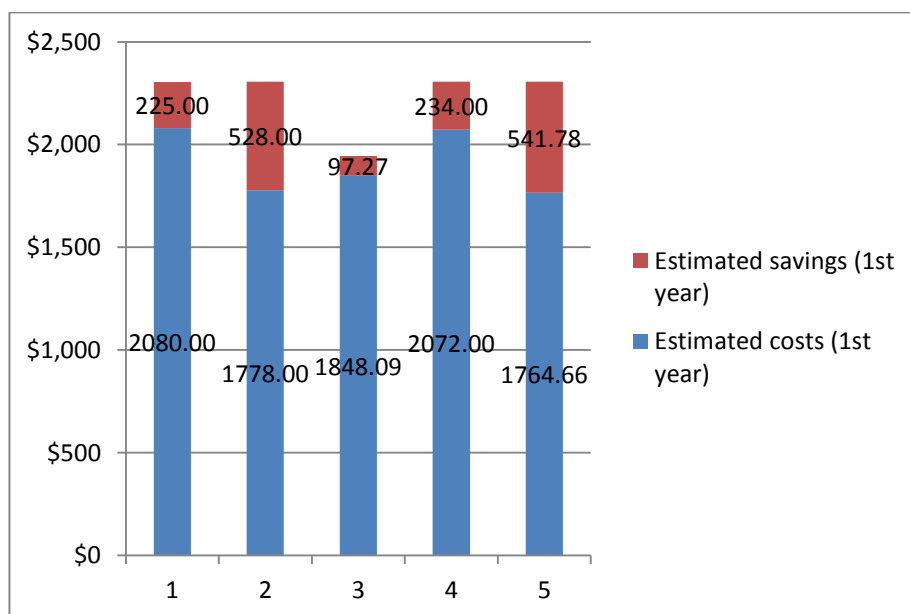
*Where particular sites identify a range in the estimated cost or savings, the minimum has been used in the above figures.

Figure 2: Estimated costs and savings associated with first recommended plan for Endeavour Energy network if switching from standing offer as at 13 December 2011 (6 January 2012 for Site 3)*



*Where particular sites identify a range in the estimated cost or savings, the minimum has been used in the above figures.

Figure 3: Estimated costs and savings associated with first recommended plan for Essential Energy network if switching from standing offer as at 13 December 2011 (6 January 2012 for Site 3)*



*Where particular sites identify a range in the estimated cost or savings, the minimum has been used in the above figures.

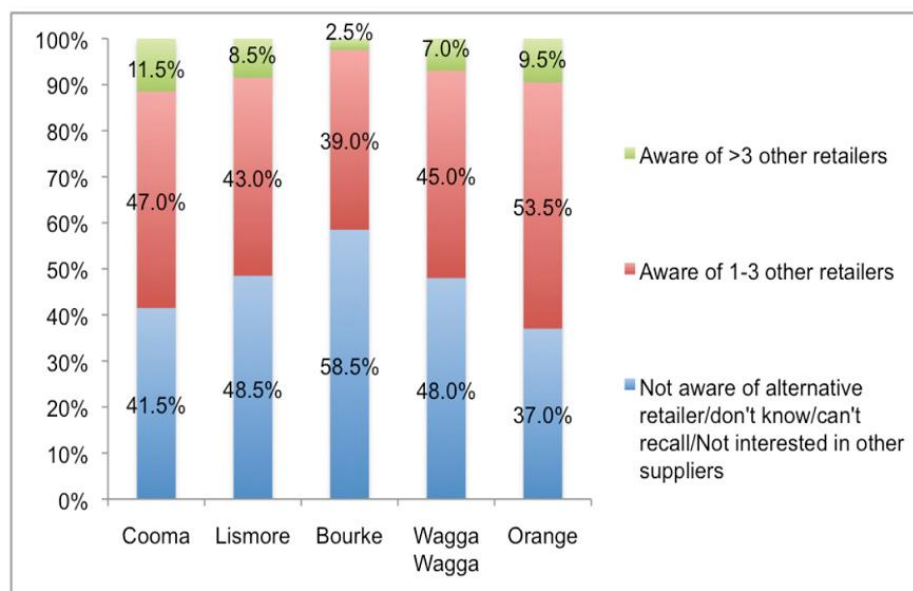
30. The differences in estimated costs and savings across the sites largely reflect that different plans were presented by most of the sites as the first recommended plan. Accordingly, a consumer who accesses only one of the commercial switching sites analysed cannot be certain that they are in fact finding the ‘best’ available offer, contrary to their reasonable expectations.
31. However, all of the switching sites were able to offer ‘better’ plans for a user switching from the standing tariff to a market offer that would provide savings, assuming they met all the relevant conditions for any applicable discounts. This result was consistent for each of the searches.
32. There are instances where different sites recommended the same plan but provided different estimates of the estimated costs (1st year) and the estimated annual savings - specifically:
- sites 2 and 5/6 for the Ausgrid network, Endeavour Energy and Essential network search results respectively; and
 - sites 1 and 4 for the Ausgrid network and Essential network search results respectively.
33. The differences are not significant. However, they do raise questions over the degree of confidence a consumer can have in the accuracy of the ‘estimated’ calculations made by some of the switching sites. As these calculations affect the ranking of the plans, it is important that they be measured objectively for each of the plans presented.

