

Telemarketing and doorknocking ban under the Victorian Energy Upgrades program

Regulatory impact statement



Author

This document has been prepared by the Department of Energy, Environment and Climate Action.

We acknowledge and respect Victorian Traditional Owners as the original custodians of Victoria's land and waters, their unique ability to care for Country and deep spiritual connection to it.

We honour Elders past and present whose knowledge and wisdom has ensured the continuation of culture and traditional practices.

DEECA is committed to genuinely partnering with Victorian Traditional Owners and Victoria's Aboriginal community to progress their aspirations.



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Glossary

Term	Definition
Accredited provider (AP)	Persons and entities authorised to create certificates (VEECs) under the VEU program
ACMA	Australian Communications and Media Authority
BRV	Better Regulation Victoria
CALC	Consumer Action Law Centre
CEC	Clean Energy Council
Code of Conduct	A document that sets out minimum consumer protections and expected standards of behaviour for accredited providers and third parties under the VEU program
Cold calling (or telemarketing)	An unsolicited call by a person attempting to sell a product or service, usually by telephone
COVID-19	The coronavirus (COVID-19) pandemic
CPRC	Consumer Policy Research Centre
Department	Department of Energy, Environment and Climate Action
DER	Distributed energy resources
Doorknocking (or door-to-door sale)	An unsolicited visit to a person's home to attempt to sell a product or service
ECA	Energy Consumers Australia
ESC	Essential Services Commission
ESIA	Energy Savings Industry Association
ESS	New South Wales Energy Savers Scheme
EWOV	Energy and Water Ombudsman of Victoria
Lead generation	Lead generation (under the VEU program) refers to any activity carried out for the purposes of identifying, attracting or engaging with consumers who may enter into a contract for the undertaking of a VEU activity. Lead generation can include but is not limited to phone calls, doorknocking, in-person approaches, emails, and online advertising.
Marketing	Marketing (under the VEU program) refers to any activity relating to the promotion, sale or supply of an activity under the VEU program, including a promotion, sale or supply made in person, by phone, or online.
MCA	Multi-criteria analysis
NETCC	New Energy Tech Consumer Code
NPV	Net present value
Proposed Regulations	Victorian Energy Efficiency Target Amendment (Prohibition on Telemarketing and Door-to-Door Sales) Regulations 2024

Regulations	Victorian Energy Efficiency Target Regulations 2018, which sit under the VEET Act and will give force to the Code
REPS	South Australia Retailer Energy Productivity Scheme
RIS	Regulatory impact statement
SAL	Sales Assured Limited
Third parties	Businesses who interact with VEU consumers but who are not accredited providers, including: <ol style="list-style-type: none"> 1. Subcontracted lead generators and installers 2. Businesses who sell information about completed upgrades to 'aggregator accredited providers' who complete the paperwork required to register and trade certificates
Upgrades	Energy efficiency products and services available under the VEU program, also referred to as 'prescribed activities'
VCOSS	Victorian Council of Social Services
VEEC	Victorian Energy Efficiency Certificate – the certificates created when upgrades are undertaken and then sold to energy retailers to meet their emissions reduction obligations. One VEEC represents a tonne of carbon dioxide equivalent emissions reduced
VEET Act	<i>Victorian Energy Efficiency Target Act 2007</i> , the law that establishes the VEU program
VEU	Victorian Energy Upgrades – a Victorian Government program that provides incentives for households and businesses to improve their energy efficiency and energy management
VEU industry	Encompasses all businesses offering services under the VEU program, including accredited providers and third parties

Executive summary

On 22 June 2023, the Minister for Energy and Resources, the Hon Lily D'Ambrosio, announced her intention to introduce a ban on telemarketing under the Victorian Energy Upgrades (VEU) program to protect consumers from high-pressure sales tactics and other inappropriate behaviour by industry. The announcement followed increasingly problematic telemarketing behaviour by the VEU industry, despite strong consumer protections in place.

Following this announcement, the Department of Energy, Environment and Climate Action (the department) undertook initial public consultation in July 2023 on the scope, timing and implementation of the ban. In order to gather information on the impacts of marketing for the VEU program more broadly, stakeholders were consulted on the option of a doorknocking ban, which was identified as another high-risk form of unsolicited marketing alongside telemarketing. The number of submissions from the public and stakeholders is higher than any previous VEU consultation process engagement, highlighting the importance of unsolicited marketing to the community.

This Regulatory Impact Statement (RIS) sets out the reasons for, and the basis of, a ban on telemarketing and doorknocking under the VEU program. Stakeholders are invited to respond to the consultation questions or provide feedback on any aspect of the RIS or proposed Regulations by **18 March 2024**.

Rationale for the ban

The VEU program is a market-based program that offers financial incentives to households and businesses to voluntarily undertake energy efficiency upgrades to their appliances, equipment and premises. The program reduces greenhouse gas emissions by decreasing the total use of electricity and gas by residential and business consumers, and by encouraging consumers to switch from gas to electric appliances and equipment.

Strong consumer participation is key to the success of the program, and in turn, critical to Victorians saving on their energy bills and achieving the state's climate, decarbonisation and electrification goals. These goals have been set out under the *Climate Change Act 2017*, key commitments under *Victoria's Gas Substitution Roadmap* and the Victorian Government's broader agenda for a clean and affordable energy system.

More than 2.4 million households and businesses have taken advantage of the program since 2009, and in 2023 alone, the program reduced Victoria's emissions by 4.7 million tonnes. By reducing demand for energy, the program saves all Victorians money on their energy bills, including households that have not undertaken energy efficiency upgrades – on average, household bills were 2.2 per cent lower between 2010-2020 than they would have been without the program.

To ensure continued consumer participation in the VEU program and deliver on its agenda, the Victorian Government has introduced a range of reforms to the program to protect consumers, maintain their trust and safeguard the program's reputation. This includes increased enforcement and compliance powers for the Essential Services Commission (ESC) as the program regulator and a VEU Code of Conduct, which has been in operation since July 2022. The Code sets out minimum standards that accredited providers (APs) and third parties must follow across the consumer journey with the VEU program, including during marketing and sales.

Unfortunately, stakeholder feedback and complaints by consumers indicate that industry misbehaviour during VEU telemarketing and doorknocking is becoming more frequent and severe, despite these protections.

The ESC has received a total of 1,143 complaints in relation to telemarketing under the program since 2020. There are likely many more incidents of unwanted or inappropriate telemarketing, but the majority go unreported. Telemarketing complaints have markedly increased since 2022, faster than the VEU program has grown. The Australian Communications and Media Authority (ACMA), which regulates the national Do Not Call Register, advises that consumer complaints about calls offering products under the VEU are consistently in its three highest national complaint categories in 2023. Consumer complaints indicate increasing frustration about persistent and unwanted calls, telemarketers giving false or no identifying information, and abuse and pressure tactics by callers.

In terms of doorknocking, the ESC has received a total of 265 complaints in relation to doorknocking under the program since 2020. The number of doorknocking complaints has increased significantly since 2021 and is starting to diverge from historical averages. Consumer complaints indicate frustration about having doorknockers approach their home despite having clear 'Do Not Knock' stickers, doorknockers providing no

or misleading identifying information, and doorknockers using abuse and pressure tactics. These tactics include telling consumers that participation in VEU is mandatory, entering properties when no one aged over 18 years is present, and falsely advising tenants that their landlord has approved of upgrades.

Members of the public, consumer groups and much of the VEU industry agreed that inappropriate and unwanted calls and doorknocks were a nuisance, an invasion of privacy and can mislead and pressure consumers. This has heightened consumer concerns about the potential risk of scams and fraud under the program. Stakeholders are particularly concerned about the heightened risks and harms to older and vulnerable consumers. Poor marketing practices are leading to consumer mistrust and damaging the VEU program's integrity and reputation, jeopardising consumer participation and hence the program's ability to deliver energy bill savings and greenhouse gas emissions reductions. If poor marketing practices prevent Victorian households and businesses from participating in the program, they will miss out on the energy bill savings available – on average households that undertake energy efficiency upgrades under VEU save \$110 and businesses save \$3,700 on their annual energy bills.

Despite the Code, increased ESC powers and existing national protections such as the national Do Not Call Register, the current regulatory regime does not prevent the telemarketing and doorknocking problems observed. Identifying the parties responsible for potentially unlawful telemarketing calls is challenging for the ESC and ACMA, particularly where separate lead generation companies are involved. This limits the ability of regulators to take enforcement action in relation to telemarketing complaints. In terms of doorknocking, it can be challenging to identify the parties responsible for non-compliant doorknocking activities – they may not identify themselves, or the customer may not seek to identify them (for example, if they are turned away) limiting the regulator's ability to follow up. Even where non-compliance is identified, the harm to consumers (and the reputation of the program) may have already occurred.

Stakeholder feedback has indicated the situation fails to meet community expectations about unsolicited marketing, particularly for a government supported program (which involves greater responsibility to protect consumers). This responsibility is explained further in section 2.5.2. Members of the public, consumer advocacy groups and many in the VEU industry have hence expressed strong support for both a telemarketing and doorknocking ban.

Analysis of ban design options favours a phased ban on telemarketing and doorknocking

Based on stakeholder feedback and other analysis, the department developed three feasible policy options to address the problem of VEU telemarketing and doorknocking and assessed them against a base case where no action is taken.

Option A, a telemarketing ban only:

- Bans 'cold-call' telemarketing under the VEU program to all types of consumers and for all types of energy upgrades as soon as is feasible, from 1 May 2024 (subject to regulatory approvals)
- Only permits a marketing or sales call at the request of the consumer or with their express permission, and only within three months or a timeline specified when the consumer opts in to calls¹
- Continues to permit calls to current customers²
- Permits calls to notify a previous customer of a product default or recall that affects them
- Prohibits calls to prospective or previous customers from being outsourced to contractors or marketing companies
- Continues to allow doorknocking.

Option B, a combined telemarketing and doorknocking ban, prohibits telemarketing as per Option A, and also bans doorknocking at the same time, from 1 May 2024.

Option B's doorknocking ban:

- bans doorknocking to promote all types of upgrades (products and services) and to all types of consumers, including households and small, medium and large businesses.
- allows *solicited* marketing or sales visits to a consumers' premises if they are:

¹ See section 4.1.2 for further detail on these exceptions

² See section 4.1.2 for further detail on this exception

- at the request of the consumer, for example if they contact an AP and ask for someone to visit their premises to provide a quote;
- with the express permission of the consumer, for example if they provide their address at a shopping centre stall on the understanding they will be visited in relation to VEU products and services.

Restrictions that apply to solicited marketing visits to consumers include:

- They cannot be outsourced to third party marketing companies. They may only be made in-house by an AP, their employee/s or their contractor/s.
- If a consumer opts in to receive a marketing visit, they can only be visited within three months or within the timeline specified when they opted in.

Option C, a phased telemarketing ban and doorknocking ban, is the same as Option B except for the timing of the bans. Under Option C, telemarketing would be banned from 1 May 2024 and doorknocking would be banned from 1 August 2024.

All options:

- Continue to permit other forms of marketing, including digital advertising, traditional media advertising and direct marketing;
- Provide the ESC as regulator of the VEU program with tools to take action against APs and other scheme participants that do not comply with the ban;
- Include complementary measures to support industry to transition to the ban, maintain consumer engagement in the VEU program, and minimise the short-term impacts on the program. This includes expediting the development of new and revised energy upgrades available under the program.

The department also considered alternative measures, such as targeting the bans to high-risk products and services or particular types of consumers, implementing additional requirements on industry, enhanced compliance efforts or major changes to the program design. However, these measures were either already in place, or were assessed as impractical or unlikely to be effective in addressing the problem.

The department used a multi-criteria analysis (MCA) to score the options against four weighted criteria, using a variety of quantitative and qualitative data inputs and assumptions. An MCA was used because it was difficult, and in some cases impossible, to reliably quantify all of the costs and benefits of the options. Table ES 1 summarises the results of the assessment (showing the weighted scores).

Table ES 1: Summary of results of multi-criteria assessment

Criteria	Weighting	Option A: Telemarketing ban only	Option B: Combined telemarketing and doorknocking ban	Option C: Phased telemarketing and doorknocking ban
Customer experience and program reputation	50%	+1.75	+3.25	+3.13
Costs to consumers	25%	-0.63	-1.25	-1.25
Impacts on the VEU industry	20%	-0.20	-0.60	-0.40
Costs to government	5%	-0.04	-0.05	-0.06
Total weighted score	-	+0.89	+1.35	+1.41

All options scored more highly than the base case because any ban design is likely to produce much better outcomes for consumer experience and program reputation, compared to allowing current inappropriate

marketing to continue unabated. These benefits outweigh the costs to consumers and impacts on the VEU industry arising from the ban.

The preferred option, Option C, has a total weighted score of +1.41, which is the highest score out of the three options. Option C involves a combined telemarketing and doorknocking ban with a three-month transition period before implementing the doorknocking ban benefits, which again outweigh the costs associated with the ban. These benefits include:

- Consumers are expected to save about 172,100 hours per year on unwanted telemarketing calls and doorknocking sales pitches
- Significantly improve the consumer experience of VEU and enhance trust in the program
- Provide APs time to transition from doorknocking to other marketing strategies and adjust their business models as needed, as well as moderating the impacts to the VEU industry and VEU program more broadly.

Option A, a ban on telemarketing only, scored the lowest at +0.89. Banning telemarketing will significantly improve the consumer experience of VEU and enhance the program's reputation. These strengths outweighed the costs of Option A, including increased program pass-through costs, disengaged consumers missing out on upgrades, accelerating the end of low-cost upgrades under the program, short-term impacts on APs and ban administration costs. Consumers are expected to save about 14,500 hours per year on VEU telemarketing calls and the ban is expected to reduce the risks of pressure tactics, scams and fraud. On the other hand, the announcement of a ban saw VEEC prices increase by about \$2.90, which is modelled to lead to pass-through costs to consumers and some disengaged consumers missing out on upgrades. It is also expected that some APs may switch to doorknocking, which may exacerbate the harms caused by doorknocking. Option A is expected to potentially lead to a small number of APs ceasing to operate; seven APs have indicated they would cease to operate under a telemarketing ban. Under Option A the Government would incur about \$1.5m in costs to administer the ban over five years.

Option B, a combined telemarketing and doorknocking ban, scored the second highest at +1.35. Option B was assessed to deliver the highest benefits to consumers in terms of immediately avoided risks and harms associated with both telemarketing and doorknocking, along with likely flow-on benefits from avoided poor installation incidents. Continuing to allow doorknocking means that poor door-to-door sales practices and their associated risks and harms to consumers would continue, or even increase if APs currently using telemarketing switch to doorknocking. This option also strongly aligns with existing bans on telemarketing and doorknocking for energy retailers and doorknocking under the Solar Homes program. As with Option A, these benefits were assessed to outweigh the costs. Consumers are expected to save about 182,400 hours per year on VEU telemarketing calls and doorknocking sales pitches, and the ban is expected to further reduce the risks of pressure tactics, scams and fraud.

Modelling indicates VEEC prices may increase by an additional \$4 with a doorknocking ban and that a significant amount of this price rise has already occurred. An immediate doorknocking ban would also likely result in avoidable costs and disruption to a significant number of APs, which would likely have flow-on effects on consumers and the program more broadly. Comparing to Option A, Option B will likely result in higher pass-through costs to consumers due to higher VEECs price, and will have more higher impacts on industry jobs as more APs might exit the market; however, the added benefits are estimated to be much more significant, resulting in a higher overall score for Option B. Under Option B the Government would incur about \$1.9m in costs to administer the ban over five years.

The additional notice for APs on the doorknocking ban provides APs time to transition to other marketing strategies and adjust their business models as needed and hence moderates the impacts to the VEU industry and VEU program more broadly. Therefore, Option C is the preferred option.

Implementing the ban and supporting the transition

The ban will be given force through amending the VEU Code of Conduct, contained in schedule 6 of the Victorian Energy Efficiency Target Regulations (VEET Regulations) 2018. Subject to regulatory approvals, the telemarketing ban will take effect from 1 May 2024 and the doorknocking ban will take effect from 1 August 2024. The amended VEET Regulations will provide the ESC as program regulator with power to take enforcement action against APs or scheme participants who do not comply with the ban. APs and third parties will have ten months' notice from the time the telemarketing ban was announced by the Minister; and six months' notice from the time the doorknocking ban was directly consulted on through this RIS.

The department and the ESC will clearly communicate the ban so that industry understands its obligations and consumers are aware of their rights and can determine when unsolicited marketing is not legitimate. Departmental communications will include a media statement, government response to stakeholder feedback on this RIS, gazetting the final Regulations, and tailored communications for consumers and their advocates. The ESC will also take action to communicate the ban, including the provision of guidance for industry.

Subject to regulatory approvals, the ESC as regulator of the VEU program will have its existing powers and functions extended to encompass regulating compliance with the ban. These include the existing powers to:

- apply conditions, suspend or cancel an AP's accreditation for breaches of the Code
- issue warning letters to non-compliant businesses
- issue penalty notices or commence civil proceedings for civil penalties (or other orders)
- monitor industry activity and consumer complaints and investigate potential non-compliance
- notify APs about scheme participants who have a poor compliance record
- provide industry with guidance on its obligations
- require an AP to undertake an independent assurance audit at least every two years, which may include consideration of their marketing practice
- request an AP to demonstrate they are competent and capable of compliance, including with the Code, in order to remain accredited
- refuse to register or require the surrender of any VEECs created in contravention of program rules
- undertake compliance audits.

The ESC and the department will continue to monitor customer complaints about telemarketing, doorknocking and other forms of unsolicited marketing under the VEU program. The department will evaluate the effectiveness of the ban following at least 12 months of operation using data on complaints, prices and AP participation as well as stakeholder feedback, in consultation with the ESC.

1. Introduction and background

This RIS seeks stakeholder feedback on the costs and benefits of a range of options for the design of a ban on telemarketing and/or doorknocking for the Victorian Energy Upgrades (VEU) program. This second phase of consultation follows the Victorian Government’s announcement of its intention to introduce a ban in June 2023 and initial consultation which occurred in July 2023. Accompanying this RIS are proposed Regulations which would give force to the ban. Stakeholder feedback is invited on any aspect of the RIS or regulations by 18 March 2024.

1.1 About the Victorian Energy Upgrades program

The VEU program is a market-based incentive mechanism that has been operating since 2009 and offers financial incentives to households and businesses to voluntarily undertake energy efficiency upgrades.

Private businesses accredited under the program (accredited providers, or APs) provide these upgrades and create Victorian Energy Efficiency Certificates (VEECs) that they sell to energy retailers, which are obliged to obtain and surrender a set number of VEECs each year. One VEEC represents one tonne of carbon emissions abated.

For 2022, energy retailers surrendered a total of 6.6 million certificates³ that were created as a result of APs delivering upgrades to more than 500,000 households and 47,000 businesses.

The typical consumer journey with the VEU program involves four sequential stages: marketing and sales, contracting, installation/implementation and then responding to any issues over the life of their upgraded asset (Figure 1).

Types of upgrades available to consumers under the program include heating and cooling, hot water systems, low-flow shower roses, in-home displays and weather sealing.

The *Victorian Energy Efficiency Target Act 2007* (VEET Act) establishes the VEU program and confers functions and powers on the regulator, the Essential Services Commission (ESC), to administer the program.

See Appendix A for more details about the program.

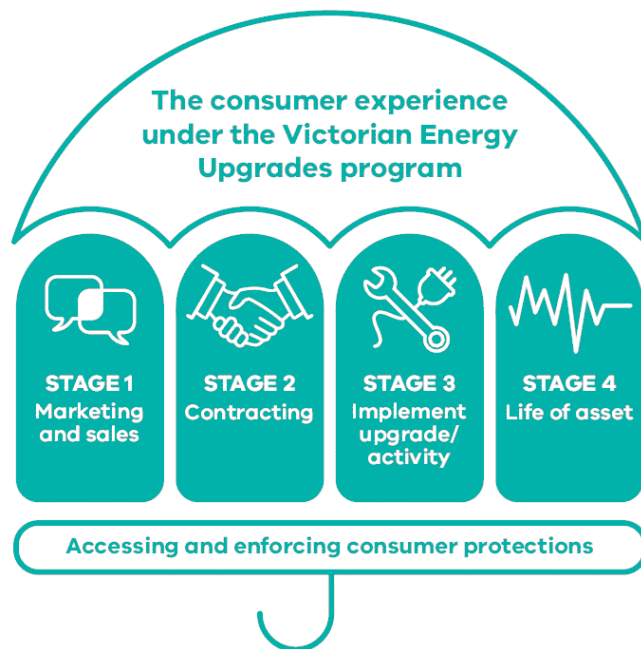


Figure 1: The consumer journey with Victorian Energy Upgrades

³ The target for 2022 was 6.7 million VEECs; liable energy retailers surrendered 6,603,730 VEECs and the ESC issued shortfall penalties to 4 energy retailers for not surrendering VEECs to meet their liability under the VEU program.

1.1.1 Marketing currently permitted under the program

APs currently use a range of methods to market the VEU program to households and businesses. Under the VEU program, marketing is any activity that relates to the promotion, sale or supply of an activity. Marketing methods currently allowed under VEU include:

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

APs may do the marketing themselves, sub-contract a marketing company and/or purchase warm leads⁴ from a marketing company. Lead generation is how APs identify, attract or engage with consumers to agree to undertake a VEU upgrade. Leads may be generated through phone calls, doorknocking, in-person approaches, emails and online advertising. The Victorian Government does not provide private contact information such as phone numbers to private businesses that participate as providers or installers in the VEU program.

