

ESIA Submission:

Victorian Energy Upgrades (VEU) Program Telemarketing Ban Consultation

24 July 2023

Submitted to the Manager, Demand Side Policy, Energy Demand and Efficiency Policy Branch, Department of Energy, Environment & Climate (DEECA),
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1. Introduction

The Energy Savings Industry Association (ESIA) welcomes the opportunity to provide this submission to the Victorian Energy Upgrades (VEU) Program Telemarketing Ban Consultation which commenced on 7 July 2023. This consultation is being managed by the Department of Energy, Environment and Climate Action (DEECA).

About ESIA

The Energy Savings Industry Association (ESIA) is the peak national, independent association representing and self-regulating businesses that are accredited to create and trade in energy efficiency certificates in market-based energy savings schemes in Australia. These activities underpin the energy savings schemes which facilitate the installation of energy efficient products and services to households and businesses. Members represent most of the energy efficiency certificate creation market in Australia. Schemes are established in Vic, NSW, SA and ACT. Members also include product and service suppliers to accredited providers under the schemes. As well, the ESIA represents member interests in national and state initiatives that include energy efficiency and demand reduction, such as the Federal Government's Carbon Farming Initiative energy efficiency methods and National Energy Performance Strategy, and the NSW Peak Demand Reduction Scheme.

Further engagement

We welcome the opportunity to discuss this submission further, please contact the ESIA Executive Officer at comns@esia.asn.au.

This submission can be made public.

The consultation

The ESIA referred to the two documents: Consultation Paper and Fact Sheet: at https://engage.vic.gov.au/marketing-under-the-victorian-energy-upgrades-program

Timeline

The webpage states:

- Consultation opened - **5 July 2023**
- Consultation closed - **24 July 2023**
- Review stakeholder feedback - **August 2023**
- Review stakeholder feedback - **August 2023**
- Release response to consultation - Late September 2023

Background

The consultation fact sheet states: on 22 June 2023, the Minister for Energy and Resources announced her intention to implement a ban on telemarketing under the Victorian Energy

Upgrades (VEU) program (refer to the 22 June media release at https://www.premier.vic.gov.au/strengthening-victorias-bill-busting-veu-program) to protect consumers from high-pressure sales tactics and other inappropriate marketing.

Media Release:

The Andrews Labor Government will ban the telemarketing of products under the Victorian Energy Upgrades (VEU) program, in a suite of reforms that will protect consumers and strengthen compliance while helping Victorians cut their bills and reduce emissions at home.

Minister for Energy and Resources Lily D'Ambrosio today announced accredited providers will no longer be allowed to use cold calling to spruik products and services included in the program.

Consumer groups and industry will be consulted on the design, timing and implementation of this ban – which simply strengthens the 2022 VEU Code of Conduct, already banning high-pressure tactics in market and sell products, following a similar ban in late 2021 for energy retailers.

Stronger requirements for accredited providers and scheme participants will also commence on 1 July, improving compliance through measures like penalties for misconduct of third parties participating in the program.

The Essential Services Commission (ESC) has completed its review of the program's refrigerated cabinet activity, following its removal from the VEU last year.

The Labor Government is proposing to reintroduce incentives for energy-efficient refrigerated cabinets and will be consulting with stakeholders on further protections to complement their reintroduction.

The Government is also working to further enhance the ESC's powers to promote the independent, robust certification of eligible products and to ensure suppliers do not benefit from providing inaccurate information to the regulator.

Consultation papers on the telemarketing ban and reintroduction of refrigerated cabinets will be released soon.

More than 2 million households and 150,000 business premises have participated in the VEU program since it commenced in 2009, reducing Victoria's greenhouse gas emissions by over 75 million tonnes to date with average annual bill savings of $110 for participating households and $3700 for participating businesses.

Even those who do not participate in the program will save on their bills – with households saving $150 and business saving $870 over the next 10 years.

The quickest and most effective way to drive down energy bills is to help people take up efficient electric alternatives – that's why the program has expanded to provide more electrification options and gas appliances will no longer be available after July 1.

For information on the program and accredited providers, visit energy.vic.gov.au.