34. Assuming the accuracy of the 'estimated costs (1st year)' for each of the commercial switching sites, a consumer who accesses only one of the commercial switching sites analysed cannot be certain that they are in fact finding the 'best' available offer. This is an issue that may lead to consumer detriment given it may not always be clear to a user that:
- the site may receive commissions from particular retailers that may affect the plans presented;
 - not every retailer is represented in the offers presented and there may be other retailers with more competitive offers; and/or
 - not every offer from every retailer is presented and there may be more competitive offers from that particular retailer available.
35. Research indicates that NSW consumers have low awareness levels of the number of different energy retailers in the market - specifically:
- 'Sydneyiders were mostly aware that they could choose but knew of few companies that they could choose between - those who had switched were more aware than those who had not.'¹¹
 - In five regional NSW areas (Cooma, Lismore, Bourke, Wagga Wagga and Orange), only a very small percentage of respondents indicated an awareness of more than three other retailers.¹²

¹¹ 'Australian Energy Regulator Retail Energy Pricing Guidelines', Wallis Consulting Group, June 2010
<http://www.aer.gov.au/content/item.phtml?itemId=739923&nodeId=702ee4b61964e91da29133501c81b4c0&fn=Consumer%20research%20report%20-%20Wallis%20Consulting%20Group.pdf> Last accessed 22 December 2011.

¹² *Choice? What Choice?; A study of consumer awareness and market behavior in the electricity market in five regions of New South Wales: Cooma, Lismore, Bourke, Wagga Wagga and Orange*, Public Interest Advocacy Centre, June 2011. 'This is in circumstances where in addition to the region's regulated supplier, consumers with a Standard Meter had between seven and nine retailers from which they could choose and consumers with a time-of-use meter had a choice of four retailers in addition to the regulated supplier for the relevant region. ', page 31. (see <http://www.piac.asn.au/publication/2011/06/choice-what-choice>) Last accessed 16 January 2012.

Figure 4: Consumer awareness of alternative electricity retailers (2010)



Source: *Choice? What Choice? A study of consumer awareness and market behaviour in the electricity market in five regions of New South Wales: Cooma, Lismore, Bourke, Wagga Wagga and Orange*, Public Interest Advocacy Centre, June 2011.

Relevant terms and conditions

36. Consumers looking for the 'best' available offer through a switching site may not have access to all the relevant information concerning terms and conditions, as shown in the examples below. The lack of information provided surrounding common fees (for example moving home fees or late fees) may be interpreted incorrectly by a consumer as meaning there is no such fee associated with the particular plan. Consumers should be provided with this information before they switch.
37. Some of the sites analysed provided this information clearly to consumers, but all sites should be required to link to or provide the relevant price and product information statements before a consumer makes a switch. This information should be readily accessible to a user of the site and be prominently displayed on the pages that a user would be required to navigate to make a switch.
38. CHOICE notes that the AER is currently developing a Retail Pricing Information Guideline that will mandate the use of a template (Energy Price Fact Sheets) to present prices and other product information when retailers present or otherwise market or advertise pricing information to consumers.¹³

¹³ <http://www.aer.gov.au/content/index.phtml/itemId/749242> Last accessed 10 January 2012.

39. As consumers are able to use switching sites to sign up to a new energy plan, switching sites should be under the same obligations as retailers regarding the information that needs to be disclosed to consumers.
40. This analysis does not consider in full the adequacy of the price information statements for each of the plans discussed below.