APs, sub-contractors and third parties must follow VEU-specific, plus state and national laws and regulations during marketing and sales (see section 2.6 for detail).

1.2 Background to the ban

1.2.1 Issues with industry behaviour during unsolicited marketing

Unfortunately, stakeholder feedback and complaints by consumers indicate that unwanted and inappropriate VEU related marketing calls by industry are becoming more frequent and severe.

In terms of telemarketing, the ESC has received a total of 1,143 complaints since 2020. There are likely many more unreported incidents of inappropriate telemarketing. Telemarketing complaints have markedly increased since 2022 and grown faster than upgrades under the VEU program (see section 2.3.2 for detail and relevant data). The Australian Communications and Media Authority (ACMA), which regulates the national Do Not Call Register, advised in their submission that consumer complaints about calls offering products under the VEU are consistently in its three highest national complaint categories in 2023.

Consumer complaints indicate increasing frustration about persistent and unwanted calls, telemarketers giving false or no identifying information, and abuse and pressure tactics. Complaints also indicate that consumers increasingly mistrust the program, confirming earlier market research undertaken by the department in 2021 that poor marketing practices may damage VEU’s integrity and reputation.

In terms of doorknocking, the ESC has received a total of 265 complaints in relation to doorknocking under the program since 2020. The number of doorknocking complaints has increased significantly since 2021 and is starting to diverge from historical averages. Consumer complaints indicate frustration about having doorknockers approach their home despite having clear ‘Do Not Knock’ stickers, doorknockers providing no or misleading identifying information, and doorknockers using abuse and pressure tactics. These tactics include telling consumers that participation in VEU is mandatory, entering properties when no one aged 18 years or above is present, and falsely advising tenants that their landlord has approved of upgrades.

Chapter 2 presents the data and stakeholder feedback on these telemarketing and doorknocking trends.

Despite extensive program-based protections and existing national protections such as the national Do Not Call Register, the current regulatory regime does not prevent the problems observed. Identifying the parties responsible for potentially unlawful telemarketing calls is challenging for the ESC and ACMA, particularly where separate lead generation companies are involved. This limits the ability of regulators to take enforcement action in relation to telemarketing complaints. In terms of doorknocking, there may be similar difficulties with identification if an installer decides not to identify themselves after a negative reaction following doorknocking.

⁴ ‘Warm’ leads refers to details of potential customers who have expressed interest in an energy upgrade.

1.2.2 Announcement of the ban

On 22 June 2023, the Minister for Energy and Resources Lily D'Ambrosio announced the government's intention to introduce a ban on telemarketing under the VEU program to protect consumers from high-pressure sales tactics and other inappropriate marketing.⁵ Under the ban, APs would no longer be permitted to use cold-calling to promote energy efficient products and services included in the program.

1.2.3 Initial stakeholder consultation

Over the period 7 to 24 July 2023, the department publicly consulted on the scope, timing and implementation of this proposed ban, so that consumers could be protected as quickly and effectively as possible, while supporting industry to transition to other methods to market VEU products and services.⁶

In particular, the department sought stakeholder feedback on:

- whether anything should be excluded from the scope of the telemarketing ban
- whether the ban should cover doorknocking as well as telemarketing, given rising complaints about inappropriate behaviour by doorknockers
- when the ban should be implemented, any transitional arrangements and support to industry to adjust.

Overall, more than 270 organisations and individuals engaged in the process. This included:

- 191 responses to a general public survey
- 62 responses to an industry survey
- 19 written submissions in response to the consultation paper (Table 1)
- meetings and discussions with key stakeholders, including:
 - Energy Savings Industry Association (ESIA)
 - Energy Consumers Australia (ECA)
 - members of the Energy Consumer Insights Forum
 - relevant regulators including the ESC, the Department of Government Services (which has oversight of Consumer Affairs Victoria) and the Australian Communications and Media Authority (ACMA).

Table 1: Written submissions received

Stakeholder type	Stakeholder
Consumer advocacy group	Consumer Action Law Centre (CALC) Consumer Policy Research Centre (CPRC) ECA Victorian Council of Social Services (VCOSS)
Industry	AGL (energy retailer) Emerald Group (manufacturer and supplier) and Creditex (AP) (joint submission) Energy Makeovers (AP) ESIA Three anonymous VEU industry members
Regulators	ACMA Energy Water Ombudsman of Victoria (EWOV)

⁵ 'Strengthening Victoria's Bill-Busting VEU Program', media release, 22 June 2023, available at <https://www.premier.vic.gov.au/strengthening-victorias-bill-busting-veu-program>

⁶ See the public consultation page, 'Banning telemarketing under the Victorian Energy Upgrades program' at <https://engage.vic.gov.au/marketing-under-the-victorian-energy-upgrades-program>

The number of submissions from the public and stakeholders is higher than any previous VEU consultation process, indicating the importance of the issue to Victorians. The department thanks all stakeholders for their engagement in the consultation process and for their thoughtful and constructive feedback. See Appendix B for further details about the consultation and stakeholder engagement.

Stakeholder feedback provided during initial public consultation has informed the problem analysis, development of ban design options and assessment of the options, as presented in this RIS.

1.3 The scope of this RIS and approach to related issues

This RIS is focussed on telemarketing and doorknocking under the VEU program only.

Stakeholder feedback to the initial consultation indicated there is a need to take action to address the rapid rise in inappropriate telemarketing and doorknocking, and their associated risks and harms under the VEU program. Chapter 2 and section 4.1.2 of this report outline evidence about the nature of the problem.

The department's proposed approach to other topics raised by stakeholders as part of the initial consultation (but that are out of scope for this RIS) is described below.

1.3.1 Other marketing methods

In their consultation feedback, some stakeholders advocated for the VEU program to include further protections against marketing texts, digital advertising and marketing in public spaces (for example, shopping centres).

The department has considered this feedback and proposes that industry still be permitted to use these marketing methods, in accordance with current consumer protections. This is because there is no evidence of large-scale or problematic misconduct by industry or community concern about emails, texts or marketing in public places (such as shopping centres). In addition, these marketing methods are less intrusive than both telemarketing and doorknocking and it is relatively straightforward for regulators to identify and take action against the offending business. Finally, the bans on traditional energy retailers and Solar Homes participants did not include emails, texts or marketing in public places, so a ban on these practices under the VEU program would not be consistent with other similar policies. Appendix C provides more detail about this topic.

1.3.2 VEU Code of Conduct

The VEU Code of Conduct has been in operation since July 2022 and sets out minimum standards that APs and third parties must follow across the VEU consumer journey, including marketing and sales (see section 2.6.1 for detail). When the department released a response to consultation on the Code in January 2022, it committed to review the Code after at least 12 months of operation. In particular, the department noted that it would revisit earlier stakeholder feedback made in late 2021 about the need to include mandatory cooling off periods in the Code, and to require installations be undertaken by those who initially agreed to undertake the activity (or if this changes, to notify customers of the change and proceed if customers agree to it).

The department has determined not to make these changes, as the department and the ESC are not aware of any consumer complaints relating to issues which a cooling off period under the VEU program would have effectively addressed. For more detail on the review of the Code of Conduct see Appendix C.

1.3.3 Independent dispute resolution

In its submission to the initial consultation paper on VEU telemarketing, EWOV suggested consideration be given to providing consumers with access to independent dispute resolution for energy efficiency upgrades. EWOV emphasised the importance of free access to an experienced, independent complaints and dispute resolution body as the energy market transitions, and encouraged consideration of this as further regulatory and legislative framework updates are considered.

The department will consider this suggestion as part of future reviews of Victoria's broader energy consumer protections framework. For more detail see Appendix C.

1.3.4 Unsolicited marketing outside of the VEU program

The department notes that some stakeholders would like the telemarketing and doorknocking ban to extend beyond the VEU program. In its submission, the Consumer Policy Research Centre (CPRC) advocated for the Victorian Government to start a process to ban or further restrict unsolicited marketing tactics more broadly. This position reflects broader community concern with telemarketing and unsolicited marketing more generally, which is discussed in section 2.5.

The scope of this RIS is focused solely on telemarketing and doorknocking under the VEU program.

The Victorian Government has already taken action on unsolicited marketing in a number of energy related areas. Solar Homes program participants were banned from undertaking unsolicited door-to-door sales from 1 September 2021 and electricity and gas retailers were banned from using high pressure sales tactics for energy retail contracts, such as door-to-door sales or cold-calling from 31 December 2021.⁷ The proposed ban on telemarketing and doorknocking would bring the VEU program in line with these bans.

The department is also considering protections for consumers of distributed energy resources (DER) through a separate review.⁸ In October 2022, the department publicly consulted on whether further protections for consumers of DER products and services are needed as Victorians participate in the energy transition to a decarbonised grid. Stakeholders and members of the public made 55 submissions to the consultation paper. The department is reviewing this feedback and expects to update stakeholders by early 2024 about potential reforms to consumer protections.

In terms of unsolicited marketing more generally, consumers have rights and protections under consumer law, which regulates unsolicited marketing and provides certain protections for consumers when a salesperson approaches them over the phone, at their door, or in public. Consumer protections include requirements that salespeople can only call or approach within certain times, salespeople must identify themselves, including the business they represent and why they are calling or visiting, salespeople must end the call or leave as soon as they are requested to by the consumer, and the consumer has a 10 day cooling off period for any agreements signed. See section 2.6 for details.

1.4 About this regulatory impact statement

1.4.1 Why is a regulatory impact statement required?

Under the *Subordinate Legislation Act 1994*, before the ban can be introduced, a RIS is required to transparently present detailed design options for the proposed ban (which are informed by the stakeholder feedback received), show how the options were evaluated, and seek stakeholder feedback on the preferred policy option and proposed regulations to give effect to the ban (Figure 2).

Figure 2: Key steps required under the *Subordinate Legislation Act 1994*



In particular, a RIS must consider the impact of changes where they impose a potentially significant economic or social burden on a sector of the public. A RIS must:

- state the objectives of the proposed changes
- explain the effect of the proposed changes
- identify other practicable means of achieving those objectives, including other regulatory as well as non-regulatory options

⁷ 'Banning Harmful Energy Sales Tactics' media release, 27 December 2021, at <https://www.premier.vic.gov.au/banning-harmful-energy-sales-tactics>. Energy retailers are permitted to market by door-to-door sales or phone if the customer invites them to do so.

⁸ Department of Energy, Environment and Climate Action, 2022, 'Protecting consumers of distributed energy resources (DER)' consultation page, <https://engage.vic.gov.au/protecting-consumers-of-der>

- assess the costs and benefits of the proposed changes and of any other practicable means of achieving the same objectives
- state the reasons why the other means are not appropriate.

1.4.2 Structure of this RIS

This RIS is structured as follows:

- Chapter 1 sets out the background to this RIS, its purpose and how to provide feedback.
- Chapter 2 gives an overview of the current regulatory environment and describes the key problems that the proposed ban seeks to address.
- Chapter 3 describes the objectives the proposed regulations (which will give effect to the ban) will achieve.
- Chapter 4 describes the policy options considered in this RIS, how they were selected and why other options were deemed not feasible.
- Chapter 5 analyses the costs, benefits, and market impacts of the preferred and alternative policy options.
- Chapter 6 outlines how the preferred policy option will be implemented and evaluated.
- The appendices provide more detail on;
 - how the VEU program works (Appendix A)
 - stakeholder engagement and consultation undertaken (Appendix B)
 - stakeholder feedback on topics out of scope for this RIS (Appendix C)
 - relevant protections under similar Victorian and interstate schemes (Appendix D)
 - stakeholder feedback and market research on promoting the VEU program (Appendix E)
 - the methods and assumptions used to assess the policy options (Appendix F).

The RIS has been prepared through consultation and engagement with Better Regulation Victoria (BRV) and the VEU program regulator, the ESC.

1.4.3 How to provide feedback

Interested parties and stakeholders are invited to make submissions to the department on the proposed ban and proposed regulations by **18 March 2024**. Feedback is sought from all interested stakeholders, including consumer groups, businesses in the energy efficiency industry, APs in the VEU program, tradespeople, product suppliers, marketing companies, peak industry groups and members of the public.

Feedback is welcome on:

- the preferred design for the ban (Chapter 4)
- proposed regulations to give force to the ban (available via the Engage Victoria website, see link below)
- any other aspect of this RIS.

All relevant materials and information on consultation forums can be accessed through the Engage Victoria website (see the link below). For further assistance or to obtain a copy of the RIS, please call 136 186.

Submissions can be made online, via email or via hard copy as follows:

Options for submission	Detail
Engage Victoria's website	https://engage.vic.gov.au/marketing-under-the-victorian-energy-upgrades-program
Email	energy.upgrades@delwp.vic.gov.au
Post	Manager, Demand Side Policy Energy Demand and Efficiency Policy Branch Department of Energy, Environment and Climate Action

PO Box 500
EAST MELBOURNE VIC 8002

The department will consider all stakeholder feedback in preparing the final policy design and regulations. Once feedback has been considered, the Minister for Energy and Resources will amend the VEU Code of Conduct in Schedule 6 of the Victorian Energy Efficiency Target Regulations 2018 to give effect to the ban. The department will also publish a notice of decision and statement of reasons.

2. What is the problem being addressed?

This chapter describes the context behind this RIS, the current regulatory environment and need for action and the key problems that the proposed regulations seek to address.

2.1 Problem statement

The policy options considered in this RIS seek to address the following problem:

Consumers are subject to inappropriate marketing practices that create unacceptable risks and harms for consumers (especially vulnerable customers) and damage the integrity and reputation of the VEU program – putting at risk its ability to deliver emissions reductions and energy savings to Victorians.

2.2 Policy context

2.2.1 Strong consumer participation in VEU is key to decarbonising and electrifying Victoria

Climate change is one of the most critical issues facing Victoria and the global community. Risks for Victoria from unmitigated climate change include an average annual temperature increase of up to 2.4 degrees Celsius, sea levels rising by around 24 centimetres and a doubling of the number of very hot days and high fire danger days⁹.

In 2020, Victoria's total net emissions were 83.3 million tonnes of greenhouse gas emissions (carbon dioxide equivalent, referred to as CO₂-e)¹⁰. The Victorian Government has set a target to reduce greenhouse gas emissions by 50 per cent from 2005 levels by 2030 and by 75-80 per cent by 2035¹¹.

Participation by households and businesses in the VEU program is critical to achieving these climate goals and Victoria's interim emission reduction targets. These are established under the *Climate Change Act 2017*, key commitments under *Victoria's Gas Substitution Roadmap*¹² and the broader agenda for a clean and affordable energy system. The VEU program reduces greenhouse gas emissions by decreasing the total use of electricity and gas by residential and business consumers. This reduction in energy use is achieved by improving the energy efficiency of premises, or the appliances and equipment used within the premises. There are a range of upgrades available under the VEU program, which include heating and cooling, hot water systems, weather sealing, low-flow shower roses and in-home displays. The program also provides incentives for Victorians to move from gas to energy efficient electrical appliances.

Since the VEU program was established in 2009, it has contributed to over 78 million tonnes CO₂-e of reductions to Victoria's greenhouse gas emissions (represented by surrendered VEECs) and supported more than 2.1 million households and 155,000 businesses to upgrade their appliances and equipment. On average, households and businesses that undertake energy efficiency upgrades under the program save \$110 and \$3,700, respectively, on their annual energy bills.¹³

⁹ Victoria's Climate Science report, 2019, see: <https://www.climatechange.vic.gov.au/victorias-changing-climate>

¹⁰ Victorian Greenhouse Gas Emissions Report 2020, see: https://www.climatechange.vic.gov.au/_data/assets/pdf_file/0036/598257/Victorian-Greenhouse-Gas-Emissions-Report-2020.pdf (released 20 September 2022).

¹¹ 'DEECA Climate action targets', 2023, <https://www.climatechange.vic.gov.au/climate-action-targets>

¹² Victoria's Gas Substitution Roadmap, 2022, <https://www.energy.vic.gov.au/renewable-energy/victorias-gas-substitution-roadmap>

¹³ Essential Services Commission VEU Performance Reports, 2022, see: <https://www.esc.vic.gov.au/victorian-energy-upgrades-program/veu-updates-reports-reviews-and-data/veu-performance-reports>

The VEU program targets for 2022 to 2025¹⁴ are estimated to deliver net benefit of \$4.4 billion to the Victorian economy, savings to energy consumers of \$1.3 billion and help Victoria to achieve its climate goals by locking in 28 million tonnes of emissions savings.

Without strong participation by consumers in VEU, Victoria will likely either fail to reach its greenhouse gas emissions targets or be forced to use much more expensive options^{15,16} to reduce its emissions.

2.2.2 Implications of a growing VEU program

All consumers already receive a general level of protections through Australian Consumer Law and other national and state protections (see section 2.6 for details). Consumers in the VEU program require a higher degree of protection than the general public due to:

- the central role of consumer participation to enabling the VEU program to materially contribute to Victoria's energy and climate change objectives (described above)
- the additional trust consumers place in VEU as a government program, compared to energy efficiency products and services offered in the market without government subsidies (section 2.5.2)
- the increasing risks of poor marketing practices over time as the program expands, reaches more consumers and attracts new companies with less experience in the energy efficiency industry
- the potential impacts on consumers if poor marketing practices by some "bad actors" damage the reputation of the program and increase long-run marketing costs for all APs, which will be passed through to consumers via their energy bills.

2.2.3 Strengthening the VEU program

The government has made changes to the VEU program as part of its commitment to decarbonisation. The targets for 2022 to 2025 for the VEU program are:

- larger than any previous targets, increasing to 7.3 million tonnes of carbon dioxide equivalent in 2025
- generating greater energy savings as the energy system decarbonises, with each VEEC representing more energy¹⁷
- anticipated to result in more substantial upgrades and deeper energy savings at each premises (as low-hanging-fruit upgrades such as lighting are phased out, as many of these upgrades have already been delivered and the program transitions to more ambitious goals over time)
- anticipated to result in a more diverse range of upgrades; this includes electrification upgrades - switching from gas appliances to electric appliances.

To ensure the program continues to grow and be one of the largest contributors to emissions reductions in Victoria, the Victorian Government has introduced reforms and will continue to introduce a suite of reforms intended to offer protection to not just VEU customers but APs and program participants too.

In addition to the telemarketing and doorknocking bans considered in this RIS, these changes include:

- introduction of a VEU Code of Conduct and reforms to the VEET Act (which underpins the VEU program) to strengthen the statutory framework for the program, increase consumer protections, extend the ESC's powers as regulator of the VEU program and strengthening compliance

¹⁴ Victorian Energy Upgrades Targets and Lighting Consultation 2019, see: <https://engage.vic.gov.au/project/victorian-energy-upgrades/page/targets>

¹⁵ The International Energy Agency has described energy efficiency as 'the first fuel' recognising it's one of the quickest and most cost effective methods of emissions reduction, see: <https://www.iea.org/energy-system/energy-efficiency-and-demand/energy-efficiency>

¹⁶ Without strong participation in the VEU program, other options for Victoria to meet its emissions reduction targets might include increased government investments in decarbonising the energy sector (such as the Solar Homes program, or increased investment in additional renewable energy generation), resulting in higher costs for government.

¹⁷ As the energy system decarbonises, each VEEC represents more energy savings. This is because as the proportion of coal in the electricity supply decreases (and the renewable energy contribution increases), more energy savings are required to achieve the same level of greenhouse gas reduction (as each unit of energy saved results in less saved greenhouse gas emissions).

- introduction of increased fees to provide the commission with additional funding to regulate and administer the VEU program
- considering the establishment of a VEU Stakeholder Advisory Group to provide advice, insight and support on safety and quality, consumer protections and customer experiences, and identifying opportunities for emissions reductions, activity design and program effectiveness
- proposing to reintroduce revised incentives for energy-efficient refrigerated cabinets, with stakeholder consultation on further protections to complement their reintroduction
- further enhancing the ESC's powers to promote the independent, robust certification of eligible products and to ensure suppliers do not provide inaccurate information to the register.

2.3 Inappropriate marketing by industry is an increasing problem

Unsolicited marketing can play an important role in providing consumers with information about subsidised energy efficiency upgrades available under the program. However, as this section outlines, the department's consultation and analysis of the available evidence indicates that:

- the level of inappropriate behaviour by industry during marketing and sales under the VEU program is growing as a share of VEECs generated
- the severity of poor behaviour by industry is worsening
- the issue appears to be relatively widespread across industry.

2.3.1 The historical role of telemarketing and doorknocking in the program

Doorknocking has historically been an important way for consumers to access and benefit from the VEU program, especially for smaller upgrades such as residential lighting (which has since been phased out of the program), shower roses and weather sealing. Although not as effective as doorknocking, telemarketing has also been identified by industry and the ESC as one of the common and useful methods of lead generation for APs in the program.

Market research about VEU commissioned by the department in 2021 found that 13 per cent of households and 21 per cent of businesses found out about the program through telemarketing. Additionally, 23 per cent of households and 21 per cent of businesses found out about the program through doorknocking.