Quotes attributable to Minister for Energy and Resources Lily D'Ambrosio

"Victorians need to be able to make informed decisions as they upgrade and make their homes more energy efficient. We've heard them on unwanted telemarketing calls and are taking action to stop this practice."

"We have helped two million households and businesses slash their power bills through our nation-leading Victorian Energy Upgrades program as we work towards net zero by 2045."

The fact sheet states that a range of current methods include:

- telemarketing (which is particularly problematic, worsening and widespread and is likely greater than the number of formal complaints);
- doorknocking;
- digital advertising;
- traditional media advertising: and
- direct marketing.

The proposed ban will focus on complaint problem areas:

- 'cold calling' tele-sales (unsolicited calls to prospective customers) to promotes products and services included in the VEU
- Door knocking
- Upselling or marketing to previous customers

Types of marketing proposed not to be included in the ban as offending businesses are easier to track:

- Email;
- Texts; and
- Marketing in public places like shopping centres.

Definitions of marketing as provided in the consultation paper, p4, are:

- telemarketing (also known as 'cold calling');
- door knocking;
- digital advertising (e.g., texts, emails, social media, websites, search engine optimisation, etc.);
- traditional media advertising (e.g., radio, television, newspapers, displays, etc.); and
- direct marketing (e.g., stalls, leaflets, brochures, mailers, etc).

2. Overarching perspectives

Key points for which the ESIA is advocating:

- **A ban on high pressure sales tactics is welcomed** by the ESIA, however, a blanket ban across all 'perceived problem areas' and customer sectors is not considered necessary at this point although the government states it would easier to do this.

  DEECA needs to consider the nuances of 'telemarketing' to ensure the right kind of tactics are banned for key consumer segments but not all:

  - **'cold calling' tele-sales (unsolicited calls to prospective customers) to promote products and services included in the VEU** - *ban within 3-6 months.*
  - **Door knocking** – *don't ban, increase penalties and rapid auditing of*

complaints and establish and acceptable number of complaints per annum and communicate this clearly to all stakeholders.

- **Upselling or marketing to previous customers** – *don't ban, instead communicate what is and isn't acceptable including referencing the relevant law and making clear what information and authority stakeholders require and in what form from existing customers to enable businesses to make follow up contact with existing customers in a reasonable way.*

- **The ESIA welcomes periodic information sessions for stakeholders to be hosted by DEECA and ESC with expert guests** including the Australian Communications and Media Authority (ACMA) regarding successes and continuing challenges of determining offending businesses and effective penalty regimes. (Such as: https://www.acma.gov.au/say-no-to-telemarketers and relevant case studies for spam and telemarketing as published at https://www.acma.gov.au/investigations-spam-and-telemarketing#about-our-investigations.)

- **Government marketing of the program would be welcomed as soon as possible and well before the transition time concludes** to provide supporting overlap. The ESIA would welcome the opportunity to contribute to any shaping of a campaign theme and channels to strengthen the reputation of the VEU and APs and their upgrade partners including electricians and plumbers and their peak bodies.

  In broad terms, the ESIA notes that the VEU was developed because passive advertising and education strategies did not work. Traditional channels like television are also expensive.

  More interactive and less time sensitive methods may work that can be integrated into businesses marketing. For example, short Vimeos (a format already use by the VEU) that bring in consumers, industry, politicians, policy makers, the regulators including ESC and ACMA, energy retailers, APs and installers including qualified plumbers, electricians, specialists like refrigeration mechanics or other trades, and product suppliers. Such Vimeos can be accessibly archived on the VEU website and promoted through targeted communications for accredited businesses and third parties. Consider exploring Stages 1-4 of the VEU 'customer journey': Marketing and sales, contracting, implement upgrade/activity, life of asset, and accessing and enforcing consumer protections and includes case studies.

  As support for climate change has shifted significantly since 2009, this approach coupled with a priority focus on themes including cost-of-living pressures, home comfort and health of occupants may resonate if supported by evidence-based research like the Victorian Healthy Homes Program and the now closed Small Business Energy Saver Program.