	Information about relevant terms and conditions
Site 1	<p>Site 1 listed 'AGL Energy's "Advantage 7 + \$100"' first in Ausgrid search results. The following information was provided in the search table:</p> <ul style="list-style-type: none"> • Discount of 7% off AGL's standard energy usage rates • \$100 credited to your account • Three-year fixed term agreement • Fair Pricing Promise • Mover's Guarantee • Early Termination fee of \$100 (GST inc) within the first year and \$75 (GST inc) within the second year applies • 10 business day cooling-off period from the date of acceptance <p>Current Rates</p> <p>First: \$0.210738 KWh</p> <p>Balance: \$0.297693 KWh</p> <p>Supply charge: \$192.72 per year</p> <p>No information was provided regarding:</p> <ul style="list-style-type: none"> • when the first block of tariffs would apply and when the rates associated with the 'balance' would apply • what the Fair Pricing Promise or Mover's Guarantee is • the retailer's price information statement. <p>The user is required to 'Click the Things you need to know link below to view product, pricing, fees & charges, and other important information regarding this agreement' before switching.</p> <p>On this page there was no further detail on the above points outlined. It stated incorrectly that the plan was for '2 Years' (when it is for three) and referred to a 'Fee Schedule and General Terms' that could not be located on the web page. Relevant extract below:</p> <p>...</p> <p>Period Plan Length: 2 Years from the Supply Commencement Date</p> <p>Charges are based on available information and assumptions about your distribution region, network tariff, meter type and meter configuration. If AGL subsequently determines that this</p>

	<p>information is incorrect or incomplete, AGL may vary the Charges in which case you will be advised of any changes to your Energy Plan, and of your options.</p> <p>IF NSW, QLD, SA: Fees such as an account establishment fee, late payment fee, dishonoured payment fee or payment processing fee, and other charges relating to your Meter or Supply Address may apply under this Energy Plan. See the Fee Schedule and General Terms.</p> <p>...</p>
Site 2	<p>Site 2 listed 'Dodo Power & Gas 12 Month Contract with 10% Discount NSW' first in Ausgrid search results.</p> <p>From the search results, the user was able to click the 'view details' link directly beneath the plan name. This linked to a page that provided details on fees including tariffs and mandatory direct debit fees, cancellation fees and fees associated with sending paper bills.</p> <p>A direct link was provided to Dodo's 'Additional Retail Charges' for Victorian households.</p> <p>No information was provided regarding the retailer's price information statement.</p>
Site 3	<p>Site 3 listed 'Red Energy's Fixed Term Saver 5% plan' first in Ausgrid search results.</p> <p>It linked to a product information statement. However, this product information statement did not state for example whether any moving home fees or late fees would be applicable.</p>
Site 4	<p>Site 4 identified 'AGL Energy's "Advantage 7 + \$100"' first in Ausgrid search results.</p> <p>No information was provided regarding:</p> <ul style="list-style-type: none"> • details on late fees that AGL's site indicated would be applicable for this plan • the retailer's price information statement.
Site 5	<p>Site 5 listed 'Dodo Power & Gas 12 Month Contract with 10% Discount NSW' first in Ausgrid search results.</p> <p>From the search results, there was a direct link to the product information statement and Dodo's documents on terms and conditions.</p>
Site 6	<p>Site 6 listed 'Dodo Power & Gas 12 Month Contract with 10% Discount NSW' first in Ausgrid search results.</p> <p>From the search results, there was a direct link to the product information statement and Dodo's documents on terms and conditions.</p>

Estimated customer annual bill

41. One significant problem consumers face when attempting to gauge whether an electricity offer will save them money is interpreting the various discounts, offers and fees that apply to market offers.
42. Switching websites may simplify this process by including the various discounts when calculating estimated savings for customers using their site. However, this process of including conditional discounts in final estimations can conceal the true potential cost of a new electricity plan.
43. This research found little to no information on any of the sites about what a customer can expect to pay if the conditions for discounts (e.g. paying on time) are not met.
44. The NSW Energy Prices Report highlights that consumers who struggle to pay their bills on time can be worse off under some market contracts than if they chose to stay on the regulated plan because of the combination of pay-on-time discounts and late payment fees present in some market plans.¹⁴
45. Below are examples from the IPART site that shows for the user in the search results table the financial implications of not meeting the conditional requirements for each discount:

\$1600

Add \$178 if you do not
pay your bills on time

\$1604

Add \$32 if you do not
pay your bills on time
Add \$16 if you do not
pay your bills by Direct
Debit

46. CHOICE notes that the AER's draft Statement of Approach to the development of its price comparator website envisages that if discounts are available for a particular plan, three estimated bill costs for the first 12 months of the contract will be displayed. CHOICE notes that, significantly, it is intended that the user be able to sort the list of offers available by each of the three annual estimates - specifically:
 - estimated annual bill cost exclusive of all discounts;
 - estimated annual bill cost inclusive of non-conditional discounts only; and

¹⁴ NSW energy Prices Report, p. 9

- estimated annual bill cost inclusive of non-conditional and conditional discounts.¹⁵

47. The commercial switching sites would need to display more information prominently regarding each plan for a consumer to have all the information they need to make an accurate and informed decision when switching electricity providers. The method proposed by the AER would provide this level of information in a way that is user-friendly.