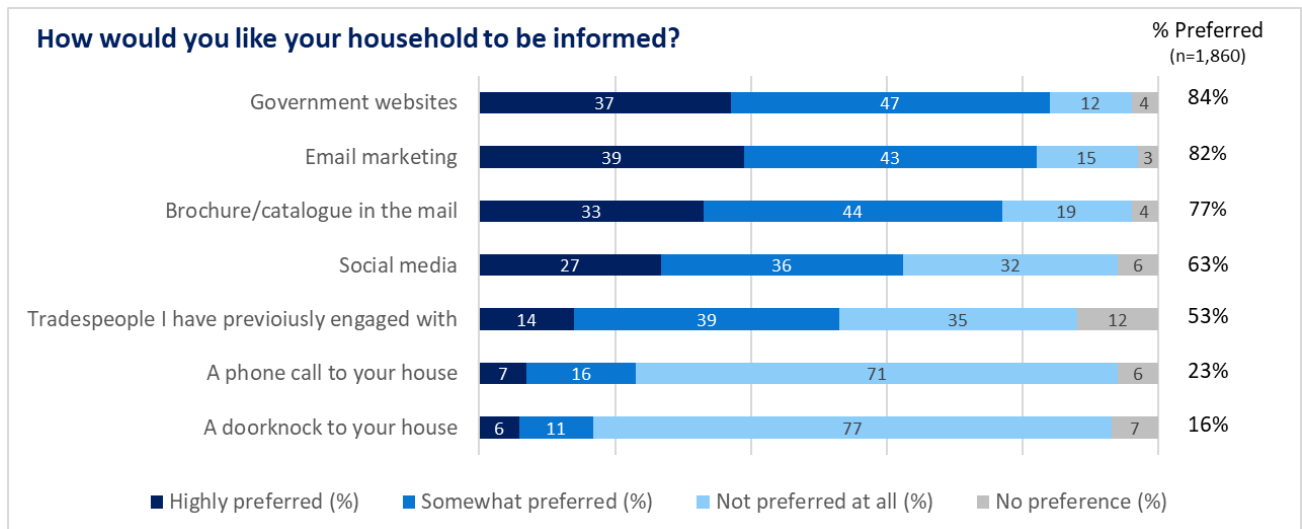
Householders' perceptions of telemarketers and doorknockers at that time were somewhat mixed (Figure 3). Telemarketers were seen to generally provide sufficient information (67 per cent agreed or strongly agreed) and clarified that the VEU program was voluntary (65 per cent agreed or strongly agreed). However, only 46 per cent agreed or strongly agreed they were encouraged to do their own research, reflecting qualitative results that telemarketing felt 'pushy' to some householders.

Doorknockers were seen to be more likely to provide sufficient information (75 per cent agreed or strongly agreed) and to clarify that the VEU program was voluntary (78 per cent agreed or strongly agreed). However, only 48 per cent agreed or strongly agreed they were encouraged to do their own research. In addition, consumers considered doorknocking invasive, with female respondents reporting feeling nervous when approached in their home by a male. The poor experience from doorknocking has led consumers to doubt the legitimacy of the program.

About two thirds (68 per cent) of householders said they would like to stay informed of future VEU incentives. As shown in Figure 3, of these householders, they preferred to be informed by (in order of preference) government websites (84 per cent), email (82 per cent), a brochure or catalogue in the mail (77 per cent), social media (63 per cent) and tradespeople they have previously engaged with (53 per cent).

Notably, doorknocking was householders' least preferred method of staying informed, according to market research. Only 17 per cent of householders wanting to stay informed about VEU preferred a doorknock (including 6 per cent who highly preferred it and 11 per cent who somewhat preferred it). Telemarketing was their second least preferred method, preferred by only 23 per cent of householders wanting to be kept informed about VEU upgrades (including 7 per cent who highly preferred it and 16 per cent who somewhat preferred it). It is worth noting that this data only covers households who already know about VEU and would like to stay informed, but telemarketing and doorknocking are often how new consumers become aware of the program.

Figure 3: Preferred methods for households to be kept informed about VEU energy saving incentives

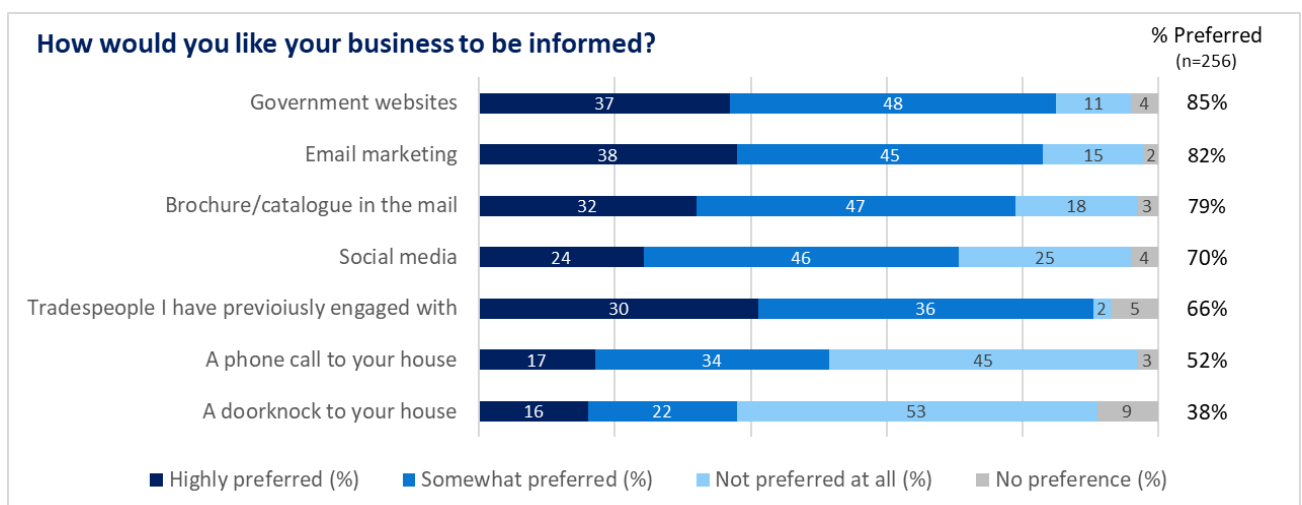


Businesses had a more positive view of telemarketing and doorknocking compared to households, however their preferences varied depending on their size (Figure 4). In general, businesses felt that telemarketers provided sufficient information (80 per cent agreed or strongly agreed), clarified that the VEU program was voluntary (77 per cent) and encouraged them to do their own research (60 per cent). Each of these figures was higher than for households. Businesses also felt that doorknockers provided sufficient information (79 per cent agreed or strongly agreed) and clarified that the VEU program was voluntary (71 per cent). However, only 47 per cent of businesses agreed or strongly agreed that they were encouraged to do their own research.

As with households, about two thirds (67 per cent) of businesses would like to stay informed of VEU incentives. Overall, these businesses had a very similar order of preferences for methods to be informed about VEU: government websites (85 per cent), email (82 per cent), a brochure or catalogue in the mail (79 per cent), tradespeople they have previously engaged with (70 per cent), and social media (66 per cent).

Again, phone calls were the least preferred marketing method (52 per cent of businesses who wanted to stay updated about VEU), except for a doorknock (38 per cent). The main differences were that, compared to households, businesses had a greater appetite for previous tradespeople, calls and doorknocks, and they preferred tradespeople to social media. There was also a significant difference between the preferences of small and medium sized businesses. In fact, 60 per cent of small businesses who wanted to stay informed about VEU would *not* prefer a phone call to their business. In contrast, 72 per cent of medium businesses somewhat or highly preferred a phone call.¹⁸

Figure 4: Preferred method for businesses to be kept informed about VEU energy saving incentives



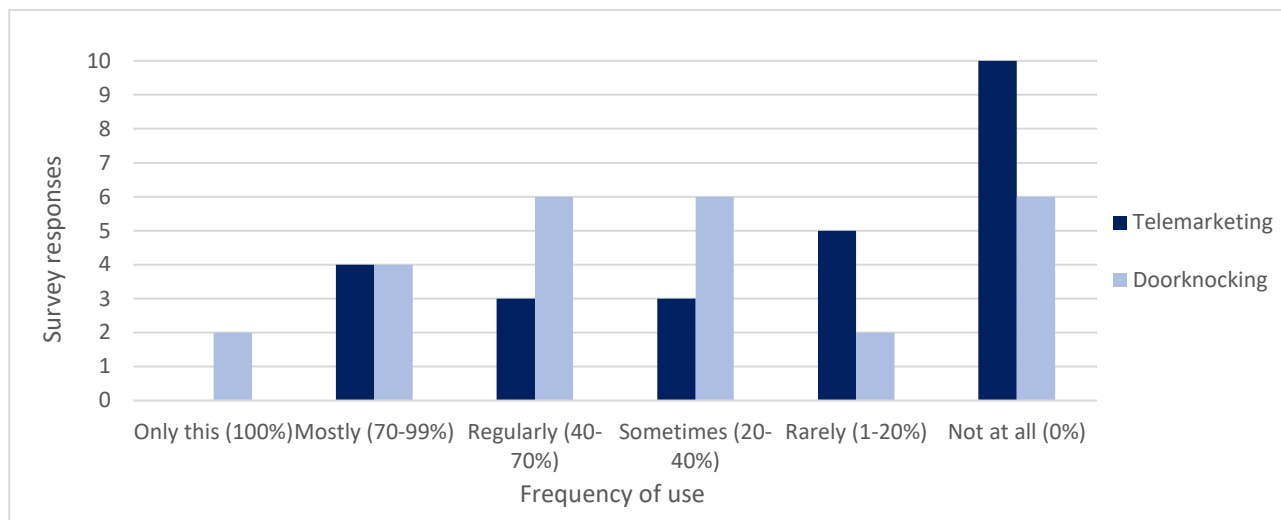
¹⁸ It is worth noting that the survey may have led to some confusion in their surveyed answers by asking businesses about doorknocking or phone calls to their house, rather than their business.

However, data indicates that since this market research was conducted, the consumer experience of telemarketing and doorknocking has changed significantly, as discussed below.

2.3.2 How much is telemarketing and doorknocking currently used under the program?

Based on AP responses to the industry survey as part of the initial consultation, 23 APs currently use telemarketing and/or doorknocking to promote VEU products and services. This equates to 30 per cent of the 77 APs currently active in the VEU program¹⁹. Of these 23 APs, 15 use telemarketing to some extent, 20 APs use doorknocking to some extent (including two APs who solely use doorknocking) and 12 APs use both methods to some extent (Figure 5).²⁰

Figure 5: Industry use of telemarketing and doorknocking under the Victorian Energy Upgrades program²¹



Those APs using telemarketing varied in how much they used it. Those that used telemarketing mostly, regularly or sometimes reported the main reasons for their overall marketing strategies were to reach more customers, and to a lesser extent to save time or money. They found telemarketing to be either very effective at generating leads and resulting in energy upgrades (six APs), effective (eight APs) or somewhat effective (one AP). Fourteen of the 15 APs that use telemarketing also used multiple other marketing methods to varying degrees (including doorknocking, digital marketing, direct marketing, traditional media advertising and contacting previous customers). One AP reported only using one additional marketing method.

Similar to telemarketing, those APs that use doorknocking varied in how much they used it. Those that use doorknocking indicated that their reasons for their overall marketing strategies were also to reach more customers. Most APs that used doorknocking also used multiple other marketing methods to varying degrees (including telemarketing, digital marketing, traditional media advertising, direct marketing, contacting previous customers, as well as through government marketing and advertising).

APs that reported using telemarketing and/or doorknocking ranged greatly in terms of their size (measured by the number of VEECs they generate each year) (Figure 6) and how much they outsourced their marketing to third parties (such as sub-contractors or companies that sell warm leads) (Figure 7).

Figure 6: Telemarketing and doorknocking usage by accredited providers based on size of company (VEECs generated)

¹⁹ 'Currently active' is defined here as number of APs that have been active during 2023.

²⁰ It is assumed that all APs using telemarketing responded to the survey, since it was in their interests to engage in consultation about a policy that affects their business practices.

²¹ Note 13 of these APs used both marketing methods to some extent.

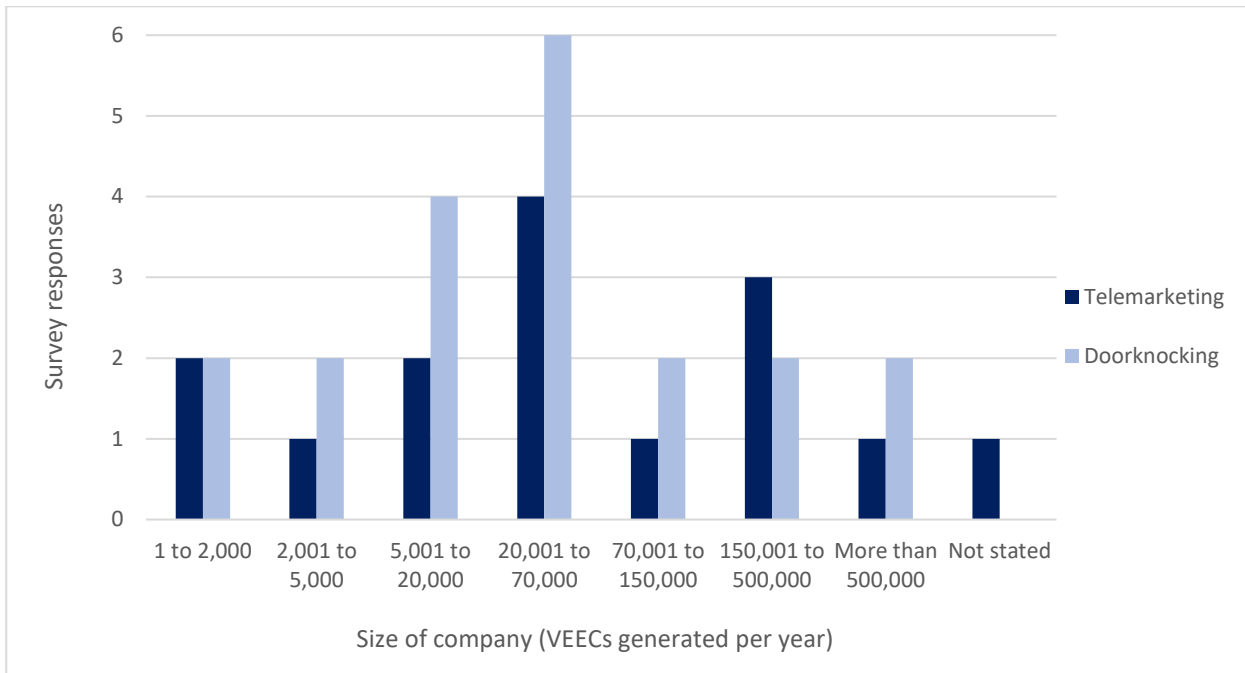
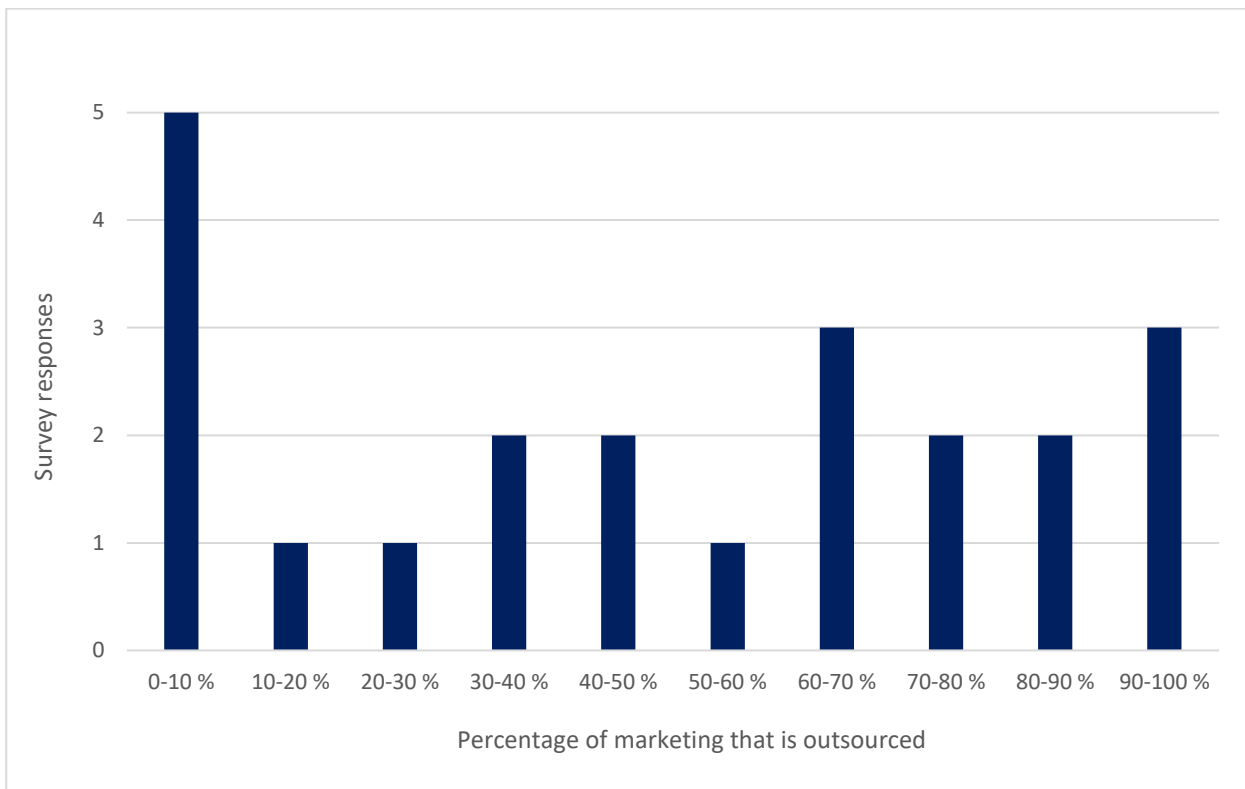
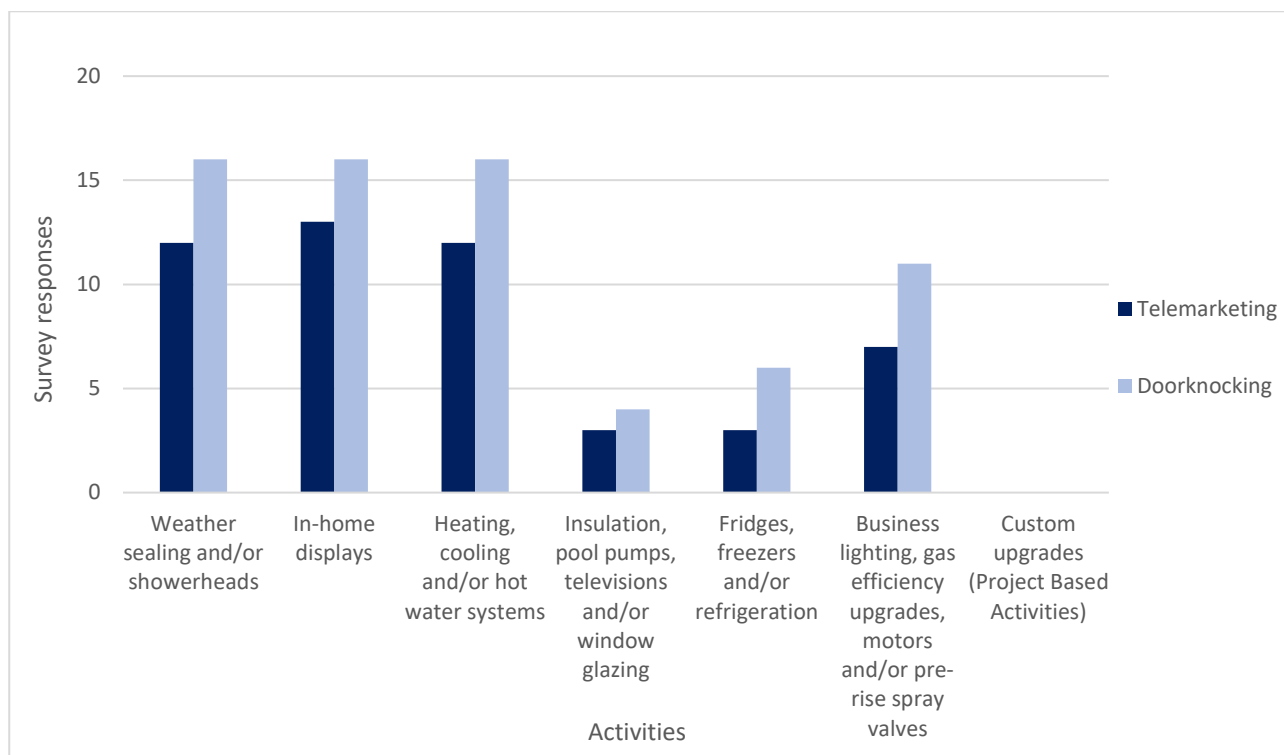


Figure 7: Extent to which accredited providers using telemarketing and/or doorknocking outsource their overall marketing



Ten of the 15 APs using telemarketing and 12 of the 20 APs using doorknocking offered energy upgrades solely or largely to households, the remainder also offered upgrades to businesses. They typically offered low cost, high-volume energy upgrades such as weather sealing, shower roses and to a lesser extent in-home displays, but also offered more complex types of upgrades (Figure 8).