  The ESIA notes that there is considerable opportunity for the Victorian Government to work more directly with industry capacity building. For example, with professional and trade networks via peak bodies and established and new equipment suppliers and innovators to increase appreciation for the VEU and how to participate.

- **A safe whistle blower pathway needs to be established** so industry and consumers can be confident that where they see inappropriate behaviour, they are not at risk of exposure and

threats etc. And that if there is any malicious abuse of this process, e.g. by other businesses or consumers, that swift due process and action will be taken by the regulator.

For example, APs can share (confidentially if appropriate) which providers or channels are the source of inappropriate marketing tactics.

- **Anecdotally, only a small number of ESIA member businesses use tactics most likely to be banned (cold calling and door knocking)** however they use them at significant volume, in particular door knocking. The ESIA has encouraged any members in this position make their own submissions to DEECA to flag imminent impacts on their businesses.

  For example, some views by major low-cost, high-volume equipment suppliers and their installer customers is that a **door knocking ban** will dramatically reduce the rollout of activities like shower heads, in home displays and weather sealing to the point that these activities are no longer viable to be delivered under the VEU. As such, the Victorian government needs to delay a ban on door knocking and take a close look at impacts of complaints versus benefits, along with a tightening up of auditing of door knocking to further minimise high pressure tactics. Statistics in the consultation paper show only low complaints for door knocking of 49 for the first six months of 2023, compared to 301 for telemarketing (which as most likely from cold calls, although this is not detailed).

- **Given the impact on cash flow when any changes come in following this consultation**, it is essential that the ESC promptly processes certificates and communicates with APs regarding any hold ups with certificate creation.

- **The ESIA will not complete the AP survey** published as part of the consultation as it is biased with its binary-only yes/no response options.

3. Responses to Consultation questions

1. **Are there any situations that should be excluded from the scope of the telemarketing ban?**

   a) **Allow cold calling to *non*-residential customers only where the call is made by and clearly tracked to the AP or qualified trade** such as plumber or electrician on the ensuing VEEC application form and in an auditable list of numbers contacted by the authorised caller.

   To enable this, **set up a new requirement where the AP or qualified trade is provided with the trackable identification (ID) number that must also be provided**.

   b) **Allow calling to all existing customers (including residential) that have had an upgrade**. This is not 'cold' calling as those potential repeat customers and generally considered 'warm' or 'hot' prospects.

   There could be a requirement that the caller identifies when the customer has an upgrade and what type. This will require a relationship between the caller and the AP that processed the certificates and so will be traceable if there is a complaint.

The ESIA suggests that a transparent database of complaints and types be published in the same way that upgrades are now publicly available for activity type and postcode. This may work as a deterrent to offenders and those considering illegal practices. It will also make it clear which market segments are at risk e.g. residential, commercial, industrial.

Then consideration of a staggered ban by sector and activity type may be relevant.

2. Should the ban cover doorknocking as well as telemarketing?

Consider all aspects highlighted in the consultation paper (as stated above in Overarching Perspective of this submission):

- **'cold calling' tele-sales (unsolicited calls to prospective customers) to promotes products and services included in the VEU** - *ban with 3-6 months.*
- **Door knocking** – *don't ban, increase penalties and auditing of complaints and establish and acceptable number of complaints per annum and communicate this clearly to all stakeholders, perhaps on a monthly basis*
- **Upselling or marketing to previous customers** – *don't ban, instead communicate what is and isn't acceptable including referencing the relevant law and making clear what information and authority stakeholders require and in what form from existing customers to enable them to make follow up contact with existing customers in a reasonable way.*

3. What do you think the consequences of the ban will be for consumers?

- **'cold calling' tele-sales (unsolicited calls to prospective customers) to promotes products and services included in the VEU** – *positive.*
- **Door knocking** – *negative as opportunities will be reduced for those best placed to benefit from low-cost retrofits that can occur immediately, although monitoring of door knocking is needed as an appropriate tactic for essential services like hot water and air con pose other challenges as these are not likely to be installed immediately on the same day.*
- **Upselling or marketing to previous customers** – *negative, as appropriate controls should address the current complaints.*

4. What do you think the consequences of the ban will be for accredited providers and third parties?

Mixed. Those that don't use cold calling or door knocking will continue with their current marketing methods. However, if those businesses that rely on these then fail, the broader impacts on the program may flow through to all participants prior to a correction in the market which comes after major changes that impact creation levels and certificate prices.