¹⁵ 'Draft Statement of Approach: AER Price Comparator Website', November 2011. See page 15 for further details.

Range of plans listed in search results

48. The figure below indicates the retailers for which plans (market and regulated) were listed in Ausgrid search results.

Figure 5: Range of plans for the Ausgrid search as at 13 December 2011 (3 January 2012 for site 3) (market and regulated)

Retailer for which the site lists plans in search results	Site 1	Site 2	Site 3	Site 4	Site 5 & 6
Red	✓	✓	✓		✓
Dodo		✓			✓
AP & G		✓			
AGL	✓	✓	✓	✓	✓
Country*		✓			
Lumo		✓	✓		
Origin	✓	✓	✓		✓
Powerdirect		✓			
Energy Australia	✓	✓	✓		✓
Integral	✓	✓			
Tru	✓	✓		✓	
Number of plans listed in search results	25	56	18	6	19

*Note Origin purchased Country Energy's retail arm on 1 March 2011.

49. As figures 1 - 3 show, a consumer may incorrectly believe that a site would find the 'best' deal, when in fact a visited site may not include the 'best' deal in their range of plans considered. The nature of internet searches makes it difficult for a consumer to identify the quality switching sites and establish the comprehensiveness of a particular switching site by search engine results alone.

50. As highlighted by figure 5, the number of plans listed by the commercial switching sites analysed varied significantly in the Ausgrid search results. Consumers who believe a switching site would provide details on all retailers in the electricity market would be incorrect in some instances.
51. There may also be an issue in that switching sites may be making representations (directly or by omission) to a consumer that the site would identify the 'best' plan available when this is not the case.
52. CHOICE recommends that an investigation be conducted into the above.
53. Statements from each of the sites on the home page and pages that a user would be required to navigate only to make a 'switch' regarding the range of plans listed are considered below.

Site 1: goswitch.com.au

54. Site 1 makes the following statements on its home page:

INDEPENDENCE MATTERS

Unlike many other energy comparison sites, GoSwitch.com.au is not affiliated with any major power companies.

Our service is free to use and completely impartial – we list every available energy plan in your area, so you can make the best possible choice.

GoSwitch.com.au is now the leading price comparison website for electricity and gas, and in addition to providing transparent pricing to consumers it has led retailers to offer exclusive discounts to GoSwitch.com.au customers. The service is free to use and independent because every plan available is listed, regardless of whether a retailer allows consumers to switch to them through GoSwitch.com.au or not. This means that with just five minutes and a copy of their last bill, Australian consumers can make an accurate price comparison for their individual needs, and switch to a cheaper plan if they want to.

It's quick and easy to find the cheapest energy plan and change power companies with GoSwitch.com.au.

55. There appears to be no relevant qualifying statements made on the pages that a user would be required to navigate to obtain search results.

56. Significantly, while site 1 states that 'every available plan is listed', other sites recommended plans that were claimed to be cheaper in terms of estimated cost (1st) year for each of the three searches conducted as figures 1 to 3 indicate.¹⁶

Site 2: switchwise.com.au

57. On the homepage, the following statement appears prominently:

compare electricity and gas suppliers.
it's all about freedom of choice!

58. In smaller print and less prominently, the following statement also appears on the home page:

Compare a range of offers from up to 14 energy suppliers*

59. Underneath a results table is the following statement in very small font:

* Search results do not include every offer from every retailer.

60. The second and third listed statements are on pages that a user would be required to navigate to obtain search results. However, it is arguably the case that a user would not see these qualifiers on Switchwise, given the small font size and lack of prominence.

Site 3: compareelectricityprices.com.au

61. On the homepage, the following statement is made:



62. There are no prominent statements regarding the range of plans considered on any of the pages that a user would be required to navigate to obtain search results.

63. From the home page, a user would need to click on the 'disclaimer' link that accesses a page that states:

...

¹⁶ However, as noted earlier, sites 4 recommended the same plan as site 1 for the Ausgrid and Essential network search results respectively.

All energy companies displayed on Comapreelectricityprices.com.au [sic] and Switchselect.com.au may or may not have commercial agreements with Switchselect Pty Ltd. We provide an impartial service and whether an energy company pays us a commission to facilitate your switch, transfer or connection does not in any way influence the results you are shown.

...