Figure 8: Energy upgrades offered by accredited providers that use telemarketing and/or doorknocking



2.3.3 Rising number of complaints

Since 1 January 2020, more than one million households and 87,000 businesses have benefited directly from activities through the program. Over this period, the ESC has received a total of 1,143 complaints in relation to telemarketing and 265 complaints in relation to doorknocking (Table 2). The number of these complaints has increased markedly since 2022; in absolute terms (raw numbers), as a proportion of premises (consumers) receiving upgrades and as a proportion of total VEU-related complaints made.

Table 2: Consumer complaints to the ESC about telemarketing and doorknocking under the VEU program

Year	Telemarketing complaints	Doorknocking complaints	Total VEU complaints ²²	Households and business premises (consumers) participated in program ²³
2020	8	20	238	238,043
2021	44	37	501	413,251
2022	457	103	1,645	535,409
2023 (to 30 September)	634	105	1,764	378,975
Total	1,143	265	4,148	1,565,678

Figure 9 puts these numbers into the context of all VEU-related complaints received by the ESC for each quarter since 2011. While the number of all VEU complaints remain very low as a proportion of consumers participating in the program (less than one complaint per 2,000 participating households and businesses),

²² Other VEU-related complaints relate to installation, product issues or faults, property damage, health and safety, contracts and website or system issues. Some complaints fall into more than one category (e.g., both telemarketing and general marketing behaviour) and are therefore counted more than once. For example, a consumer might complain about being called despite being on the Do Not Call register and also about the caller providing misleading information. In that instance it would be recorded under both categories.

²³ Based on upgrade date, where VEECs have not been withdrawn by AP or rejected by the ESC.

they have increased significantly since 2022. Telemarketing has been a significant part of this increase. Complaints about poor doorknocking practices have also increased significantly compared to historical levels. General marketing and sales and product related complaints have also grown.

Figure 9: VEU-related complaint trends over time

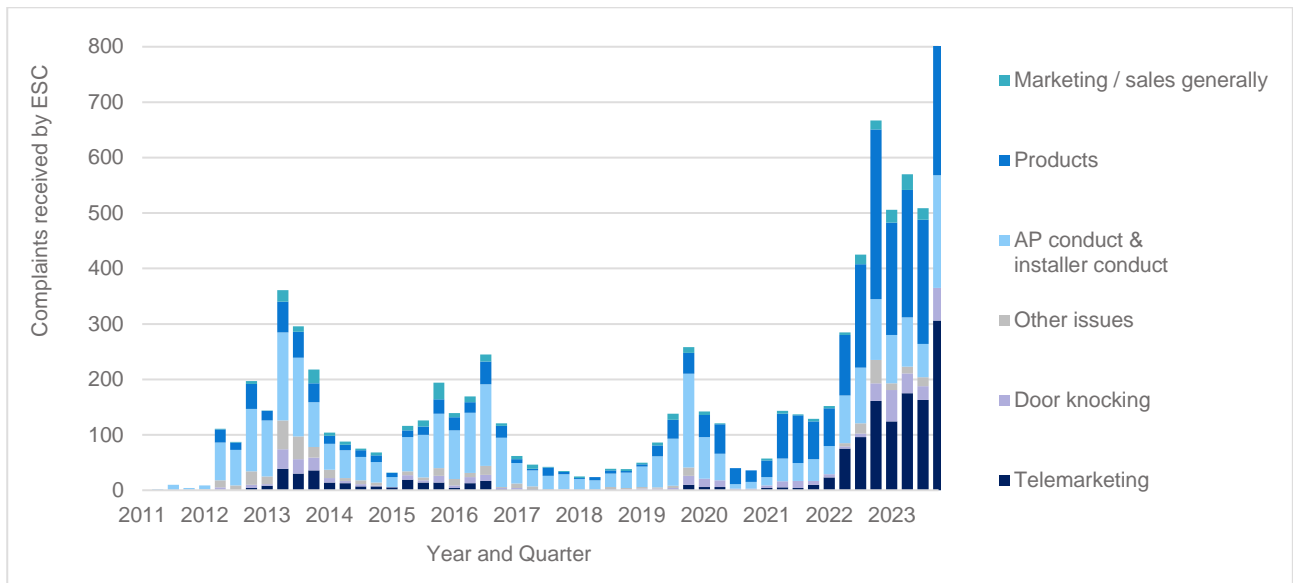
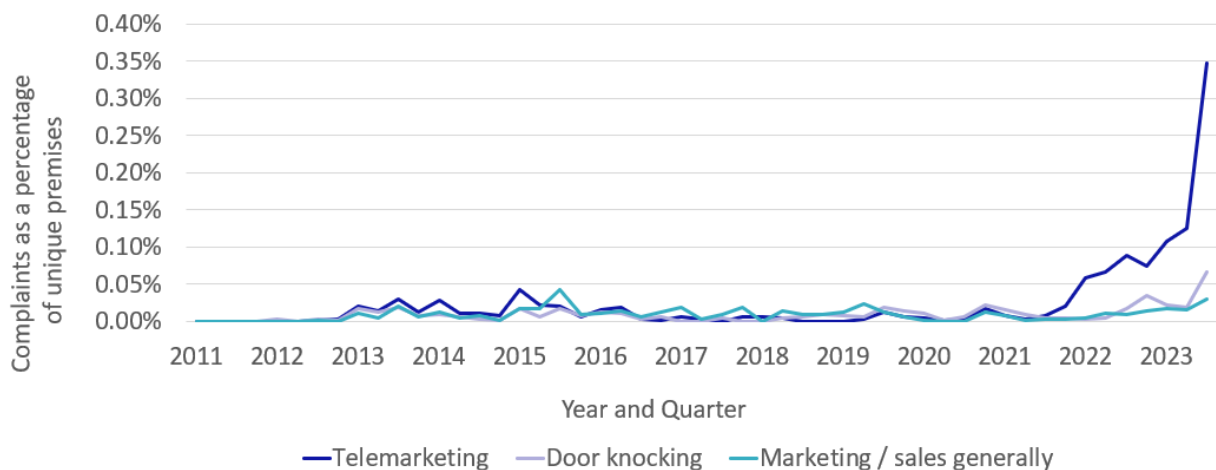


Figure 10 highlights that telemarketing complaints have grown much more quickly than the VEU program. Telemarketing complaints had been relatively low for most of the last decade but rose sharply after the coronavirus (COVID-19) lockdowns ended. This growth in telemarketing complaints is far larger than other types of complaints, and doorknocking complaints are also starting to diverge from historical averages.²⁴

Figure 10: VEU-related marketing complaints as percentages of participating households and businesses²⁵



In addition, ACMA, which regulates the national Do Not Call Register,²⁶ has advised that since December 2021 it has received a sustained increase in consumer complaints that appear directly related to the VEU program. Indeed, consumer complaints about calls offering products under the VEU have consistently been in ACMA’s three highest complaint categories in 2023.

²⁴ This difference in trends between telemarketing, doorknocking and marketing generally is part of the reason why telemarketing is being addressed separately.

²⁵ Note 0.10% is equal to one in one thousand participating households that complained about the given issue. 0.05% is equal to one in two thousand participating households that complained about the given issue.

²⁶ It is illegal for any non-exempt Australian or overseas telemarketer to contact a number listed on the register. See section 2.6.

Unfortunately, it also appears that telemarketing complaints have continued to increase despite the announcement of the ban. The average amount of weekly telemarketing complaints received by the ESC increased from 11 to 19 after the ban announcement, while the average weekly doorknocking complaints remained relatively unchanged after the consultation period (where a doorknocking ban was first mentioned) at approximately 3-3.5 complaints per week both before and after the consultation period.²⁷

2.3.4 There are likely even more unreported incidents

It is likely that for every complaint made to the ESC or ACMA, there are more incidents of consumers concerned about inappropriate marketing and sales. Many instances of non-compliant telemarketing are isolated or fleeting incidents and do not necessarily lead to complaints. VCOSS and Consumer Affairs Victoria (CAV) reported similar opinions in their submissions to the initial consultation.

It is difficult to estimate the rate of unreported incidents, particularly in the absence of peer reviewed research. However, private consultant research suggests there may be 25 concerned consumers for every complaint.²⁸ The department estimates that there are likely at least ten consumers concerned for every consumer that complains about VEU. This would suggest there have been more than 11,430 incidents of inappropriate VEU telemarketing and more than 2,650 incidents of inappropriate VEU doorknocking since 2020.

The department also notes that telemarketing calls affect consumers outside of Victoria. The department, EWOV and the ACT Government have received complaints from residents in other states, including NSW and ACT, who have been receiving numerous cold calls about the VEU program.

2.3.5 Worsening marketing behaviour

Analysis of complaints received by the department and the ESC²⁹ over recent months suggests the consumer experience of unsolicited marketing has significantly worsened (Table 3). These themes are also reflected in complaints made to other bodies, including:

- ACMA, the independent statutory regulator responsible for enforcing Commonwealth telemarketing laws under the *Do Not Call Register Act 2006* and associated industry standards
- the Energy and Water Ombudsman Victoria (EWOV), which provides free, independent redress to Victorian consumers by receiving and resolving energy and water complaints (but whose scope does not include VEU-related issues).

Table 3: Common themes from recent consumer complaints about VEU telemarketing and doorknocking

Theme	Typical telemarketing complaints	Typical doorknocking complaints
Persistent, unwanted contact	<ul style="list-style-type: none"> • Multiple calls per day or even per hour from different phone numbers. • Being called despite being asked to be taken off any call list. • Being called despite being on the Do Not Call register. • Calls to previous customers who have subsequently requested they be removed from call lists. • Calls appear to originate from overseas lead generators. 	<ul style="list-style-type: none"> • Engaging in door knocking despite clear 'Do Not Knock' stickers. • Some senior and vulnerable consumers have expressed fear for their safety.

²⁷ This increase in average weekly telemarketing complaints is based on the number of complaints received in the two months leading up to the announcement, and two months immediately after the announcement.

²⁸ See 'Customer Complaints: Why Angry Customers Are Good for Business', <https://www.superoffice.com/blog/customer-complaints-good-for-business/> and 'Customer Service Stats That Matter: Part II', <https://getmindful.com/blog/customer-service-stats-that-matter-part-ii/>

²⁹ The department refers VEU-related complaints to the ESC as the regulator of the VEU program.

False or no identifying information	<ul style="list-style-type: none"> • Telemarketer misrepresenting themselves as being Government employees. • Telemarketer not providing details about their company. 	<ul style="list-style-type: none"> • Doorknocker misrepresenting themselves as Government. • Doorknocker not providing details about their company.
Abuse and pressure tactics	<ul style="list-style-type: none"> • Verbal abuse or threats by telemarketers. • Pressure tactics to senior and vulnerable Victorians. 	<ul style="list-style-type: none"> • Pressure tactics to senior and vulnerable Victorians. • Telling consumers that participation in VEU is mandatory. • Doorknockers entering properties when no one aged 18+ is present. • Doorknockers falsely advising tenants that their landlord has approved of upgrades.
Increasing frustration	<ul style="list-style-type: none"> • Customers increasingly refer to VEU telemarketing as 'constant harassment'. • Increasing anger and exasperation by customers about the telemarketing. 	

As the VEU program transitions towards more ambitious goals and complex upgrades, including electrification, the potential consequences of allowing telemarketing and doorknocking to continue increases significantly, especially for vulnerable consumers experiencing abuse and pressure tactics from marketers. The program is shifting away from 'low hanging fruit' upgrades, such as lighting, as these upgrades have already been delivered and the program has fulfilled those pools of opportunity. While there may be a lower likelihood of telemarketing and doorknocking in the future as they are less effective for higher-value upgrades, this does not offset the risks discussed above.

The harms of continued telemarketing and doorknocking are exacerbated as the incentives become stronger to generate VEECs, due to higher VEEC prices and volumes, and as the complexity of installations increase over time. As a result, the base case of continuing to allow telemarketing and doorknocking involve increasing risks and harms from improper marketing practices. Therefore, the value of banning these marketing methods increases into the future, including reducing nuisance and physical risks.

2.3.6 Identified misconduct

From January to September 2023, 685 complaints received have been identified as being in potential contravention of one or more clauses of the VEU Code of Conduct relating to lead generation and marketing. The Code sets out the requirements for everyone working in VEU across the consumer journey, including marketing and sales (see section 2.6.1 below for details).

Telemarketing non-compliance includes:

- not identifying which AP they are working for
- not 'washing' their call lists against the Do Not Call Register (that is, comparing lists and removing any numbers on the register from their call list)
- calling outside permitted hours
- use of high-pressure tactics
- misleading consumers about the products and services available under the VEU program.

Doorknocking non-compliance includes:

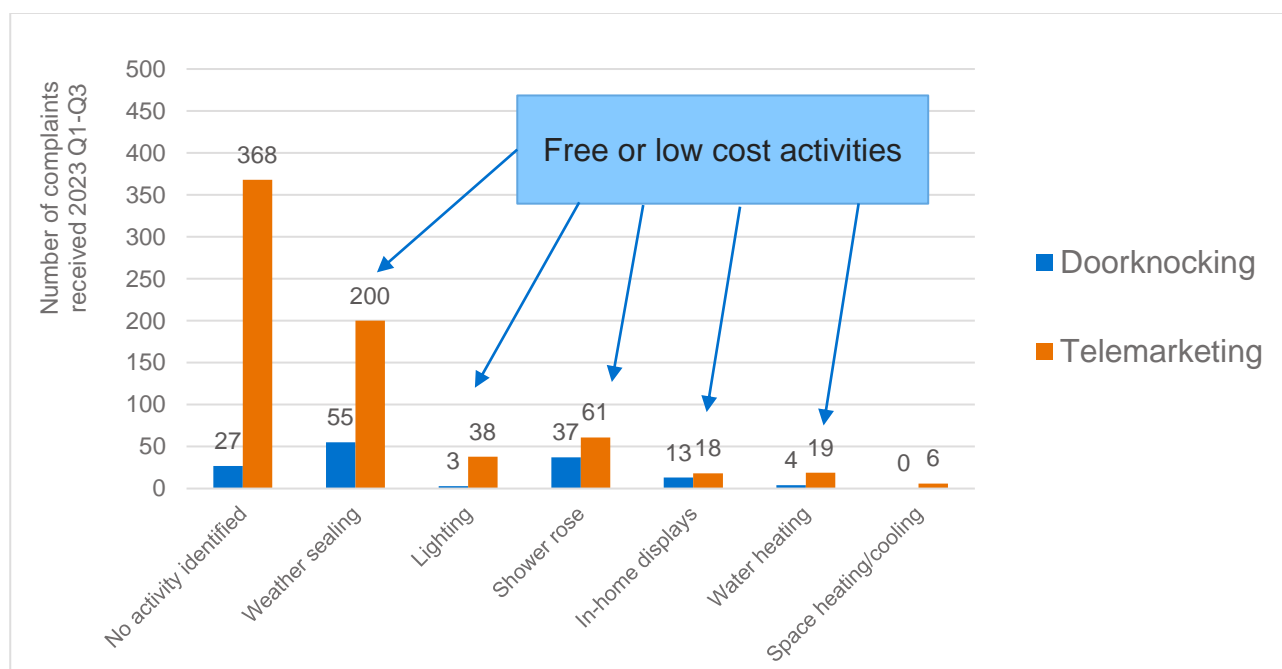
- not identifying which AP the doorknocker is working for
- entering properties when no one aged 18+ is present
- use of high pressure tactics
- misleading consumers about the products and services available under the VEU program

- coercing consumers into accepting upgrades they do not want
- undertaking doorknocking or not leaving a property when requested to leave.

2.3.7 How widespread is the issue across the VEU industry?

Consumer complaints indicate that inappropriate telemarketing and doorknocking behaviour is more prevalent for free or low-cost products, such as low-flow shower heads, exhaust fan covers and in-home displays. Whilst the majority of complaints do not identify a specific activity, those that do almost always reference a free or low-cost activity (Figure 11). Weather sealing was referenced the most often during 2023, followed by shower roses.

Figure 11: Number of telemarketing and doorknocking complaints that reference a specific activity



Consumers making a marketing or sales complaint are often unable to obtain the name of the offending company (or are given a false business name). Of the 1,143 telemarketing and 265 doorknocking complaints made since 2020, only 86 telemarketing incidents (eight per cent of telemarketing complaints) and 160 doorknocking incidents (60 per cent of doorknocking complaints) could be traced back to an AP (Table 4).

Table 4: Number of telemarketing and doorknocking complaints associated with an identified accredited provider

Year	Number of telemarketing complaints associated with an identified AP	Percentage of total telemarketing complaints associated with an identified AP	Number of doorknocking complaints associated with an identified AP	Percentage of total doorknocking complaints associated with an identified AP
2020	3	38%	15	75%
2021	23	52%	30	81%
2022	34	7%	56	54%
2023 (to 30 September)	26	4%	59	56%

Total since 2020	86	8%	160	60%
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Of those complaints able to be traced, 26 different APs have been identified for telemarketing and 26 for doorknocking (Table 5). These numbers represent a sizeable proportion of the VEU industry (82 APs have been active in the program since 2020).

Table 5: Number of unique accredited providers identified in telemarketing and doorknocking complaints

Year	Number of APs identified in telemarketing complaints	APs identified in telemarketing complaints as percentage of total APs	Number of APs identified in doorknocking complaints	APs identified in doorknocking complaints as percentage of total APs
2020	3	4%	11	14%
2021	11	14%	12	16%
2022	12	16%	20	26%
2023 (to 6 June)	14	18%	25	32%
Overall (across years)	26	34%	26	34%

2.3.8 What is driving the inappropriate marketing?

It is difficult to be certain about what is driving recent trends in complaints. Factors that may be playing a role include:

- changing types of energy upgrades available under the program
- engaged households may have already received upgrades, so reaching new households could be difficult and/or remaining households are less receptive and more likely to be frustrated by the approach
- social norms and acceptance of telemarketing may be changing over time
- improved consumer awareness of their rights and how to complain as a result of the introduction and promotion of the VEU Code of Conduct
- the coronavirus (COVID-19) pandemic lockdowns. A nationally representative consumer survey in mid-2021 by consumer organisation CHOICE found that unwanted calls and texts rose during the lockdowns for two thirds of consumers.³⁰ In addition, the survey highlighted that telemarketing requirements were not being abided by. The rise could have been related to consumers spending more time online during lockdowns, meaning they gave away their contact details more often (e.g., to buy something online, sign up to newsletters or enter a competition)
- telemarketing and doorknocking being banned under other programs, making the practice more clearly attributable to the VEU program
- changing communication technologies, such as the shift from landline to mobile phones. Consumers may be more easily able to be reached through mobile phones, making telemarketing more effective.

2.4 Risks and harms of inappropriate marketing

While telemarketing and doorknocking can play an important role in providing consumers with information about, and access to, subsidised energy saving products and services, these are at times conducted to the detriment of consumers, particularly those who are vulnerable.

³⁰ CHOICE, 2021, 'We've got your number: Telemarketers not playing by the rules', <https://www.choice.com.au/electronics-and-technology/phones/mobile-phones/articles/unwanted-calls-and-texts-from-telemarketers>

As this section outlines, risks and harms include the nuisance and invasion of privacy; consumers being misled, pressured or confused; and increased perceptions of scams and fraud under the program. Poor marketing practices are also leading to consumer mistrust and damaging VEU's integrity and reputation, jeopardising consumer participation and hence the program's ability to deliver energy bill savings and greenhouse gas emissions reductions. Some risks and harms are more prevalent for telemarketing; whereas others are more of an issue for doorknocking.

2.4.1 Nuisance and invasion of privacy

Consumer complaints and survey responses indicate telemarketers may repeatedly call consumers, for example, consumers gave examples of being called seven times within an hour, three to five calls per day, or even 70 times within a few months. One survey respondent noted they had five calls within 10 minutes from multiple staff. Consumers report persistent calls despite requesting they be removed from the call list, advising they are on the Do Not Call Register and/or advising they are not interested or already have installed the upgrade in question (see case study A for a typical example). Another frequent complaint from consumers is that they do not know how telemarketers obtained their contact details.

Case study A: Householder's complaint about multiple, nuisance VEU marketing calls³¹

From several calls a day to our home number, despite us declining the callers' offers, last week was the final straw. In the space of two hours we received more than ten calls. Some we answered, some we didn't. No message was, or is ever, left. On speaking to some of the callers it was obvious that they have a spiel that they will not divert from. We asked to speak to supervisors, for our number to be deleted from their list, for the name and location of the company. The only information we gathered was that they were calling for the 'VEU program', 'LED upgrades' or just asked 'how many shower heads do you have?'

Consumers often used the terms 'disturbance', 'harassment', 'relentless', 'annoying' and 'constant hounding' to describe the calls. They also describe feeling distressed by the calls and report other negative impacts, such as having their daily routines disrupted, privacy invaded and time and energy wasted.

The VEU experience of telemarketing is consistent with consumer research in 2018 by ACMA, which found attitudes towards telemarketing in general were negative — mainly because the call was a nuisance or annoying (34 per cent of respondents) but also because of concerns about how their details were obtained (21 per cent), the volume of calls received (20 per cent), the level of their information the caller had (14 per cent) and the time of the call (11 per cent).³²

Telemarketing has long been identified as a nuisance. As early as 2008, a survey by the Australian Psychological Society identified telemarketing as the 'most irritating event or situation' out of a list of 32—more irritating than bad drivers, unfriendly staff, excessive advertising, cigarette smoke, heavy traffic, or having to wait in line.³³

Nuisance was less frequently mentioned in relation to doorknocking but was still a concern, as this survey respondent explains:

Consumers are sick and tired [of being] harassed. I have had many doorknockers come to my house even when I have a "do not knock" sticker clearly visible at the front door... When I have spoken to these people they have no understanding on how the program works. All they say it's free from the government. I have also had multiple instances where they have told me that I [sic] a upgrade is "mandatory". This needs to stop.