Those that need to pivot to other business models should be able to do so quickly, within 3-6 months, given awareness about high pressure sales tactics has been in the media at least since the Victorian Government's media release of 22 June over one

month before this consultation closed and since the VEU Code of Conduct came in effect in July 2022 over 12 months ago.

5. **How is the ban likely to impact on specific VEU upgrades and the program as a whole?**

   It is most likely to immediately impact low cost or free upgrades such as those quoted by the Victorian government in the consultation paper: low flow shower roses and in home displays. This is unfortunate as these activities, especially the former, directly deliver energy savings and emissions reductions.

   A cold call ban should see a drop in overall complaints.

6. **When should the ban take effect?**

   Within 3-6 months of the response to consultation.

7. **What transitional arrangements and support would help the VEU industry adjust?**

   Clear and specific communication about the extent of the ban to stakeholders that is easy to copy and push out through their own communications channels.

   More support for a more consumer friendly VEU registry (managed by ESC) for households and businesses to find providers for specific types of upgrades. This could include the interface enabling a consumer to list all the upgrades they are considering and shortlisting possible providers in their area. (There may need to be a penalty by ESC is there are complaints that consumers do not get any communication following an enquiry to an AP i.e. avoid APs from listing availability in areas they are unlikely to service, and incentivise APs to update their availability in certain areas.

8. **What other ways can be used to promote the energy efficiency upgrades available through the VEU program?**

   The ESIA notes that the VEU was developed because passive advertising and education strategies did not work, according to research. Traditional channels are also expensive, such as television. More interactive and less time sensitive methods may work such as social media podcasts and radio chat shows etc. that bring in consumers, industry, politicians, policy makers, the regulators including ESC and ACMA, energy retailers, APs and installers including qualified plumbers, electricians, specialists like refrigeration mechanics or other trades, and product suppliers. Thes items could be archived on the VEU website and promoted through targeted advertising and promotions. Consider exploring Stages 1-4 of the VEU ‘customer journey’: Marketing and sales, contracting, implement upgrade/activity, life of asset, and accessing and enforcing consumer protections and includes case studies. (This would also serve as a highly informative resource for the NEPS etc. and could possibly attract federal funding.)

   As support for climate change has shifted significantly since 2009, this coupled with a priority focus on cost-of-living pressures, home comfort and health of occupants may

resonate if supported by evidence-based research. (Such as Victorian Healthy Homes Program and the now closed Small Business Energy Saver Program.)

There is a growing grassroots movement to support homes and businesses locally and it may be worth the Victorian Government collaborating with these groups to leverage the VEU. For example, refer to the Rewiring Australia https://www.rewiringaustralia.org/ approach being adopted in Victoria, e.g. Electrify Boroondara https://electrifyboroondara.org/ and https://www.electrifyvictoria.com.au/. Consumers that are 'warm' to the idea of upgrades may welcome nominating ot be approached by businesses in their area.

The Victorian Government could consider pro-actively informing Victorian based accredited Home Energy Rating assessors about the VEU and the Victorian Gas Substitution Roadmap and how their clients consider rebates available to support improving their home rating assessment.

9. **Please share any insights or evidence about the marketing of VEU products and services (e.g., marketing trends, the consumer experience, the effectiveness of different methods, etc.).**

ESIA member websites showcase effective marketing of VEU products and services with links at https://esia.asn.au/members.

The ESIA suggests that the DEECA VEU team regularly peruse these websites and those businesses' social media channels such as Facebook and Instagram to develop a working knowledge of marketing tactics and channels that are working and are appropriate.

Some businesses use traditional channels such as targeted radio and print media in certain regions, often driven seasonally (eg for heating and hot water in the lead up to Winter, cooling in summer.) Themes piggy-backed may include cost of living pressures, reducing energy bills, home comfort and health, and taking climate action.

For more information regarding this submission, please email ESIA Executive Officer, comns@esia.asn.au