

Australian Capital Territory

## **Utilities (Variation of Industry Code) Approval 2004 (No 1)**

### **Disallowable Instrument DI2004-203**

made under the

Utilities Act 2000, s 61(Variation)

### **EXPLANATORY STATEMENT**

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The Independent Competition and Regulatory Commission (ICRC) may approve or determine a variation to an industry code under section 61 of the *Utilities Act 2000*. The ICRC may approve a variation after it has undertaken any required consultation, and if it is satisfied that the code is consistent with other industry and technical codes and that it is appropriate.

The Consumer Protection Code was comprehensively amended last year primarily to accommodate changes in the energy market. One of the proposed amendments to the code corrects an ambiguity in the provisions dealing with the transfer of a customer's electricity or gas supply between electricity and gas suppliers, respectively. Specifically, the code provides that a utility must not transfer a customer's supply of electricity or gas unless the utility has the customer's informed consent. As previously written, this provision could be interpreted to apply only to customers transferring between gas or electricity suppliers. This interpretation treats the incumbent energy supplier, ActewAGL Retail, more favourably than other, second tier suppliers, which is not the code's intention. Rather it is intended to apply also where a customer is transferring the terms of supply from a utility's standard customer contract to a negotiated customer contract with the same utility. The code has been amended to make it clear that the informed consent provisions for transferring customers apply to all transferring customers, including those moving from a standard to negotiated customer contract with ActewAGL.

The code has also been amended to expand the meaning of "informed consent" to include consent that is made electronically, for example over the telephone or by e-mail. Any such consent must be in accordance with the *Electronic Transactions Act 2001 (ACT)*. This amendment will bring the ACT's practices in line with those in other states.

Copies of the Consumer Protection Code are available for inspection during ordinary office hours from the ICRC, Level 7 Eclipse House, 197 London Circuit, Canberra City. They are also available on the ICRC's website at [www.icrc.act.gov.au](http://www.icrc.act.gov.au).