2.4.2 Consumers being misled, pressured and confused

Feedback from consumers through survey responses and complaints suggests consumers are exposed to misleading information about the VEU program, insufficient information to make a decision, pressure tactics and rude behaviour (such as talking over the consumer when they attempt to explain they do not need the upgrade or hanging up on the consumer when they ask to be removed from their call list).

This was a problem for both telemarketing and doorknocking, however pressure tactics through doorknocking can be particularly intense due to the risk to the physical and psychological safety of persons

³¹ Some details in this case study have been changed, given the complaint is under investigation.

³² ACMA, Unsolicited calls in Australia, Consumer Research, December 2018.

³³ Australian Psychological Society 2008. National Psychology Week Research 2008: Dealing with 'Irritating Events or Situations'.

in their own home or workplace. The ESC has received complaints from persons who advised they felt intimidated by persons coming into their homes and installing products without genuine consent. For example, in one case under investigation, installers purporting to be a part of the VEU program allegedly forcibly entered a customer's property and allegedly acted in a threatening manner that intimidated the homeowner's child.

Consumers report feeling confused about receiving information from different providers, not knowing who is a legitimate provider and/or feeling intimidated. Some have even expressed concern for their safety.

Most of the comments have been made by households, although one business energy user suggested in their survey response it could be a broader concern, and that the ban would reduce stress for business owners, particularly those who are vulnerable or who find it difficult to say no.

Even in the absence of misleading information or specific pressure tactics, ECA's submission argued that inappropriate marketing makes it even harder for consumers to make good energy choices in today's complex energy markets, as telemarketing and doorknocking provide limited information and encourage consumers to make snap decisions.

...consumers are now faced with dozens of decisions when it comes to energy. The challenge for consumers today is not that there is a lack of information about potential energy choices, but that it is increasingly difficult to identify a trusted and independent source of information. This is not made easier by poor marketing behaviour or potentially misleading information.

As this industry survey respondent noted, this may become increasingly problematic as the VEU program moves towards offering consumers more complex energy upgrades:

Door-to-door sales can often lead to impulsive buying decisions without consumers having enough time or resources to make an informed choice. With the VEU program transitioning into complex upgrades like gas appliance replacements, informed decisions become even more critical. Such upgrades can have significant financial implications and safety considerations, and consumers should be given ample time and appropriate resources to understand these before making a decision.

In the future it is expected that upgrades will increasingly be more complex, higher-value, more costly and carry increased risks if not installed correctly, from not functioning as intended to posing a safety hazard. These risks exacerbate the risks of doorknocking in particular. Examples of these complex upgrades include space and water heating, electrification (and the associated removal of gas appliances). The risks posed by pressure tactics, uninformed consent and unqualified installers increase with increasing installation complexity. There are also increased financial risks as upgrades become more complex, because the upgrades have higher dollar values.

2.4.3 Perception of scams and fraud

Another set of potential harms relates to perceived or actual scams and fraud. These appear to be largely associated with telemarketing calls. As one consumer described, "...the calls have the 'feel' of being scam marketing." Another householder noted, "I originally thought it was a scam as no government managed programme should be marketed/promoted in such an annoying way." Market research about VEU commissioned by the department in 2021 found that one of consumers' key concerns was around the potential for the program to be connected to a scam.

As the CPRC argued in its submission, "It can be very difficult for a consumer to distinguish between legitimate and scam offers." Part of the challenge is that scammers can exploit consumers' trust in the VEU program as a government initiative.

Again, these concerns are consistent with broader consumer research on unsolicited calls in 2018 by ACMA, which found people were concerned that the caller was trying to scam them (18 per cent) and the risks involved, such as financial loss or data theft (10 per cent).

2.4.4 Particular concerns for older and vulnerable consumers

Many of the identified risks and harms from inappropriate marketing are greater for older and vulnerable Victorians³⁴ and may also be a concern for the unemployed, those with limited mobility and those with impaired decision making.

As VCOSS highlighted in its submission:

Markets like that created by the VEU program can be complex for many consumers to navigate. These challenges are heightened for some groups including older Victorians, those from newly arrived communities and those from culturally and linguistically diverse backgrounds, putting them at significant risk of predatory behaviour.

Consumers and other stakeholders raised concerns that vulnerable consumers “*may feel particularly targeted or overwhelmed by these intrusive approaches*” and are at increased risk of scams and pressure tactics.

Risks to vulnerable consumers is particularly strong for doorknocking, with numerous complaints and survey responses highlighting concerns around scams, pressure tactics and feeling intimidated, particularly by “pushy salesmen” at the door. For example, the ESC is investigating a case where an installer allegedly pushed past an elderly consumer and entered the home without being invited to do so. The installer also allegedly ignored reported calls to vacate the property. The case in section 2.4.2 also provides a very concerning example, as does this complaint from a survey respondent:

I have a "Do not knock" sign on my letterbox and my front door. These are often ignored. it can be [sic] daunting and even anxiety provoking for older persons to be faced with marketers on their doorstep. These people can be insistent, and I have known a situation where an older person was at risk because they found it hard to say no to this unsolicited marketing.

Market research on VEU in 2021 found doorknocking to be a particular concern for women. Females noted that when approached in their home by a male, they can feel nervous if they are alone, or with children.

For example, this householder noted:

As an older single female I have felt pressured and unsure of people door knocking and would rather contact or have an appointment with someone.

There was also evidence of heightened risks for older and vulnerable Victorians from telemarketing. As this consumer describes: “...my friend’s grandmother she don’t even know what she accepted for in telemarketing (sic).” Case study B describes an especially concerning series of calls from a VEU telemarketer.

Case study B: Intimidating marketing call to a senior Victorian

Yesterday I had yet another VEU telemarketing call, about installing exhaust fan covers, and it turned into a very disturbing exchange. When I tried to tell the caller that my phone number was on the "Do Not Call Register" he claimed he did not know what that was. He tried to convince me that the call was not a scam and quoted my name and my street address, which I found troubling. He then talked over me when I tried to find out the name of his company and I hung up.

A few minutes later the phone rang again and I correctly suspected it might be the same caller, so I did not pick up. He left a voice message saying, in a threatening tone, "Very bad, very bad to disconnect the call. You will receive hundred calls from now on."

I find that very disturbing, particularly knowing that he has my name, address, and phone number. Maybe my age (82) makes me more sensitive to unpleasantness than others, but that aggressive incident has troubled me overnight and is continuing today.

The ECA raised concerns in its submission that growing energy affordability issues make consumers even more vulnerable to poor marketing behaviour or potentially misleading information.

³⁴ In this context vulnerability is situational and not clearly defined, but vulnerable consumers have higher risk of poor outcomes as a consumer. Some examples of vulnerable consumers include Victorians facing: domestic violence, mental health problems, low-income or financial stress, recent bereavement, disability, old age, poor English skills, and many more factors.

2.4.5 Reputational harm, consumer mistrust and related risks

In addition to harms to consumers, there is compelling evidence that inappropriate marketing is damaging the reputation of the VEU program. As this consumer states in their submission:

The Energy Upgrade system might be great, but the telemarketing system that is used is a major turn off.

It may also be putting consumers off energy efficient upgrades generally, as this householder's feedback indicates:

I had not heard of this particular energy efficient upgrade and having been harassed i have no desire to pursue in (sic) the future.

Many in industry agreed that inappropriate marketing was damaging the VEU program's reputation. Some industry survey respondents noted intrusive telemarketing and doorknocking methods have negatively impacted the reputation of the VEU program and damaged their business.

In its submission, one AP stated:

...cold-call telemarketing has severely undermined the integrity and reputation of the VEU and... has annoyed many customers to the extent that they are suspicious and cautious regarding accepting any other forms of energy efficiency marketing and advisory services.

Another VEU industry member noted in their response to the industry survey:

Customers feeling 'sick and tired' of these [doorknocking and telemarketing] practices can develop a negative association with the program as a whole.

Earlier public consultation on consumer protections under the VEU program in late 2021 by the department also indicated strong industry concern about the impact of poor marketing behaviour on the program's reputation and on businesses that comply with consumer protections.³⁵ This feedback was largely concerned with doorknocking, as the consultation was prior to the uptick in telemarketing related complaints.

Stakeholder feedback is also consistent with market research conducted in 2021 by the department, which found that poor marketing practices may damage consumer confidence in, and the social license of, the program. Misbelief and mistrust were identified as the most relevant barriers to consumer participation in the program. Conversely, trust in information sources was found to be a strong influencer behind VEU uptake.

Specifically, the market research found that some consumers were concerned about the legitimacy of the program as a result of doorknocking and thought it may be linked to a scam. Some non-participants were concerned about doorknocking associated with the program, which had ultimately prevented them from considering the program. If consumers aren't confident in the program, they either seek more information or avoid/abandon the program. Additionally, the department's complaints data indicates that consumers are wary of telemarketing calls being a scam, particularly if they book an appointment for an upgrade and the AP doesn't arrive for the appointment.

This reputational damage and consumer mistrust appears to be affecting APs' ability to do business under the VEU program. Industry survey responses about poor industry marketing behaviour indicated:

- almost one-third of industry felt that it affects their VEU-related sales and business
- over one-fifth felt it meant they needed to work harder to get sales³⁶
- almost one quarter felt it was leading to decreased sales.

As this AP describes:

People are calling our number form (sic) letterbox drop and complaining about telemarketing thinking its (sic) us (because they think we are all one company)

As noted earlier, reputational damage also detrimentally impacts consumers. Individual consumers miss out on opportunities to take up energy efficiency upgrades and save on their energy bills. This is particularly a concern as many Victorians are struggling with the cost of living and the cost of doing business.

³⁵ The department consulted in late 2021 on compliance, protections and privacy under the VEU program, see <https://engage.vic.gov.au/victorian-energy-efficiency-target-act-review> for details.

³⁶ "Sales" here include to all upgrades activities, regardless of whether the customers are required to make out-of-pocket payments. More sales means higher number of upgrades being carried out by that APs under the VEU program.

Consumer confidence and trust were also identified as being essential to enabling the program to continue to expand. As this industry stakeholder commented:

Electrification and deeper energy upgrades and retrofits require a much greater degree of trust and confidence from the customer, compared to some of the less complicated activities to date (eg weather sealing, LED lights). The VEU should prioritise improving upon the current reputation of the VEU program, which in turn will build trust and confidence with households and SME's (sic). Established manufacturers and service providers (who are critical to delivering the volume of upgrades required across Victoria) will also be more inclined to invest in VEU participation once reputational confidence and stability are achieved.

2.5 Failing to meet community expectations

Even where unsolicited calls or doorknocks do not necessarily result in a breach of law or result in one of the harms described above, they can and do at times fail to meet customer expectations. As section 2.4 and this section indicate, community sentiment is strongly negative towards these marketing methods.

2.5.1 Unsolicited marketing in general does not meet community standards

In its submission, CALC argued that unsolicited sales have no place in a well-functioning market.

This follows advocacy in late 2022 by consumer advocacy and community organisations, who expressed strong concerns to the department about all forms of unsolicited sales relating to distributed energy resources, including solar panels, home batteries, electric vehicles and smart energy devices (such as controllable air conditioners).³⁷ They advocated, at a minimum, for door-to-door sales to be banned across all such products and services, and some consumer groups wanted all forms of unsolicited sales to be prohibited.

This feedback reflects a strong community desire to ban unsolicited marketing, including energy-related marketing, since at least 2007 when CALC and the Financial and Consumer Rights Council (FCRC) published *Coercion and harassment at the door: Consumer experiences with energy direct marketers*.³⁸

It also reflects broader community sentiment about unsolicited marketing more generally. Research conducted by The Australia Institute in 2009 found that 63 per cent of respondents said that telemarketing should not be permitted in Australia, while only 26 per cent agreed it should be permitted.³⁹ By 2016, community opposition to unsolicited sales had further grown — a national survey commissioned by CALC found 77 per cent of respondents supported a ban on unsolicited sales, and 81 per cent (and more than 90 per cent of older Australians) reported a negative view of these practices.

2.5.2 Expectations are even greater for government supported programs

Consumers fed back that inappropriate marketing was even less acceptable for a government program. As one householder described:

the number of times we have been called and door knocked by people providing these products is astounding. I originally thought it was a scam as no government managed programme should be marketed/promoted in such an annoying way.

Another consumer reflected:

I have been stalked for months by various companies who won't tell me where they are from and call multiple times a day- refusing to remove me from their lists. The experience has been terrible for our family and reflects poorly on the government.

In its submission, CALC argued:

Acting to end problematic sales practices is particularly important for the integrity of the VEU program. This is due to the VEU program's place as a government program, and the important

³⁷ The department consulted in late 2022 on protecting consumers of distributed energy resources, see <https://engage.vic.gov.au/protecting-consumers-of-der> for details.

³⁸ Consumer Action Law Centre and the FCRC (2007), *Coercion and harassment at the door: Consumer experiences with direct marketers*. <https://consumeraction.org.au/wp-content/uploads/2013/01/Coercion-and-Harassment-at-the-Door-Energy-Marketing-in-Victoria.pdf>

³⁹ The Australian Institute, 2009, Submission to the Do Not Call Register Statutory Review, p. vii.

contribution it is making to help Victorians reduce their greenhouse gas emissions and save on their energy bills.

Consumers rightly expect that the marketing and sale of energy efficient products and services be conducted to a high standard. This is particularly true for a government program such as VEU.

This 'duty of care' or 'additional government responsibility' principle to manage risk for consumers (and indeed, industry) engaging in a government program or initiative was articulated in the Royal Commission into the Commonwealth Government's Home Insulation Program:⁴⁰

When Government intervenes in a market or industry, there are very great consequences. Whether it be via the injection of funds through subsidies or rebates, or by regulatory action, Government action has the capacity to do great good, but also immense harm to the settled balance that exists between consumer and provider... it is critical to public policy interventions of this scale and nature that Government understand the implications for end users or deliverers.

This government obligation is inherent in the design of the VEU program. One of the objectives under the VEET Act (which underpins the program) is to encourage investment and employment in the energy efficiency industry. This means the VEU program aims to attract new entrants to the energy efficiency sector. As the VEU program grows, the Victorian Government takes on a responsibility to ensure that this growth is sustainable and that the businesses making investment under the program will flourish in the long term. This means that businesses in the VEU program conduct marketing ethically and in a way that meets the expectations of the Victorian community.

The Victorian Government banned traditional electricity and gas retailers from cold-calling Victorian households from 31 December 2021. In addition, Solar Homes program participants were banned from undertaking unsolicited door-to-door sales from 1 September 2021.⁴¹

The department notes that white certificate⁴² and retailer obligation schemes in New South Wales (NSW), South Australia (SA) and the Australian Capital Territory (ACT) do not prohibit cold calling or doorknocking, and the Solar Homes program does not prohibit cold calling. However, there is no widespread evidence of material misconduct or poor marketing behaviour in each of these programs. Appendix D summarises relevant protections under similar Victorian and interstate schemes.

2.5.3 Stakeholders have expressed strong support for a telemarketing and doorknocking ban

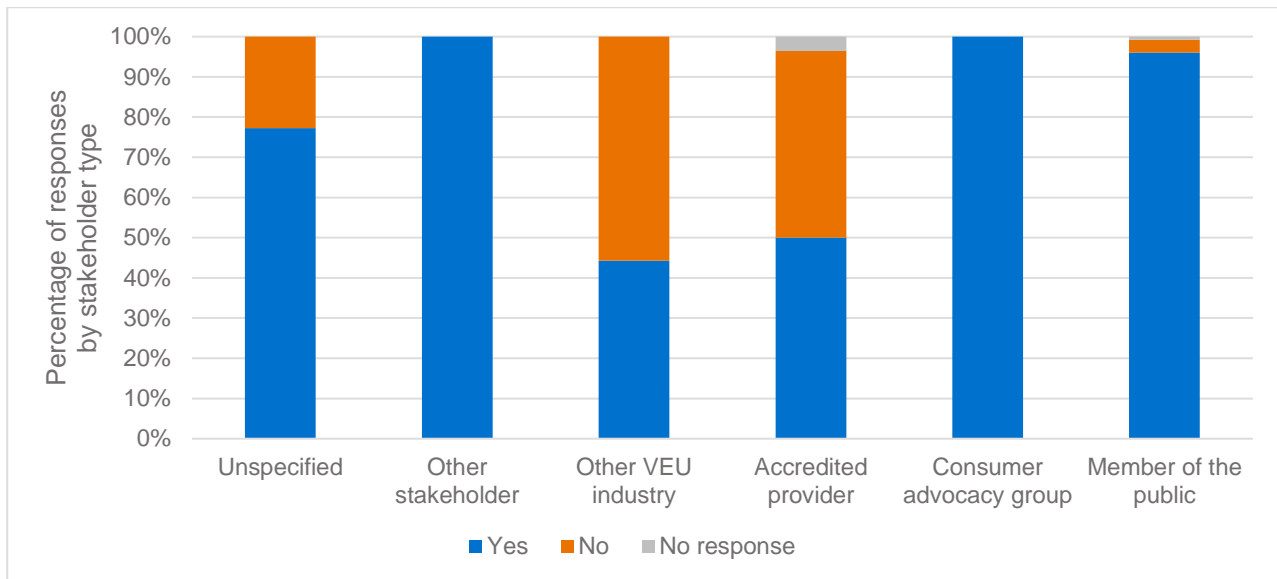
Members of the public and consumer advocacy groups overwhelmingly supported a ban on telemarketing under the VEU program (Figure 12). Support for the ban on telemarketing varied amongst all groups from being completely supportive of all government action to ban telemarketing, to accepting the ban and making suggestions as to what the ban should cover. All of the formal submissions (including consumer advocacy groups, industry, regulators and members of the public) supported a ban.

⁴⁰ Royal Commission into the Home Insulation Program, 2014, *Report of the Royal Commission into the Home Insulation Program*, Report by Ian Hanger AM QC for the Commonwealth Government, https://parlinfo.aph.gov.au/parlInfo/download/publications/abledpapers/adfaac79-2e7c-496f-872c-a7e275c1843b/upload_pdf/ReportoftheRoyalCommissionintotheHomeInsulationProgram.pdf;fileType=application%2Fpdf#search=%22publications/abledpapers/adfaac79-2e7c-496f-872c-a7e275c1843b%22

⁴¹ 'Banning Harmful Energy Sales Tactics' media release, 27 December 2021, at <https://www.premier.vic.gov.au/banning-harmful-energy-sales-tactics>. Energy retailers are permitted to market by door-to-door sales or phone if the customer invites them to do so.

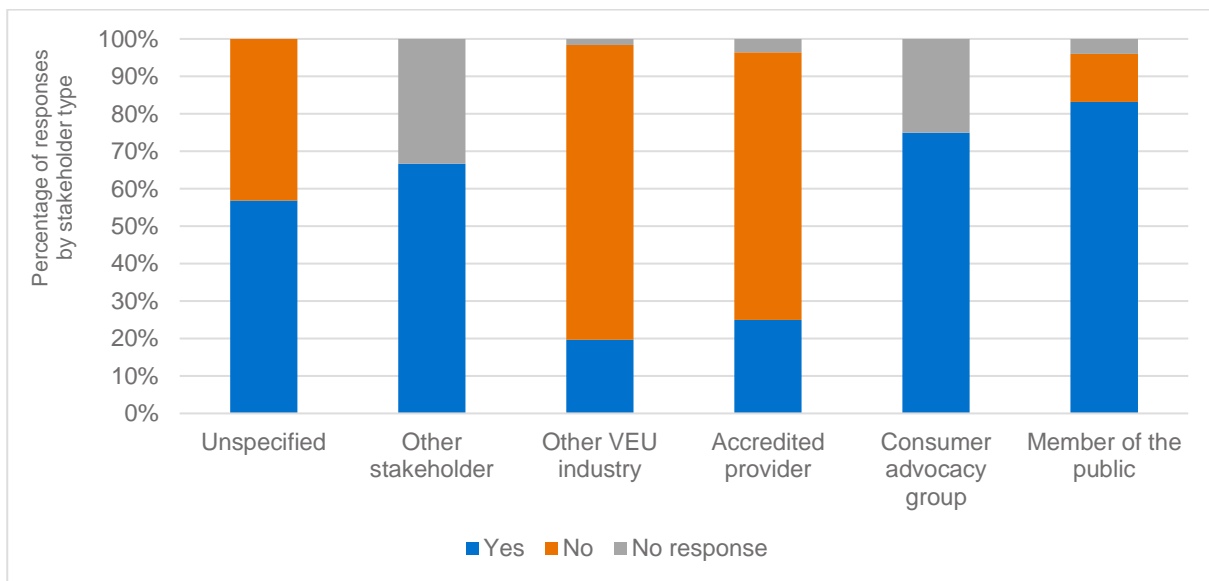
⁴² 'White certificate' is a term to refer to policy programs that incentivise energy efficiency or energy productivity, similar to the VEU program.