64. From the results page, there is a link below the table, 'Is the pricing data up to date?', that accesses a page that states:

We monitor gas and electricity suppliers, their tariffs and their offers on a regular basis, and updated accordingly.

We also monitor all government pricing changes and regularly receive information about tariff changes before they actually take place.

Remember we offer a comprehensive and impartial source of industry information. It's your choice.

...

65. Significantly, while site 3 states that it is 'comprehensive', as figure 5 indicates, for the Ausgrid search only a limited range of plans offered from a small range of retailers (5) were presented.

Site 4: youcompare.com.au

66. The following statement is at the bottom of the screen where a user is required to input details in small font size:

*By selecting your current energy company, we will compare your current energy company's standard rates for your area with other offers in the market.

67. The Ausgrid search results on the Youcompare site are headed by the logos of the following energy retailers: AGL, Click Energy, Neighbourhood Energy, Red Energy and TRU energy. The presence of those logos would likely represent to a user of the site that if there are plans offered by each of those six retailers, these would appear in the search results.

68. At the time of analysis, however, there were only plans listed for AGL and Tru in the Ausgrid search results. Click Energy and Neighbourhood Energy at the time of analysis did not operate retail electricity businesses in NSW.¹⁷

¹⁷ <http://www.clickenergy.com.au/contact-us/> and <http://www.neighbourhood.com.au> Last accessed 12 January 2012.

Site 5: ratedetective.com.au

69. On the homepage is the following statement:

Electricity

Find a better deal and switch electricity providers online.

70. On the next page that a user would be required to navigate to obtain search results is the following statement¹⁸:

Switching to a cheaper **energy provider** you could save hundreds of dollars a year. Just answer a few easy questions about your current **power usage** and we will find the best deal for you from our participating suppliers. Reduce your [gas and electricity bill](#) in 5 minutes!

71. Arguably, a user may not see the statement made regarding 'from our participating suppliers' given its lack of prominence, i.e. non-bolded or hyperlinked text. The statement is also at the top of a page that is cluttered and is therefore less likely to be highly visible to a user.

72. As figure 5 shows, site 5 did not show plans in Ausgrid search results for a wide range of retailers including Australian Power and Gas, Integral, TRU energy, Lumo and Powerdirect.

Site 6: shoparound.com.au

73. On the home page is the following statement:

Compare hundreds of products and services

Shop around for a better deal on your electricity & gas, home loan, insurance, credit cards, and more

74. Above the search results appears the following:

Our trust guarantee:

- Clear and impartial results
- 10 day cooling off period when you sign-up online
- Industry-best site security

75. Site 5 is driven by the same search engine that drives site 6. While site 5 makes a statement regarding there being a limited range of offers – 'participating suppliers' - site 6 makes no reference to this on the pages that a user would be required to navigate to make a switch.

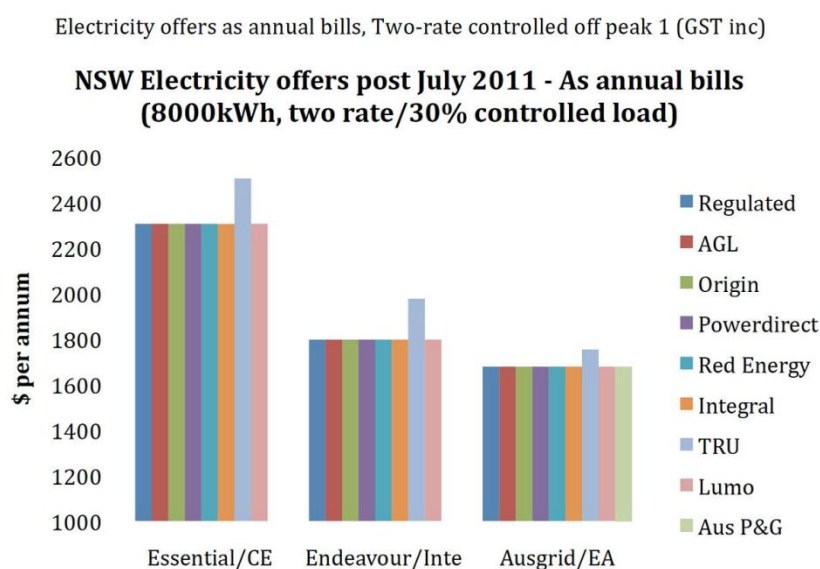
¹⁸ <http://www.ratedetective.com.au/electricity> Last accessed 13 Dec. 11

76. As figure 5 shows, site 6 did not show plans in Ausgrid search results for a wide range of retailers including Australian Power and Gas, Integral, TRU energy, Lumo and Powerdirect.