Figure 12: Stakeholder support for a telemarketing ban



A majority of stakeholders also supported a doorknocking ban, particularly members of the public, consumer groups and some in industry (Figure 13).

Figure 13: Stakeholder support or opposition for doorknocking ban, by stakeholder type



The majority of the industry did not support phasing out of doorknocking and telemarketing, but many called for more stringent regulation. This was consistent with previous industry feedback in late 2021, where industry strongly supported more stringent requirements for regulation of the program, even if this meant imposing some burden on themselves. Many of these stakeholders also argued for the phasing out of doorknocking and/or telemarketing under the VEU program.

Stakeholder feedback emphasised that the bans would protect consumers from the risks and harms identified above, bring the VEU into line with regulation of the energy retail market and improve consumer trust in the program. The energy retail market has banned telemarketing and doorknocking.

2.6 The current regulatory regime

Following a review in 2021 of consumer protections and compliance under the VEU program,⁴³ the Victorian Government introduced a new VEU Code of Conduct.

To inform the development of the Code, more than 80 stakeholders participated in a consultation process. This included a webinar held on 9 November 2021. A response to the consultation on the Code of Conduct was published on 13 January 2022.

Once the Code was formally introduced, the ESC was given the power to refuse VEECs for registration where certificates were created in contravention of the Code. Any existing registered VEECs for providers who breached the code would become invalid.

Other compliance and enforcement actions are also available to the ESC. These actions are undertaken in a manner consistent with the ESC's Compliance and Enforcement Policy.

As detailed in section 2.6.4 of this RIS, these VEU-specific protections align with, and reinforce, several national and state consumer protection laws.

2.6.1 VEU Code of Conduct

The VEU Code of Conduct has been in operation since July 2022 and is part of the VEET Regulations. Sections 17(3)(d) and 75 of the VEET Act allow for a Code of Conduct to be made.

The Code sets out minimum standards that APs and third parties must follow across the full range of the consumer's VEU journey, including:

- marketing and sales
- contracting
- installation
- after-sales services and dispute resolution (see Figure 1 in Chapter 1).

Unsolicited marketing methods, including telemarketing and doorknocking, are currently permitted under the Code. Under the Code, if an AP or third-party contacts a consumer about the VEU program they must abide by general requirements and requirements specific to face-to-face marketing (Table 6).⁴⁴

Table 6: Marketing requirements under the VEU Code of Conduct

Type	Specific requirements
General requirements	<ul style="list-style-type: none">• Only market or sell VEU program upgrades to consumers over 18 years and able to understand the information provided.• Only contact consumers during certain times of the day and days of the week.• Tell consumers what business they work for and provide specific information to consumers to identify themselves when discussing the VEU program.• Explain that the program is voluntary and that consumers do not have to take part.• Provide accurate information about the goods or services being provided and their quantity.• Not use high-pressure tactics to sell or market products or services.• Not say things that are false or deceptive. This includes that they work for the Victorian Government or the ESC, or that the Victorian Government provides private contact information (such as phone numbers) for the purposes of marketing.• Must inform consumers about the Code and provide a copy upon request.

⁴³ More than 80 stakeholders participated in public consultation, and broadly supported the options consulted on.

⁴⁴ See a summary of the Code at https://www.energy.vic.gov.au/_data/assets/pdf_file/0028/585154/Victorian-Energy-Efficiency-Target-scheme-consumer-factsheet.pdf.

- Provide the consumer with relevant dispute resolution information.
- Offer a copy of the VEU program consumer fact sheet.

Additional requirements for calls	<ul style="list-style-type: none"> • Must not contact consumers on the Do Not Call Register.
Additional requirements for face-to-face marketing	<ul style="list-style-type: none"> • Cannot doorknock on a consumer's home if they have a sign at their home clearly saying "no doorknocking", or something similar. • Explain how they got a consumer's address and why they are visiting their house or business. • Always wear an identification card that includes a photo, their full name, contact details, Australian Business Number (ABN) and main contractor details.

These requirements are consistent with Australian Consumer Law (section 2.6.3), current best practice and other comparable energy codes, such as the *Energy Saving Industry Association (ESIA) Code*⁴⁵ and the *New Energy Tech Consumer Code (NETCC)*⁴⁶ that retailers participating in Solar Victoria's Solar Homes and Solar for Business programs must be signatories to.

2.6.2 Reforms to the VEET Act

The ESC works to prevent misconduct under the VEU program from happening in the first place, by providing industry with guidance on its obligations⁴⁷ and auditing APs to ensure they have the systems and processes in place to comply with the Code requirements (such as training and protocols for staff engaging with consumers).

If a consumer receives unwanted or poor marketing behaviour, the marketer may be breaching the Code. The consumer (or someone on their behalf) can advise the ESC, who can then investigate, attempt to identify the responsible party (if needed) and, if they can be identified, address the issue directly with them.⁴⁸

Businesses found to be not operating in accordance with the Code of Conduct will be unable to profit from the program (that is, ESC may refuse to register or require the surrender of any VEU program VEECs created in contravention of program rules).

In addition, from 1 July 2023 breaches of the prescribed Code of Conduct attract civil penalties under the VEET Act (the legislation that underpins the VEU program). The ESC can also:

- issue warning letters to non-compliant businesses providing services under the VEU program
- issue penalty notices or commence civil proceedings against non-compliant APs (or other orders)
- undertake compliance audits into accredited persons who have potentially undertaken significant non-compliance with the VEET Act and the regulations
- notify APs about scheme participants who have a poor compliance record⁴⁹
- reject, suspend, cancel or impose conditions on a businesses' accreditation with the program
- refuse to register or require the surrender of any VEECS created in contravention of program rules.

⁴⁵ Energy Savings Industry Association (2020), ESIA Code of Conduct for Members. <http://s3-ap-southeast-2.amazonaws.com/assets.eecca.org.au/library/ESIA-Membership-Documents/ESIA-Code-of-Conduct-17-Dec-2020.pdf>.

⁴⁶ New Energy Tech (2020), New Energy Tech Consumer Code. <https://assets.newenergytech.org.au/uploads/New-Energy-Tech-Consumer-Code.pdf>.

⁴⁷ Industry guidance about the Code is available at <https://www.esc.vic.gov.au/media-centre/new-resource-help-industry-implement-incoming-veu-code-conduct>.

⁴⁸ While the Essential Services Commission does not have a formal dispute resolution function, it can take enforcement action where appropriate to regulate compliance with the Code.

⁴⁹ From 1 November 2023, under section 66(m) of the VEET Act, the ESC can disclose confidential information with an AP for the purpose of informing the AP of a scheme participant's compliance with the Code. This will allow the ESC to warn providers not to engage with marketing or lead generation companies with a poor compliance record.

Finally, the department is progressing additional reforms to the ESC's powers so that it has greater flexibility and discretion in the level of penalties it can apply to Code breaches.

Increasing the program fees to the ESC to better regulate compliance

The ESC administers the VEU program and is responsible for ensuring the VEU energy saving targets are achieved. The ESC charges fees to businesses participating in the VEU program. These fees cover the ESC's costs and enable ESC to be resourced to provide oversight that energy upgrades installed in Victorian homes and businesses meet standards and achieve energy savings.

From July 2023, the fees for the VEU program were increased with the intention of providing the ESC with additional resources to use its expanded powers and effectively regulate the program.⁵⁰ These new fees are intended to enable the ESC to be fully cost-recoverable and support the ESC in ensuring strong regulatory oversight. This includes to regulate compliance with marketing and sales requirements as set out in the Code.

2.6.3 National consumer protections

In addition to VEU-specific protections, consumers are also covered by national legislation and standards in relation to marketing and general consumer protections.

Australian Consumer Law

The Australian Consumer Law (ACL) sets a principles-based standard for contracts, marketing and sales, product safety and quality for consumers purchasing goods and services for personal, domestic or household use. The ACL is established under the *Competition and Consumer Act 2010* (Cth) and the *Australian Consumer Law and Fair Trading Act 2012* (Vic) and is regulated by the Australian Competition and Consumer Commission (ACCC) and CAV.

The ACL, amongst other things:

- makes it an offense to engage in unconscionable conduct or to make false or misleading representations when selling to consumers
- prohibits a salesperson from using undue harassment or coercion
- sets out rules for telemarketers, such as the requirement to disclose the purpose of the call to the consumer, as well as ensuring caller line identification is enabled during the call
- restricts the hours in which unsolicited direct calls and reactive retention activities is permitted. In Victoria, these activities may only occur between 9 am to 8 pm on weekdays and 9 am to 5 pm on Saturday, with no activity permitted on Sunday or public holidays
- requires a salesperson to provide a written copy of a sales agreement within five business days (or longer if the consumer agrees) and provide consumers with a cooling off and termination period of 10 business days in relation to a telemarketing agreement
- prescribes requirements for salespersons to adhere to in relation to restrictions on supplying services, supplying goods above a certain value, and on requesting payment during the cooling-off period.

The ACL also contains provisions relating to doorknocking, as follows:

- leave immediately if the consumers asks them to and not return for 30 days
- not visit the consumer at all on Sundays or public holidays, before 9:00am or after 6:00pm on weekdays, and before 9:00am or after 5:00pm on Saturdays without the consumer's permission
- show a consumer their identity card and tell them their name, the contact details of the company they represent and why they are at the consumer's door
- tell the consumer about their right to cancel the contract if they change their mind.

⁵⁰ For more information about the VEU fees review, see <https://engage.vic.gov.au/revised-victorian-energy-upgrades-fees>.

If a sales agreement is made after a doorknock, the salesperson must provide the agreement straight after the consumer signs in person and include the following information:

- full terms and conditions of the agreement
- total cost (including any GST), or details of how the cost will be calculated
- any postal or delivery charges
- the salesperson's name and contact details
- the business's physical address, email, fax number (if they have one), and Australian Business Number or Australian Company Number
- cooling-off information.

In addition to lodging a complaint about VEU marketing with the ESC, consumers can lodge a complaint with CAV, for complaints related to ACL, including dealing with false or misleading claims and telemarketing standards.

The Do Not Call Register

The *Do Not Call Register Act 2006* (Cth) outlines rules for making unsolicited telemarketing calls and establishes the national Do Not Call Register, which is managed by ACMA. Consumers and their nominees can register their phone and fax number/s with the Do Not Call Register. Telemarketers and fax marketers have 30 days to recognise a number on the register and to cease contacting that number.⁵¹

The sale and purchase of marketing lists are relatively common practices and are not prohibited under this law. After a consumer registers with the Do Not Call Register, some groups can still contact them such as charities, research companies, political parties and education institutions.

If a consumer is on the Do Not Call Register and still receives calls from telemarketing companies, they can submit a complaint to either ESC or ACMA. This is because it is illegal for any non-exempt telemarketer to contact a number listed on the register.

Any business or individual who makes an unsolicited telemarketing call to a number on the Do Not Call Register may be in breach of the *Do Not Call Register Act 2006* and could face penalties and enforceable undertakings. This includes infringement notice penalties ranging up to \$222,000 for each day on which contraventions occurred.

Telecommunications (Telemarketing and Research Calls) Industry Standard 2017

Under the *Telecommunications Act 1997*, ACMA has set enforceable rules about how and when telemarketers can contact people.⁵²

The standard applies to any individual or organisation that makes or arranges for telemarketing or research calls to Australian numbers, including those not on the Do Not Call Register. This means that even if a particular business, such as a registered charity, is exempt from the requirements of the *Do Not Call Register Act 2006* and therefore allowed to call numbers listed on the register, it must still meet the requirements contained in the industry standards.

The standard includes requirements for callers:

- to obtain express consent from the account holder if a telemarketing call is made outside of the permitted hours
- provide certain information, including but not limited to, their name, the name of the business they are calling on behalf of and the purpose of the call
- provide certain information upon request, including identification and contact details
- ensure that the calling line identification is enabled at the time they make or attempt to make a call

⁵¹ More information about the Do Not Call Register is available at <https://www.acma.gov.au/>.

⁵² For more detail, see <https://www.donotcall.gov.au/industry/industry-overview/industry-standards/> For more detail, see <https://www.donotcall.gov.au/industry/industry-overview/industry-standards/>.

- terminate the call immediately if the person indicates they do not wish to continue the call or if they are not at home (unless they ask to continue the call)
- ensure the number they called from can be called back for at least 30 days.

The ACMA has a number of enforcement options available for breaches of the standards, from formal warnings to penalties of up to \$250,000.

The Privacy Act 1988 (Cth) and the Australian Privacy Principles

The Australian Privacy Principles under the *Privacy Act 1988* (Cth) apply to organisations with an annual turnover of more than \$3 million, certain small businesses with an annual turnover of less than \$3 million and Australian Government agencies.

In terms of direct marketing, these organisations must allow a consumer to opt out of receiving phone calls, emails, text messages and other marketing methods in relation to a product or service. The *Privacy Act 1998* does not apply to direct marketing covered by the *Do Not Call Register Act 2006* or the *Spam Act 2003*.

The Privacy Principles are regulated by the Office of the Australian Information Commissioner.

2.7 The regulatory regime does not prevent the problems observed

As section 2.6 outlines, the regulatory regime to protect VEU consumers from marketing and sales misconduct is comprehensive. There are few, if any, further state or national legislative or regulatory reforms that could be introduced to increase the industry requirements or compliance and enforcement powers for regulators in relation to telemarketing or doorknocking.

Despite these protections, the scale and severity of the problem has increased (section 2.3).

As this section outlines, it appears the regulatory regime is unlikely to be able to eliminate harmful and unwanted unsolicited calls due to inherent challenges in telemarketing and doorknocking.

2.7.1 Telemarketing and doorknocking are prone to unlawful and inappropriate conduct

In its submission, CALC highlighted research that shows strong links between unsolicited sales and misleading, deceptive and/or high-pressure sales tactics.⁵³ CALC expressed concern that telemarketing and doorknocking “...at worst leads to consumers being pressured into signing up for products and services that they do not want, do not understand, and may be unable to afford.”

This concern about the problems inherent in unsolicited marketing expresses itself differently for telemarketing (which appears more problematic in its scale) and doorknocking (which appears more problematic in its potential severity).

In relation to telemarketing, the ACMA, which regulates the national Do Not Call Register, advised in its submission:

Our compliance and enforcement experience with telemarketing has shown that government incentive programs such as the VEU have substantial potential to lead to unlawful calls by Australian businesses and/or to unlawful lead generation by unknown actors (with the intent to sell ‘hot’ lead lists to Australian businesses).

Scams about rebates are among the top ten scams in Australia for 2023, according to the National Anti-Scam Centre.⁵⁴ The primary delivery method of rebate scams is by phone, with those aged 65 and above most impacted.

⁵³ CALC and the Financial and Consumer Rights Council (2007), *Coercion and harassment at the door: Consumer experiences with direct marketers*. <https://consumeraction.org.au/wp-content/uploads/2013/01/Coercion-and-Harassment-at-the-Door-Energy-Marketing-in-Victoria.pdf> and CALC, Loddon Campaspe and WEstjustice (2017), *Knock it off! Door-to-door sales and consumer harm in Victoria*. <https://consumeraction.org.au/wp-content/uploads/2017/11/Knock-it-off-Consumer-Action-Law-Centre-November-2017.pdf>

⁵⁴ Scamwatch (2023), *Scam statistics*. <https://www.scamwatch.gov.au/research-and-resources/scam-statistics?scamid=all&date=2023>

For doorknocking, CALC's submission emphasised that if anything, the problems inherent in telemarketing sales (unfair, high-pressure sales tactics and the nature of the interaction being 'sprung' on the consumer) are heightened in doorknocking given the physical presence of the sales agent at the customer's home:

... the problem lies primarily with the sales method itself, rather than the product being sold. Our previous experience has shown that direct selling businesses conducting door-to-door sales will often focus on groups viewed as 'easy targets' including seniors and people from culturally and linguistically diverse backgrounds. The commission-based remuneration schemes in place for sales agents also serve to promote aggressive, high-pressure sales behaviour...

2.7.2 Businesses have reported challenges in managing third parties

APs are responsible for ensuring compliance with the Code of Conduct and national consumer protections, even if the marketing is undertaken by sub-contractors or other third parties.⁵⁵

During public consultation in late 2021, some APs and ESIA expressed concern that it was challenging for them to ensure good conduct from their third parties,⁵⁶ particularly lead generators.⁵⁷

Particular concerns they raised included:

- difficulties tracing who may be generating which leads and who may be non-compliant, particularly when the lead generation does not result in the creation of VEECs
- influence over third parties, who could simply switch to working with a different AP
- complexity in enforcing requirements on third parties because of the multiple parties involved
- difficulty in APs enforcing contractual requirements for third parties where the AP will have to pay for the actions of non-compliant third parties they contract with through forfeiting VEECs.

While these challenges do not override the obligations of APs under the Code of Conduct, they further point to inherent difficulties in ensuring compliant marketing practices.

2.7.3 Challenges for regulators to take action

To date, the ESC has issued warning letters to non-compliant providers, required APs to record the lead generation method on VEEC creation paperwork, undertaken referrals and liaison with relevant co-regulators, and delivered bespoke telemarketing-centric compliance projects to target third parties conducting non-compliant marketing on behalf of APs. Despite these interventions, complaints have increased rapidly.

The ESC has advised the department that its ability to take enforcement action in relation to telemarketing and doorknocking complaints is currently limited.

For telemarketing, this is for a number of reasons, including that telemarketers can often not be linked back to an AP. As noted in section 2.3.7, only 9 per cent of telemarketing complaints received by the ESC since 2020 were traced to an AP.

Identifying the parties responsible for potentially unlawful telemarketing calls can also be challenging for other regulators, especially where separate lead generation companies are involved. As ACMA states:

Due to a range of obfuscation techniques used in relation to these calls, including indications at least some of the parties involved are likely based offshore, identifying those responsible has presented challenges for consumers, telecommunications companies and enforcement agencies.

In terms of doorknocking, it can be challenging to identify the parties responsible for non-compliant doorknocking activities – they may not identify themselves, or the customer may not seek to identify them (for example, if they are turned away) limiting the regulator's ability to follow up. Even where non-compliance is identified, the harm to consumers (and the reputation of the program) may have already occurred.

⁵⁵ That is, businesses who interact with consumers but who are not APs, such as marketing companies that independently generate warm leads and then sell the details of prospective VEU customers to an AP.

⁵⁶ This includes subcontracted lead generators and installers and businesses who sell information about completed upgrades to 'aggregator APs' who complete the paperwork required to register and trade certificates.

⁵⁷ Lead generation (under the VEU program) refers to any activity carried out for the purposes of identifying, attracting or engaging with consumers who may enter into a contract for the undertaking of a VEU activity. Lead generation can include but is not limited to phone calls, doorknocking, in-person approaches, emails, and online advertising.

2.7.4 Consumers do not have confidence in the regulatory framework

Feedback by members of the public and consumer advocacy groups indicates they have concerns with the effectiveness of the protections in place. For example, this member of the public describes:

...my phones are all on the dont [sic] call list and have been for more than 7 years, but I regularly receive calls from VEU program participants which is in breach of Australian Law and also the VEU Code of Conduct. I have been abused and harassed by callers when I point out that they are breaching [the] VEU CoC.

Themes from consumer complaints and survey responses include a sense that their complaints do not lead a resolution of the issue and that telemarketers are not being held accountable. In its submission, VCOSS expressed concern that “Consumers are not getting the proper protections that they are entitled to under the law.”

3. Objectives

This chapter describes the objectives of the proposed regulations. It also lists other relevant legislative instruments, to add context and explain their interactions with the objectives of the proposed ban.

3.1 Victorian climate and energy policy objectives

As section 2.2 describes, the Victorian Government has set a target to reduce greenhouse gas emissions by 50 per cent from 2005 levels by 2030 and by 75-80 per cent by 2035. The energy sector is a major contributor to the achievement of this target.

The government's recent *Victoria's Climate Change Framework* outlines a range of strategies to decarbonise the electricity and gas sectors while ensuring affordable, safe, secure and reliable energy for Victorian consumers. These strategies include increasing energy efficiency and productivity across the economy and moving from using gas to electricity.

The VEU program materially contributes to this agenda by providing incentives to households and businesses to improve the energy efficiency of their premises, appliances and equipment and to transition from using gas to electric appliances and equipment. Energy upgrades from the program reduce greenhouse gas emissions and reduce consumers' energy bills. Below is a summary of the VEET Act and the VEU Code of Conduct given they are the primary legal instruments for implementing the VEU program's objectives.

3.2 VEET Act objectives

The objectives of the VEET Act are to:

- reduce greenhouse gas emissions
- encourage the efficient use of electricity and gas
- encourage investment, employment and technology development in industries that supply goods and services that reduce the use of electricity and gas by consumers.

Strong consumer participation is key to the success of the VEU program, achieving the VEET Act objectives, and in turn, saving Victorians on their energy bills and achieving the state's climate, decarbonisation and electrification goals.

3.3 VEU Code of Conduct objectives

While the VEET Act sets out the overall framework for the VEU program, details such as industry obligations are set out in the current VEET Regulations 2018, which sits under the VEET Act.

The purposes of Schedule 6 of the current Regulations (the VEU Code of Conduct) are to (in plain English):

- regulate the conduct of APs and third parties under the VEU program
- ensure consumers have sufficient information to properly understand - and make informed decisions about - the VEU program, energy upgrades and their rights and obligations
- ensure APs have a dispute resolution framework to handle any complaints by consumers.

The principles of the Code of Conduct are (in plain English) to ensure that APs and third parties:

- act in a professional and ethical manner
- protect the interests of energy consumers and promote confidence in the VEU program
- meet high standards of conduct in their dealings with energy consumers and other persons
- comply with the Act; the VEET Regulations; the Secretary's specifications; the Code of Conduct; and Australian Consumer Law.

3.4 VEU telemarketing and doorknocking ban objectives

To ensure the VEU program continues to meet the VEET Act objectives, the objectives of the ban are to:

- improve the customer experience of the VEU Program and the program's reputation so it can continue to achieve its legislated objectives;
- prevent Victorians from being exposed to the risks and harms of inappropriate marketing practices, including nuisance, invasion of privacy, misleading information, pressure tactics and the risks of scams and fraud;
- protect older and vulnerable Victorians from heightened risks and amplified harms; and
- minimise the costs associated with achieving the above objects to consumers, the VEU industry, and the government.

The above intents of the proposed regulations are designed to ensure the program continues to meet the VEET Act objectives.

4. Options for addressing the problem

This chapter describes the policy options considered in this RIS, how they were selected and why other options were deemed not feasible.

4.1 Options to be evaluated

Taking account of the scope of this RIS (Chapter 1), nature of the problem (Chapter 2) and policy objectives (Chapter 3), three policy options were developed, to be evaluated against a base (or reference) case involving no action.

4.1.1 The base case — what would happen if no action were taken?

The base case provides the baseline against which Options A, B and C were assessed. The base case reflects what will happen in the future if these Regulations were not made, effectively maintaining the status quo.

As described in Chapter 2, the department's consultation and analysis of the available evidence indicates that:

- the level of industry misconduct during telemarketing and doorknocking under the VEU program is growing
- the severity of poor behaviour by industry is worsening
- the issue appears to be relatively widespread across industry.

The Department assumes that under the base case, inappropriate industry behaviour will continue to worsen, resulting in progressively more negative impacts to consumers, the VEU program's reputation and APs as it becomes hard for them to market due to declining trust and social licence.

4.1.2 Option A: Telemarketing ban only

Option A involves a complete prohibition of cold-calling telemarketing under the VEU program, to take effect from 1 May 2024 (subject to regulatory approvals). That includes all types of upgrades (products and services) and all types of consumers, including households and small, medium and large businesses.

Under this option, *solicited* marketing or sales calls are permitted if they are:

- at the request of the consumer, for example if they email or leave a voicemail for an AP and ask to be called back
- with the express permission of the consumer, for example if they provide their phone number at a shopping centre stall on the understanding they will be called about VEU products and services

Restrictions that apply to solicited calls to consumers include:

- they cannot be outsourced to third party marketing companies. They may only be made in-house by an AP, their employee/s or their contractor/s
- if a consumer opts in to be called, they can only be called within three months or within the timeline specified when they opted in.

Calls not relating to marketing or sales can still be made if:

- they are to current customers, for example, to arrange the installation of a VEU energy upgrade or to promote a VEU product or service to an existing (but not prospective) Solar Homes customer
- there is a product default or recall that affects a previous customer. Otherwise, previous customers who have not opted in to be called can only be contacted via passive marketing methods, such as email or text.

Doorknocking is still permitted under Option A, and must still be carried out in accordance with the VEU Code of Conduct requirements and other existing consumer protections.

Option A was selected for analysis because it was deemed to:

- be consistent with stakeholder and broader community expectations about urgent action to address the problem of telemarketing
- provide consumers the opportunity to continue to access energy efficient upgrades through doorknocking, given anecdotal evidence and stakeholder feedback that much doorknocking is appropriate and compliant with the VEU Code of Conduct.

4.1.3 Option B: Combined ban on telemarketing and doorknocking

Option B involves a telemarketing ban as per Option A, as well as a ban on door-to-door sales (doorknocking), to be introduced at the same time, on 1 May 2024 (subject to regulatory approvals).

The doorknocking ban also includes all types of upgrades (products and services) and all types of consumers, including households and small, medium and large businesses.

Under this option, *solicited* marketing or sales visits to a consumers' premises are permitted if they are:

- at the request of the consumer, for example if they contact an AP and ask for someone to visit their premises to provide a quote
- with the express permission of the consumer, for example if they provide their address at a shopping centre stall on the understanding they will be visited in relation to VEU products and services

Restrictions that apply to solicited marketing visits to consumers include:

- they cannot be outsourced to third party marketing companies. They may only be made in-house by an AP, their employee/s or their contractor/s
- if a consumer opts in to receive a marketing visit, they can only be visited within three months or within the timeline specified when they opted in.

Option B was selected for analysis because it was deemed to:

- decisively and immediately address all material and concerning sources of unsolicited marketing to VEU consumers, and avoid any risk of inappropriate marketing behaviour by industry shifting from telemarketing to doorknocking
- be clearer than option C to communicate to consumers, APs and third parties – and easier for them to understand than a staggered ban
- be simpler to administer and regulate – aligned approach and timeframes make it easier to establish compliance expectations and, coupled with reforms to ESC powers, more straightforward for the ESC to take compliance and enforcement action.

4.1.4 Option C: Phased ban on telemarketing and doorknocking

Option C is the same as Option B, except that the telemarketing ban takes effect from 1 May 2024 (subject to regulatory approvals) and the doorknocking ban does not take effect until 1 August 2024.

Option C was selected for analysis because it:

- takes urgent action to protect consumers from the impacts of telemarketing, where there is evidence of material, rapidly growing and problematic marketing by industry
- also addresses the growing risks and harms associated with doorknocking, while allowing time for APs who currently use doorknocking to transition towards other marketing methods.

The remainder of this chapter provides more detailed rationale on the design of the policy options and why alternative options were not assessed in this RIS.

4.2 Common features across options

As this section describes, all three ban design options involve the same approach and rationale to:

- banning telemarketing
- allowing solicited marketing
- covering all types of energy upgrades and all types of consumers under the ban/s
- still allowing digital, traditional media and direct marketing

- ensuring sufficient compliance and enforcement powers for the ESC
- complementary measures to manage the risk of any unintended impacts.

4.2.1 Why an immediate ban on telemarketing is required under all options

As foreshadowed by the Minister for Energy and Resources' announcement of the government's intention to introduce a ban on telemarketing under the VEU and the initial public consultation (section 1.2.2), all options in this RIS include some form of a telemarketing ban. This is for the following reasons:

- Poor telemarketing practices are growing, despite the Code of Conduct having been in operation for more than 12 months. The issue is widespread across the VEU industry (section 2.3).
- Telemarketing is creating considerable risks and harms to consumers, including nuisance, invasion of privacy, misleading information, pressure tactics and perceived risks of scams and fraud (section 2.4). Older and vulnerable Victorians are subject to heightened risks and amplified harms (section 2.4.4).
- Telemarketing is failing to meet community expectations (section 2.5) and is damaging the integrity and reputation of the VEU program. This puts at risk the program's ability to meet its legislated objectives (section 2.4.5) and contribute to Victoria's broader climate and energy policy agenda (section 2.2).
- Alternative policy measures, such as additional requirements on industry, additional compliance efforts or a major re-design of the program, are not feasible (discussed below).

The telemarketing ban will be introduced as soon as possible, on 1 May 2024 (subject to regulatory approvals), given the urgency of the risks and harms of marketing to Victorians and, conversely, the benefits to consumers of removing these risks and harms (sections 2.3 and 2.4).

Most stakeholders argued for the ban to be introduced immediately or as soon as practicable, or with no more than three months' notice. The department is required under the *Subordinate Legislation Act 1994* to consult with stakeholders through this RIS and make regulatory changes to enable the ban. Due to these steps, the ban can be introduced no earlier than May 2024.

The department notes that APs (and the VEU industry more broadly) will need some time to ensure they understand their obligations under the ban, transition to other marketing methods and (where needed) adjust their business models and operations. In its submission, ESIA suggested that APs needing to transition should be able to do so within three to six months — particularly given awareness about high pressure sales tactics has been in the media since the Victorian Government's media release of 22 June 2023, and more broadly since the VEU Code of Conduct came into effect in July 2022. Most industry survey respondents suggested three months was sufficient, however a small number suggested six months, twelve months or even two years or longer. The department notes that traditional energy retailers had a six-month transitional period before the ban on telemarketing commenced. A 1 May 2024 start date is more than ten months after the telemarketing ban was first announced.

4.2.2 Approach to solicited marketing

Consumers soliciting, requesting or giving their permission to receive a call (or in the case of Options B and C, a doorknock) about VEU products or services is by definition not a 'cold-call' or unwanted door-to-door sale. Solicited marketing is hence proposed to be permitted under all ban design options, in line with a similar ban on traditional energy retailers.

The proposed restrictions on solicited marketing will ensure consumers who opt in to a marketing call or doorknock are still protected, in addition to current protections under the VEU Code of Conduct.

4.2.3 Rationale for a blanket ban on all types of upgrades and consumers

The telemarketing ban is proposed to cover all types of upgrades (products and services) and all types of consumers, including households and small, medium and large businesses. Similarly, a doorknocking ban under Options B and C would also cover all types of upgrades and consumers.

The department considered targeting the ban to high-risk products and services and/or particular types of consumers. There is evidence that the problem largely involves free or low-cost products (such as low-flow shower roses, weather sealing and in-home displays) and largely affects households (as the main type of consumers who engage in the VEU program) (section 2.3). In addition, market research undertaken by the

department in late 2021 found that 72 per cent of *medium-sized* businesses who would like to stay informed of future VEU incentives preferred a phone call and 47 per cent preferred a doorknock (even though calls and doorknocks were the least commonly preferred marketing methods) (section 2.3.1). Finally, the telemarketing ban on traditional energy retailers only applied to households.

However, targeted ban design options were discarded as they would be complicated, confusing and create inadvertent risks. There are more than 20 types of energy upgrades available under VEU and the department is working to further increase the range of products and services. Consumers, most of whom expressed support for a blanket ban, would be unlikely to know what is prohibited and what is allowed and would likely become confused and frustrated. Industry, who have asked for clear guidelines on the ban, would likely experience implementation challenges. Similarly, regulators would be likely to have an increased compliance effort as the range of energy upgrades increases and 'bad actor' marketers take advantage of ambiguities and uncertainties arising from the ban design. Finally, there is a risk of poor marketing conduct moving to non-prohibited types of upgrades or consumers. For example, EWOV cautioned about risks associated with higher value upgrades in future, due to the higher dollar value of these initiatives (as has been the case in solar door-to-door sales).

4.2.4 Approach to contacting previous customers

APs are prohibited from making marketing calls to previous customers under all options and making marketing visits to previous customers under Options B and C. The only exceptions to this are if a previous customer solicits or opts-in to a marketing call or visit (described above) or if there is a product defect or recall (in which case calls should be allowed).

The department considered feedback by some industry stakeholders who advocated for marketing to be permitted to previous customers, particularly consumers who had been customers within the past 12 months. This was suggested to be allowed without restrictions, or potentially with requirements about who could make the calls (e.g., only an AP or qualified trade) and under what conditions (e.g., only during certain hours). The stakeholders highlighted the importance of being able to leverage the trust built through the consumer-AP relationship.

The department discarded this design option given the risks and harms to consumers and the program's reputation. Analysis of consumer complaints found it was common for consumers to receive unwanted marketing calls and doorknocks about VEU products and services after they had already installed a VEU energy upgrade. While it was unclear how often these unwanted calls and doorknocks were targeted to an AP's previous customer or merely coincidental, consumers' perceived they were targeted as a previous customer, which negatively impacts the program's reputation. Most members of the public and consumer groups cited concerns about the risks and harms of allowing contact to previous customers, which was seen to outweigh the benefits of any additional upgrades made. Others also highlighted potential complexities in implementing the ban. For example, VCROSS argued in its submission that a loophole could be created where businesses could seek to entice consumers with an attractive initial upgrade (possibly a low or no-cost item) then use that initial upgrade as an opportunity to make subsequent unsolicited sales approaches for higher-value items.

4.2.5 Marketing methods still permitted

For clarity, all ban design options still allow:

- digital advertising (e.g., texts, emails, social media, websites, search engine optimisation, etc.)
- traditional media advertising (e.g., radio, television, newspapers, displays, etc.)
- direct marketing (e.g., stalls, leaflets, brochures, mailers, etc.)

As discussed in section 1.3.1 and Appendix C, the department has considered feedback from some stakeholders that the VEU program include further protections for some of these methods. However, these methods involve no evidence of large-scale or problematic misconduct, are less intrusive than telemarketing or doorknocking, are relatively straightforward to regulate and have not been included in other energy marketing bans.

Doorknocking is still permitted under Option A but banned under Options B and C (see below for a discussion of the approach to doorknocking).

Telemarketing is banned under all options.

4.2.6 The ban design must ensure the ESC can take strong action

The ESC will need to have a range of enforcement tools to ensure compliance with the ban, regardless of the option.

Subject to stakeholder feedback and regulatory approvals, the final Regulations will include the following new prescribed Code of Conduct requirements:

- **cold calling and/or doorknocking constraints:** an AP or scheme participant cannot cold call and/or conduct door-to-sales at a person's premises, except in certain circumstances where the person has provided express consent to being contacted
- **restrictions on arranging another person to conduct a cold call and/or doorknock:** an AP or scheme participant cannot arrange an employee, contractor or another person (that is, a third party) to cold call and/or conduct door-to-door sales at a person's premises on their behalf
- **prohibitions on obtaining a person's contact details:** an AP or scheme participant cannot purchase a person's contact details from a third party in relation to a person who has previously expressed interest in a product upgrade under the VEU program following a cold call and/or door-to-door sale.

The exact scope (telemarketing and potentially doorknocking) and timing (1 May and/or 1 August 2024) of these requirements is the subject of analysis in the RIS.

Subject to regulatory approvals, the ESC will have a range of powers and functions to regulate compliance with the ban, including to:

- apply conditions, suspend or cancel an AP's accreditation for breaches of the Code
- issue warning letters to non-compliant businesses
- issue penalty notices or commence civil proceedings for civil penalties (or other orders)
- monitor industry activity and consumer complaints and investigate potential non-compliance
- notify APs about scheme participants who have a poor compliance record
- provide industry with guidance on its obligations
- require an AP to undertake an independent assurance audit at least every two years, which may include consideration of their marketing practices
- request an AP to demonstrate they are competent and capable of compliance, including with the Code, in order to remain accredited
- refuse to register or require the surrender of any VEECS created in contravention of program rules
- undertake compliance audits

4.2.7 Measures to manage the risk of any unintended impacts

Stakeholders had mixed views on the impacts of a telemarketing and/or doorknocking ban on the VEU market and any flow on impacts for APs, consumers access to upgrades and the program's ability to meet its targets.

Some felt confident that the bans would have few, if any, detrimental impacts and require little transition across the industry or any complementary measures.

On the other hand, some others (mostly from the VEU industry) expressed concerns that the ban might:

- increase the VEEC price, with corresponding increases in program costs passed through to consumers through their energy retail bills
- make it more difficult (or not possible) to achieve the VEU program targets
- mean consumers (including vulnerable consumers) know less about VEU and find it harder to learn about and access energy upgrades
- create negative impacts for industry and lead to some APs not offering certain upgrades to consumers, not offering upgrades in regional areas or withdrawing from the market

- inadvertently lead to an increased rate of poor industry behaviour across telemarketing, doorknocking and/or digital marketing methods.

These stakeholders differed in their views about the extent and longevity of these potential effects. It was generally felt that a doorknocking ban would involve greater impacts than a telemarketing ban. They made a range of suggestions to avoid or moderate the risk of any unintended impacts.

To manage these risks and support the successful implementation of the ban, the department will pursue the following suite of complementary policy to support industry to transition to the ban, maintain consumer engagement in VEU, ensure a steady flow of VEECs and meet the program targets.

Notice and guidance for industry support to transition and keep the program strong

The department is publishing the proposed ban implementation date as soon as possible through this RIS to allow adequate notice for APs to transition to alternative marketing methods (see section 6.1 for details). Some APs felt this was the only transitional requirement for industry. The department and the ESC will also clearly communicate the ban requirements, as suggested by the VEU industry, consumer advocacy groups and members of the public (see section 6.2 for details).

Encourage greater consumer engagement in VEU

Different stakeholder groups, including the general public, consumer groups and the VEU industry, suggested introducing more and better ways for consumers to engage with the program, including through increased government promotion and developing new ways for consumers to engage. Stakeholder feedback and relevant research and analysis by the department is summarised in Appendix E.

Based on this feedback, the department is developing a communications package to further promote the VEU program to households and small, medium and large businesses.

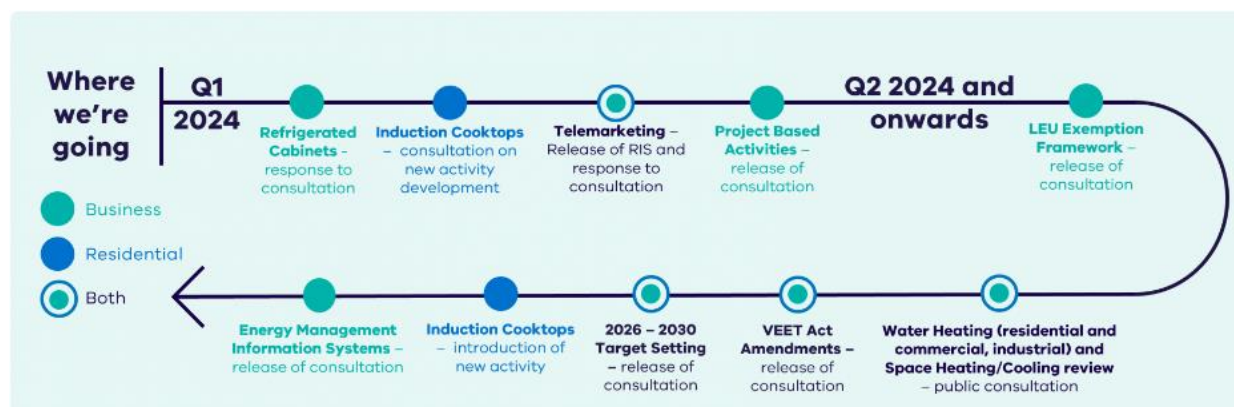
In addition, the ESC has advised the department that it will investigate options for making improvements to the public register of APs and for promoting the register to consumers. The register includes details about APs, including their business name, number of premises upgraded, number of upgrades provided, phone number and web address.⁵⁸ Consumers can search the register to find APs that service households or business, provide particular types of upgrades or service particular regions.

Expedite the development of new and revised energy upgrades

Some in the VEU industry suggested increasing the range of eligible energy upgrades (also called ‘activities’) available under the program, with a focus on energy efficient products and services that incentivise the switch from gas to electrical appliances.

The department released its latest development schedule for new and revised activities as part of its market statement on 14 September 2023 (see Figure 14).⁵⁹ A further public update will be provided before the end of 2023, and the department is actively looking into new activities that can be introduced under the program in 2024.

Figure 14: The department’s new and revised activity work program



⁵⁸ <https://www.esc.vic.gov.au/victorian-energy-upgrades/energy-saving-information-consumers/find-accredited-provider>

⁵⁹ For details, see <https://www.energy.vic.gov.au/for-industry/victorian-energy-upgrades-for-industry/industry-market-update-work-program>.

4.3 Features that vary between design options

This RIS assesses and seeks stakeholder feedback on the trade-offs (in terms of risks, harms and benefits) involved in three different options for doorknocking, as follows:

- Banning telemarketing only from 1 May 2024 and continuing to allow doorknocking (Option A)
- Banning both telemarketing and doorknocking from 1 May 2024 (Option B)
- Banning telemarketing from 1 May 2024 and banning doorknocking from 1 August 2024 (Option C).

Anecdotal evidence and stakeholder feedback indicates that most doorknocking is appropriate and compliant with the VEU Code of Conduct. However, there are complaints regarding more serious incidents (at times involving older and vulnerable Victorians). In addition, there are inherently greater risks and harms arising from a doorknocker’s physical presence in a consumers’ home or workplace (section 2.4).

Consumers and consumer groups largely supported a doorknocking ban as soon as possible^{2.5.3}. Doorknocking has been banned under the Solar Homes program and for the energy retail sector.

Doorknocking is heavily used in the VEU program and involves more local Victorian workers. Some industry stakeholders considered that banning it would have greater implications for the program, consumers who access energy upgrades through this marketing method and the VEU industry. More adjustment may be needed if it were banned.

There are also cross-interactions between telemarketing and doorknocking. For example, a telemarketing only ban risks inappropriate marketing behaviour continuing by industry shifting to doorknocking.

Finally, while inappropriate doorknocking behaviour is easier to trace compared with telemarketing (section 2.3.7), it may also have challenges with enforcement, with doorknockers potentially choosing not to identify themselves if the customer response is a negative one. The VEU program Code of Conduct requires identification however it does not have perfect compliance.

4.4 Summary of the policy options assessed

Table 7 below sets out what is and is not permitted under Options A, B and C.