Characteristics of retail plans

77. A feature of the energy market that exacerbates the difficulties consumers face in choosing the 'best' available plan is the structure of the retail plans, including tariffs and relevant fees and charges. These difficulties are likely to increase in the future with Time-of-Use (ToU) pricing becoming more common in NSW¹⁹.
78. The NSW Energy Prices Report found that as of July 2011²⁰, none of the market offers had tariffs (cost per kWh and supply charges only) below the regulated rates. In fact, one retailer had tariffs that were higher than the regulated rates.

Figure 6



Source: NSW Energy Prices Report

¹⁹ The Standing Committee on Energy and Resources Meeting Communiqué of 9 December 2011 reported that 'Ministers noted progress on a national framework for smart metering, and agreed to continue developing a framework that can be applied to all likely deployment scenarios.'

CHOICE supports ToU pricing in principle given its ability to reduce peak demand and therefore electricity costs for all consumers. This is provided it is phased-in with a focus on consumer engagement, on a voluntary basis, with tariff structures that seek to bridge the divide between real-world consumer behaviour and peak demand reduction, and adequate safeguards for vulnerable consumers. Crucially, consumers must be able to make informed decisions as to the plan that is best for their needs so that ToU pricing benefits consumers by reducing peak demand. ToU pricing should not result in additional profit for energy retailers capitalising on any 'confusopoly' associated with additional variables

²⁰ However, the analysis included market offers adjusted post 1 July changes to regulated offers – 5 September 2011 at the latest).

Difficulties of comparing 'apples' with 'apples'

79. NSW consumers are currently required to weigh up a range of features and options such as those below when attempting to choose the 'best' available electricity offer:

- \$75 online sign-up rebate if you switch now;
- 5% discount on electricity usage charges versus 5% off your bill when you pay on time;
- 'Free Little Red Rewards book', 'Optional infinite Rewards Card (valued at \$199 per year)', free magazine subscriptions;
- account establishment fees;
- fixed contracts and early termination fees;
- pay-on-times discounts; and
- late fees.

80. In addition to the complexities of time-of-use pricing, there are several factors that increase the level of difficulty consumers face in choosing between different tariffs:

- A lack of understanding as to the proportion of your bill that typically goes towards usage as opposed to the supply charge, and consequently a lack of understanding whether plan A or plan B is 'best' for your circumstances when for example plan A offers X% discount off your bill if you pay on time and plan B offers Y% discount off your usage.
- A delay between consumption and receiving a bill for consumers makes it difficult for consumers to be aware of their usage on a seasonal and hourly basis.

81. It is likely that consumers faced with a range of confusing plans could end up in a situation where they:

- avoid making a decision and stay with the status quo, which may be an uncompetitive market plan or even the regulated tariff in circumstances where there is a more competitive plan available to them; or
- churn from one plan to another not knowing whether they are in fact:
 - moving to a more or less competitive offer; or
 - moving to the 'best' offer as opposed to a 'better' offer.²¹

²¹ 'What can behavioural economics say about GB energy consumers?', ofgem, 27 March 2011.

http://www.ofgem.gov.uk/Markets/RetMkts/rmr/Documents1/Behavioural_Economics_GBenergy.pdf Last accessed 25 January 2012.

See also Consumer Utilities Advocacy Centre (2011) Improving Energy Market Competition Through Consumer

“ I have had other providers ask us to switch but I just don't know who I would switch to. I'm scared to switch because it's better the devil you know ”

“ Looking at web sites for retailers, try making sense of their tariffs. Somewhere where it's easier to compare apples with apples would be good ”

“ I changed to Origin Energy from TruEnergy but can't remember why. I think at the point my eyes started to glaze was when it simply became easier to swap. I'm still not sure if we've got a better deal or not! ”

“ I have remained with this provider on the same plan because it really is difficult to make comparisons. The constant barrage of door-to-door people are not convincing and are really not focussed on helping to reduce costs but to make money ”

“ I will be looking at the various providers available when I move. I would be looking at comparing plans – I assume this will not be easy as I found comparing plans for alternate providers for phone service quite confusing ”

“ *It's just too hard to compare them with their differing tariff rates. I could spend days trying to crunch the numbers only to discover that it's not worth my time to make the move* ”

82. The current level of confusion is likely to be exacerbated with the introduction of new technology, and if unchecked could lead the energy market into becoming the new telecommunications market - a confusopoly. Under a ToU system for example, tariffs would be likely to have a greater number of variables that will make it harder for consumers to compare apples with apples. Below is an example of the different ToU tariffs that Victorian consumers were presented with before the moratorium on ToU pricing. It is unlikely that a large proportion of NSW consumers would be able to make an informed decision as to which tariff would best suit their needs if presented with such a choice currently.

Figure 7

Proposed Network TOU Structures				
DNSP	Season	Period	Time	Day Type
SP AusNet 2011	Summer (Dec - March)	Peak	2pm - 6pm	Weekdays
		Shoulder	12pm - 2pm 6pm - 8pm	Weekdays
		Off-peak	8pm - 12pm All day	Weekdays Weekends
	Winter (June - August)	Peak	4pm - 8pm	Weekdays
		Off-peak	8pm - 4pm All day	Weekdays W/end
	All other months	Off-peak	All day	Every day
AusGrid	All Year	Peak	1pm - 10pm	Business days
		Shoulder	7am - 1pm 8pm - 10pm	Business days Business days
			7am - 10pm	W/end & PH
		Off-peak	10pm - 7am	Every day

Source: Network Annual Pricing Proposals

Source: <http://www.consumeraction.org.au/downloads/Session2-BevHughson.pdf> Last accessed 7 December 2011.

83. As an example of the confusopoly in the telecommunications market, it was reported in the ACMA's Reconnecting the Customer inquiry²² that:

...

²² http://www.acma.gov.au/webwr/_assets/main/lib310013/rtc_final_report.pdf See pages 50 - 52, last accessed 16 December 2011.

In a research study of 3G mobile bill-payers, while 77 per cent of consumers were confident in their understanding of the call and SMS inclusions in their plan, just 56 per cent were confident in their understanding of charging for excess usage. Among bill-payers who use 3G features, approximately half had a low understanding or no understanding of data-charging arrangements.

Half of the post-paid bill-payers in this study reported receiving an unexpectedly high bill. These consumers were even less confident about understanding excess usage charges than those who did not receive an unexpectedly high bill – suggesting that this may have been a factor contributing to their receiving a higher than expected bill. There was also evidence that gaps in understanding of data allowance and excess data usage increased the likelihood of those who use 3G features receiving an unexpectedly high bill.

...

84. Under a confusopoly, there is also less pressure on retailers to offer tariff structures that are competitive. Companies may also seek to market themselves as offering competitive products when in fact they're not, which also limits the ability for a company that offers a truly competitive product to cut through.
85. In markets where consumers are less able to make an informed decision as to the plan that is best for their needs, the risk of bill shock also increases as well as the risk of switching to a plan under which they would be worse off.

Recommendations

86. NSW Fair Trading will be aware that it is not incumbent upon CHOICE to propose specific remedies when making a super-complaint. It is clear, however, that consumers currently face difficulties comparing apples with apples when making a decision as to the 'best' electricity plan for their circumstances. While the analysis shows that for each of the switching sites a user looking to switch from a regulated offer to a market offer would achieve savings, it is not necessarily the case that a consumer randomly selecting a particular commercial switching site would find the 'best' offer available as opposed to a 'better' offer.
87. These confusopoly issues are not unique to energy, and as seen in the telecommunications market are likely to become more prevalent with the introduction of new technology. With ToU pricing becoming more common, it is possible that consumers would switch to plans under which they would be worse off. Bill shock has become a common occurrence in the telecommunications market, so it is important to ensure that the energy market does not become the new telecommunications market.

UK Midata project

88. CHOICE recommends that a project similar to the UK Midata project be pursued in Australia.
89. The UK government recently announced its Midata project.²³ This project is aimed at giving consumers in a usable and portable format their personal consumption data that companies such as their telecommunications provider, energy provider and bank currently possess. Consumers armed with this information should then be able to make an informed decision as to the products that best suit their individual circumstances.
90. Businesses and organisations in the UK that have voluntarily committed to the Midata project include:
- Voco Secure;
 - Billmonitor;
 - British Gas;
 - Callcredit;
 - EDF Energy;
 - E.ON;
 - Garlik;

²³ <http://www.bis.gov.uk/news/topstories/2011/Apr/better-choices-better-deals> and <http://nds.coi.gov.uk/content/detail.aspx?NewsAreaId=2&ReleaseId=421869&SubjectId=2> Last accessed 16 December 2011.

- Google;
- Lloyds Banking Group;
- MasterCard;
- Moneysupermarket.com;
- Mydex;
- Npower;
- RBS;
- Scottish Power;
- Scottish Southern Energy;
- The UK Cards Association;
- Three; and
- Visa.

91. If used in combination with co-operating parties such as switching sites or retailers, consumers would be better able to make an informed decision in an efficient manner regarding the 'best' products for their individual circumstances. With appropriate provisions for protection of data and privacy, this would encourage competition between companies and ensure those that supply the products that consumers need and want are rewarded as opposed to those that capitalise on the confusopoly.
92. The ability to access sufficiently detailed real-world information in a usable and understandable format on energy usage patterns would be beneficial to consumers when considering competing energy plans. As highlighted above, the types of tariffs available under ToU pricing can be quite complex, and it would be difficult in most circumstances for a consumer to choose the best tariff for their circumstances.
93. In addition, consumers could be provided usable information regarding, for example, their payment histories. This information could then be used to direct the consumer to the 'best' tariff for their circumstances, taking into account for example that they typically pay late and therefore would not qualify for conditional discounts.

Means of identifying the 'best' switching sites

94. Switching sites have an important role currently in assisting consumers evaluate the range of energy plans available.
95. It can reasonably be assumed that switching sites have a greater understanding than consumers of:
- the electricity retailers in the market;
 - available plans; and
 - relevant terms and conditions (for e.g. late fees, moving fees).
96. Switching sites are therefore able to selectively provide information typically without the consumer's knowledge as to what information is missing. This potentially results in consumers switching to a 'better' option as opposed to the 'best' option contrary to what they expected.
97. The commercial switching sites are able to operate in such a manner given the difficulties that consumers face assessing goods and services when presented with many different options and large amounts of information. Behavioural economics considers that consumers adopt 'rules of thumb' or 'reference points'. This results in consumers switching to a 'better' option as opposed to the 'best' option.²⁴
98. As this analysis indicates based on the commercial sites analysed, there are a range of associated issues regarding transparency, accuracy and provision of all relevant information that may lead to consumer detriment.
99. Given the nature of internet searches, it can be difficult for consumers to identify the higher-quality sites. There are a large number of switching sites and the higher quality sites do not always rank highest in search engine results. Research conducted recently by The Australia Institute found that only 15% of respondents reported looking beyond the first page of search results²⁵.
100. While the Australian Energy Regulator (**AER**) is developing its online price comparator and the Independent Pricing and Regulatory Tribunal (**IPART**) has its own online price comparator at myenergyoffers.nsw.gov.au, their presence does not mean that the commercial online price comparators will cease to exist. Government price comparators serve an important function and can set the standard for commercial online price comparators.²⁶
101. However, there are a number of reasons why consumers may choose to use the commercial online price comparators, including:

²⁴ 'What can behavioural economics say about GB energy consumers?', Ofgem, 21 March 2011.

²⁵ 'What you don't know can't hurt you, How market competition threatens internet diversity', The Australia Institute, August 2011. <http://tai.org.au/> Last accessed 16 January 2012.

²⁶ CHOICE notes that the AER's 'Draft Statement of Approach: AER Price Comparator Website', November 2011 states that '[a]s general principles, the AER's price comparator website will be independent and impartial... accessible... simple...accurate... and current.' Last accessed 22 December 2011.

- a lack of awareness of government online price comparators;
- the commercial online price comparators may be higher up in terms of ranking for web search engines such as Google;
- the ability for commercial online price comparators to make the 'switch' for the user; and
- the sheer number of commercial sites compared with government sites.

102. CHOICE recommends that a voluntary or compulsory code or accreditation system (similar to the Ofcom's Price Comparison scheme²⁷) for commercial switching sites be established. This code / scheme should include consideration of:

- the level of transparency regarding the range of energy plans presented;
- the range of energy plans presented;
- whether the site makes reasonable endeavours to provide all the information that a consumer would require to be able to make an informed decision (for example, by linking to the Energy Price Fact Sheets intended to be mandated in the Retail Pricing Information Guidelines²⁸);
- the level of transparency regarding how plans are presented in terms of ranking or prominence; and
- the level of accuracy regarding any represented calculations and transparency regarding methodology in making these calculations.

Finding the 'best' plan

103. CHOICE recommends that NSW Fair Trading investigate whether any of the commercial switching sites are engaging in misleading or deceptive conduct regarding whether a user would find the 'best' plan using their site or other related representations.

104. CHOICE recommends that as part of this process, NSW Fair Trading consider contacting other organisations that may receive complaints about energy switching sites including IPART, EWON, the AER and the ACCC.

²⁷ <http://stakeholders.ofcom.org.uk/consultations/ocp/statement/pricescheme/consumerfaq/> Last accessed 16 December 2011

²⁸ <http://www.aer.gov.au/content/index.phtml/itemId/749242> Last accessed 5 January 2012.