Table 7: Summary of the three policy options

	Option A: Telemarketing ban only	Option B: Combined telemarketing and doorknocking ban	Option C: Phased telemarketing and doorknocking ban
Marketing calls	Prohibited from 1 May 2024 for all types of energy upgrades and all types of consumers - unless the consumer requests or gives express permission		
Restrictions on solicited marketing or sales calls	Call must be made within 3 months (or within a timeline specified when the consumer opts in) Call cannot be outsourced to third party marketing companies		
Calls to existing customers	Allowed, including ‘upselling’ a new VEU product to an existing VEU or other customer		
Calls to previous customers	Prohibited unless there is a product default or recall under all options		
Doorknocking	Allowed in accordance with existing consumer protections	Prohibited from 1 May 2024 for all types of energy upgrades and all types of consumers - unless the consumer requests or gives express permission	Prohibited from 1 August 2024 for all types of energy upgrades and all types of consumers - unless the consumer requests or gives express permission

Restrictions on solicited marketing or sales visits to consumers' premises	Existing consumer protections	Visit must be within 3 months (or within a timeline specified when the consumer opts in) Visit cannot be outsourced to third party marketing companies
Other forms of marketing that are still permitted	Digital advertising (e.g., texts, emails, social media, websites, search engine optimisation, etc.) Traditional media advertising (e.g., radio, television, newspapers, displays, etc.) Direct marketing (e.g., stalls, leaflets, brochures, mailers, etc.)	
Related measures	The department is pursuing complementary policy to ensure the successful implementation of the bans once they take effect	

4.5 Policy options not assessed

The department considered other policy options but they were not deemed feasible, not appropriate or not sufficiently effective and were hence not assessed as part of this RIS.

4.5.1 Additional requirements on industry

As outlined earlier in this RIS, the regulatory regime (including improvements being made to the ESC's powers and functions) is unlikely to be able to substantially reduce harmful and unwanted unsolicited calls and door-to-door-sales. This is because:

- Beyond regulatory improvements currently underway, there are few, if any, further state or national legislative or regulatory reforms that could be introduced to increase the industry requirements or compliance and enforcement powers for regulators in relation to marketing (section 2.6).
- Despite these protections, the scale and severity of the problem has increased – particularly for telemarketing, but also for doorknocking (section 2.3).
- Both telemarketing and doorknocking, because of the nature of the interactions involved, are prone to unlawful conduct and the risks and harms experienced by consumers (section 2.7.1).
- Businesses report challenges managing compliance from third parties (section 2.7.2), regulators experience challenges tracing and taking action against non-compliant parties (section 2.7.3) and consumers do not have confidence in the regulatory framework (section 2.7.4).

The department considered suggestions by some stakeholders of a range of alternatives to a ban. However, these options were either already in place, impractical or unlikely to be effective in addressing the problem (Table 8). These options were hence not assessed as part of this RIS.

Table 8: Alternative regulatory measures suggested by stakeholders

Suggestion	Why not considered suitable
Increased penalties or loss of accreditation for misconduct.	Increased penalties or loss of accreditation for misconduct do not assist in circumstances where telemarketers are unable to be traced back to a particular AP or where doorknockers cannot be traced to a particular AP, as the marketer has not identified themselves following an adverse customer reaction.
Allow telemarketing calls under certain conditions (e.g., the caller must only call during certain times, identify themselves, etc).	These requirements already exist under the VEU Code of Conduct and alone have been insufficient to prevent the telemarketing problem.
Legislation to establish a "Truth in Calling Number ID", ⁶⁰ which makes it unlawful for a caller's	This would improve the ability for regulators to trace calls, but would need to be implemented through national legislation and is beyond the scope of the VEU program.

⁶⁰ This refers to a United States law called the *Truth in Caller ID Act of 2009*, see <https://www.congress.gov/bill/111/1th-congress/senate-bill/30> for details.

identification to show a phone number different to the one actually being used ⁶¹ .	
Require full call recording of telemarketing calls.	Offending telemarketers already do not abide by existing requirements under the Code, ACL and Do Not Call Register. It is unlikely that they would abide by a new requirement to record calls. This option relies on enforcement against hard to trace telemarketing companies.
Banning the use of overseas telemarketing companies.	This option would be difficult to enforce compliance with, as it relies on enforcement against hard to trace telemarketing companies. It also does not address the behaviour of local cold callers and door-to-door salespersons.

4.5.2 Additional compliance measures

The department also considered whether a change to compliance and enforcement approaches under existing legislation and regulations could sufficiently resolve the problem. Stakeholders also made suggestions in this respect (Table 9), which were also not considered suitable. In general, it was determined that as regulators have been unable to prevent the observed harm to date using currently available regulatory frameworks, these measures would likely be insufficient.

Table 9: Compliance measures suggested by stakeholders

Suggestion	Why not considered suitable
Establishing a means for industry and consumers to 'blow the whistle' on inappropriate marketing behaviour without fear of exposure or threats, with action taken by the regulator to ensure it is not abused.	Consumers already can and do lodge complaints to the department, the ESC and/or ACMA. There is no regulatory barrier for industry to also lodge complaints or alert regulators to inappropriate marketing behaviour. ⁶²
An independent audit or expert review of APs using doorknocking at least annually to ensure that providers are not using tactics likely to cause harm.	The ESC is developing its assurance audit program, and it is open for the ESC to decide that reviewing lead generation practices be part of the scope of these audits on an ongoing or <i>ad hoc</i> basis. However, this measure is unlikely to be able to sufficiently address the problem of doorknocking. In addition, the wider the scope of these audits and the greater the frequency with which they are required, the higher the cost to APs (and ultimately, consumers).
APs providing the ESC further data about the clients they work with, including demographics of clients they sourced through doorknocking to allow the regulator to identify if some companies are exploiting vulnerable groups.	This suggestion is likely to be resource intensive and have only a small detection and/or deterrent value. Collection of such data may not identify non-compliance or even accurately identify where there is likely to be greater risk of non-compliance, as customer information is only part of any risk assessment. Further there would need to be same means to validate this data in order to test its accuracy and robustness and to ensure that unfavourable information was not being withheld. This would be a time and resource intensive exercise.
Audits for APs that create more than a certain number of VEECs.	Analysis by the department indicates that inappropriate marketing is not correlated with APs that generate over a certain amount of

⁶¹ Scammers often use this technique, called 'caller ID spoofing' to increase the chance that their call will be answered, as the public has become more wary about answering calls from international or unusual looking numbers. For details, see <https://www.idcare.org/fact-sheets/caller-id-spoofing>

⁶² This suggestion was also made but is already in place (see section 2.6). This is of limited assistance if the telemarketer or doorknocker of concern cannot be identified and is likely to be resource intensive.

	<p>VEECs. The ESC has advised that both small and large APs conduct non-compliant marketing.</p> <p>The ESC already has discretion to conduct an audit (or to require the AP to undertake an independent audit) of an AP's compliance with the VEET Act and regulations, if the ESC has reasonable grounds to suspect the VEET Act or regulations have been contravened.</p>
Maintain a public complaints register.	<p>The ESC Annual Report for 2021-22 provided a summary of key VEU program complaints, with one of the key causes of concern being telemarketing.⁶³</p> <p>The introduction of a public register would likely not prevent marketers who are unable to be identified from continuing to breach the current requirements.</p> <p>A register might also encourage persons with a personal dislike of a business or its staff to write a negative false complaint. This could cause reputational damage to a compliant and competent industry participant.</p>

4.5.3 More fundamental changes to the VEU design

The department considered a couple of stakeholder suggestions that would significantly alter the design of VEU, including:

- Issuing vouchers to consumers for each available energy upgrade and a list of accredited suppliers they can contact if they are interested. The consumer would then give the voucher to their chosen AP upon the completion of the work, which the AP would then provide to the ESC for payment.
- An online form for consumers to apply for upgrades, similar to the Power Saving Bonus application.

These suggestions would substantially change the VEU program from its current market-based design. Unlike other government programs, which involve set rebates or discounts and are fully delivered by government, the VEU program allows private APs to compete and innovate in their market offerings to consumers. See Appendix A for an explanation of how the program operates.

The department will not pursue a major change to the program design to address the problem of inappropriate marketing. A market-based program design allows APs to compete to offer the best possible discounts for consumers, taking into account their premises, geographic location and what others in the market are willing to offer. This allows the program to achieve ambitious greenhouse gas emission reduction targets at the lowest possible overall cost. A market-based program design also allows APs to respond to consumer preferences, including marketing preferences (within constraints such as the VEU Code of Conduct and the proposed telemarketing ban). Survey feedback and market research by the department about VEU indicate that consumers prefer a wide variety of promotional methods (Appendix E).

4.5.4 Other stakeholder suggestions to manage the ban impacts

In addition to the complementary measures to manage the impacts of the ban/s (described above), some VEU industry stakeholders made other suggestions. These are described in Table 10, along with a departmental response.

Table 10: Other stakeholder suggestions for complementary policy to support the ban

Stakeholder suggestion	Stakeholder type	Departmental response
Reduce VEEC processing times and communicate any delays in VEEC creation with APs, to help manage any cash flow impacts of the ban for industry.	VEU industry	The department has shared this suggestion with the ESC as the administrator of the VEU program. The ESC advises that it regularly seeks opportunities to streamline VEEC processing outcomes, including a project to update the registry system. However, it is critical for the ESC to be able to review VEECs created

⁶³ Essential Services Commission Annual Report for 2021-22, page 120.

		on a risk basis to protect the integrity of the program. Efforts are made to communicate delays in VEEC creation with APs.
Provide funding to APs to support them to transition to alternative marketing methods.	VEU industry	Suggestions not adopted. These options would increase program costs. The department will support APs to transition in other ways, as described above.
Increase financial incentives for consumers to participate in VEU.	VEU industry	

5. Determining the preferred option

This chapter summarises the methods used to evaluate and compare the options and the costs, benefits, and market impacts of the preferred and alternative options.

5.1 Approach to assessment of options

5.1.1 Multi-criteria assessment

The decision-making tool used in this RIS is a multi-criteria analysis (MCA). MCA is a useful tool when it is not feasible or practical to quantify all of the main costs and benefits, and when the main objectives of the policy relate to social, equity or fairness issues, which can be difficult to express in dollar terms.

For the purpose of this RIS, the department has attempted to quantify the costs and benefits of each option presented to the extent data is available; this quantitative analysis has been used to inform the scores for each criterion in the MCA. However, several of the identified costs and benefits cannot be feasibly quantified and have been assessed and scored using a mix of quantitative and qualitative information. Therefore, the department does not propose to undertake a full cost-benefit analysis including Net Present Value (NPV) calculations for the options under consideration due to the absence of key inputs to these calculations.

The MCA transparently shows the choices made in comparing the policy options (including criteria, weightings, data sources and scores) and how the department made these judgments to arrive at the preferred option.

5.1.2 Criteria used to assess the options

Four criteria were determined, which were weighted in accordance with their importance to the objectives of the RIS and proposed Regulations as outlined in Chapter 3 (Table 11).

Table 11: Criteria to assess the policy options against

Criteria	Description	Weighting
Customer experience and program reputation	<p>The ban design should increase VEU consumers' safety, satisfaction, service quality and value during the marketing and sales process. It should particularly seek to protect older and vulnerable Victorians.</p> <p>Improving these factors is expected to strengthen the program's integrity and reputation.</p> <p>Improving the program's integrity and reputation is essential to achieving its long-term goals of emissions reductions and energy savings, through social license and support for the program.</p>	50%
Costs to consumers	<p>The ban design should minimise costs to VEU consumers and energy consumers across the board. This includes the impacts on energy bills (as a consequence of any changes to the program, which retailers typically pass through to consumers), costs of missed opportunities for upgrades, costs of resolving disputes, and efforts taken to understand the ban and their rights as consumers.</p> <p>This criterion is weighted slightly higher than impacts on the VEU industry, as the majority of increased industry costs can be passed on to consumers through increased certificate prices. However, as costs are shared by all consumers, impacts on individuals are noticeable but not significant.</p>	25%

Impacts on the VEU industry	The ban design should minimise costs to APs, third party marketing companies and liable entities. It should also allocate costs and benefits fairly to encourage good practice in the industry. That is, participants with good compliance should incur lower costs compared to those with a poor compliance history and who impose costs on consumers and other APs (through damaging the program reputation). The ban design should also seek to minimise any adverse impact on employment in Victoria. Industry impacts are expected to be short-term in nature. The ban design should support long-term VEEC generation, which is dependent on program reputation. Program reputation benefits to APs are captured in the first criteria.	20%
Costs to government	The ban will incur costs to government to administer, especially to the ESC as the regulator. The design of the ban should not impose unreasonable or significant additional administrative costs to government to implement, when public funds could be better allocated elsewhere.	5%

Why impacts on program targets were not assessed

There was not enough evidence to suggest the VEU program targets would not be met if the bans are introduced. Energy retailers are required under the VEET Act to acquire a set number of VEECs each year until 2025, as set out in the Regulations. As such, the market demand for VEECs will remain unchanged regardless of the bans. For any AP who elects to leave the program as a consequence of the bans, another AP could expand (or a new AP enter the program) to meet market demand for VEECs, thus the same number of VEECs will be created.

It is possible that APs will adapt and utilise other marketing channels, or promote other types of upgrades to consumers, the costs of which are likely to be passed through to consumers and will be discussed later in this chapter. However, it is assumed that the ban will have limited effects on the number of VEECs generated in the market; as such, the RIS does not assess this factor.

The RIS does cover potential shifts in VEEC prices and increased costs to consumers as the VEEC market establishes a new supply-demand equilibrium.

5.1.3 Scoring each option against the criteria

Each option was scored against each criterion on a scale of -10 to +10. The standards for these scores are defined in Table 12. Each of these scores are assessed by comparing outcomes for each option to the 'base case' of no policy action being taken, that is, continuing to allow marketing as per the current Code of Conduct where telemarketing is permitted under the program (as discussed in section 2.6). Scores against individual criteria were then weighted and combined to give an overall score for each option.

Table 12: Criterion score standards

Criteria score	Standard
-10	A score of -10 means the option performs significantly worse than the base case.
0	A score of zero means the option achieves outcomes to the same extent as the base case.
+10	A score of +10 means the option achieves outcomes in line with the criteria to a great extent.

5.1.4 Data sources and methods

Assessment of options has been informed by quantitative and qualitative information from several sources, including:

- the initial stakeholder consultation, which provided survey data from the general public and industry, as well as formal written submissions and feedback from stakeholders via meetings and emails (see section 1.2.4 and Appendix B for details)

- complaints data (from both the ESC and the department)
- market data on spot and future VEEC prices
- cost estimates by the ESC and the department
- a literature review and desktop research to identify key metrics to inform some high-level calculations for each option.

Reasonable attempts have been made to quantify the metrics as much as practical. However, where reliable quantitative inputs are unavailable, qualitative information has been transparently considered and discussed to inform the MCA scores. The components of the assessment are summarised in Table 13 and the methods and assumptions are described in Appendix F.

Table 13: Summary of the inputs used to assess the policy options against criteria

Criteria	Quantitative inputs	Qualitative inputs
Customer experience and program reputation	MCA discussion and scoring supplemented by: <ul style="list-style-type: none"> • saved time (benefit to consumers). 	MCA discussion and scoring largely based on: <ul style="list-style-type: none"> • avoided nuisance and invasion of privacy, misleading information and pressure tactics, and reduced perception of scams and fraud • amplified risks/harms for older and vulnerable consumers • avoided reputational harm to VEU and meeting community expectations • risk of ban leading to unintended increase in risks and harms.
Costs to consumers	MCA scoring based on: <ul style="list-style-type: none"> • increased program pass-through costs (slightly increased VEEC prices being passed on to energy consumers) • costs to access VEU and lost energy bill savings from upgrades consumers missed out on. 	MCA discussion complemented by consideration of: <ul style="list-style-type: none"> • effort and time taken for consumers to understand their rights under the ban.
Impacts on the VEU industry	MCA scoring based on: <ul style="list-style-type: none"> • possible market impacts (APs exiting or not entering the program) • impact on VEU industry third party jobs. 	N/A
Costs to government	MCA scoring and discussion considers: <ul style="list-style-type: none"> • avoided complaint handling costs • costs to enforce ban. 	N/A

5.2 Results of analysis

5.2.1 Summary of results

Table 14⁶⁴ summarises the scores allocated to each option following the scoring criteria and methods outlined above. Each of these scores are assessed by comparing outcomes for each option to the base case of no policy action being taken, that is, telemarketing remains permitted under the VEU program. The base case receives a score of 0 for each criterion and overall.

⁶⁴ Values in table represent an assumed compliance rate of 85% in the first year.

Scores are based on the Department's assessment of the impact on the criteria incorporating the inputs described above and a compliance rate of 85 per cent. This chapter will explain the Department's assessment in more detail.

Table 14: Summary of evaluation of ban options

Criteria	Weight	Option A: Telemarketing ban only		Option B: Combined telemarketing and doorknocking ban		Option C: Phased telemarketing and doorknocking ban	
		Unweighted scores	Weighted scores	Unweighted scores	Weighted scores	Unweighted scores	Weighted scores
Customer experience and program reputation	50%	+3.50	1.75	+6.50	3.25	+6.25	3.13
Costs to consumers	25%	-2.50	-0.63	-5.00	-1.25	-5.00	-1.25
Impacts on the VEU industry	20%	-1.00	-0.20	-3.00	-0.60	-2.00	-0.40
Costs to government	5%	-0.75	-0.04	-1.00	-0.05	-1.25	-0.06
Total weighted score	-	-	0.89	-	1.35	-	1.41

5.2.2 Consumer experience and program reputation

All options seek to improve the customer experience of VEU, improve the program's reputation and address the issues raised in sections 2.4 and 2.5. This means all options have a positive score for this criterion compared to the base case of allowing VEU telemarketing to continue unabated.

Time saved for consumers as a result of avoided unsolicited contact and not needing to make complaints

In their feedback to the initial consultation, stakeholders stated that one of the benefits of the bans would be less time wasted taking unwanted calls or speaking with doorknockers if they are not interested in upgrades. Consumers would also save time by not needing to lodge complaints with the department and regulators about poor marketing practices. Table 15 below also sets out the avoided time burdens for the different policy options, compared with a baseline scenario of continued marketing arrangements.

To estimate the avoided time burden to consumers from answering telemarketing calls and doorknocks, the Department calculated the expected number of upgrades resulting from telemarketing and doorknocking, multiplied by the number of calls and doorknocks required for an AP to get a sale. This was multiplied by the number of minutes taken for consumers to answer a call/doorknock, and to receive a full-length pitch from the AP. The underlying assumptions for these estimates are informed by the Department's industry conversations, and listed in Appendix F.

The avoided time burden from making complaints was calculated by multiplying the estimated number of minutes taken to make an email or call complaint by the number of complaints received per year by the Department and the ESC.

The estimated time saved in Table 15 has considered that all options for the ban are assumed by the ESC to be 85% effective in the short-term at reducing the incidence of telemarketing and doorknocking, with the compliance rate increasing and becoming close to 100% within four years.

Table 15: Avoided time burden for consumers from receiving unwanted calls and making complaints

	Option A: Telemarketing ban only	Option B: Combined telemarketing and doorknocking ban	Option C: Phased telemarketing and doorknocking ban
Total avoided time burden	14,500 hours/year	182,400 hours/year	174,100 hours/year

Options B and C would eliminate the greatest amount of inappropriate marketing and hence save consumers the more time than Option A. Option B would realise the doorknocking component of these benefits (being the difference between Options A and B/C) three months sooner than Option C. Avoided time burden in Option C is less than Option B, reflecting the 3-month delay in doorknocking as a proportion of the remaining 5 years legislated in the scheme.

Avoided nuisance and invasion of privacy, misleading information and pressure tactics, and reduced perception of scams and fraud

Respondents to the general public survey highlighted benefits, such as:

- peace, quiet, privacy and relief, including no longer being disturbed despite being on the Do Not Call register
- improved safety from predatory practices, misleading information and verbal abuse
- reduced risk of (perceived) frauds and scams.

Many industry survey respondents agreed that consumers will be happier, less stressed and experience less harassment and deceit as a result of a telemarketing and doorknocking ban. Industry respondents highlighted consumers' need for more time to consider upgrades and undertake research, than high pressure marketing practices such as telemarketing and doorknocking allow for.

All options are assessed as having significant benefits compared to the base case, in terms of addressing the harms and risks of nuisance and invasion of privacy, misleading information and pressure tactics, and perceived scams and fraud.

Option B, due to its combined and immediate coverage of both telemarketing and doorknocking, provides the greatest level of benefits. An estimated 1331 complaints per year (assumed to represent a much larger number of incidents per year) will be avoided.

Option C also has significant potential to address these risks and harms. However, the delay to the doorknocking ban would mean moderately lower benefits for three months. In effect, the first year would see an estimated 1278 complaints avoided, and the second year would see benefits the same as Option B.

Option A, while still delivering important benefits to consumers, delivers the lowest benefits, with an estimated 1,119 complaints per year avoided.

The impacts of each option are not exactly proportionate to the number of complaints about telemarketing and doorknocking, for the following reasons:

- Telemarketing receives a greater number of complaints, as it is more widespread than doorknocking. This is because most people have a phone, whereas it is harder to contact people via doorknocking, as not all homes are accessible for doorknocking and people aren't always at home to answer the door. However, in many cases, the consequences of inappropriate doorknocking can be more serious than the consequences of inappropriate telemarketing.
- The time burden on doorknocking is greater than telemarketing.
- Only banning telemarketing may result in increased doorknocking, and therefore increased instances of inappropriate doorknocking. Banning both telemarketing and doorknocking eliminates this risk.

Banning doorknocking (via Option B or C) is an anticipatory policy response, as doorknocking complaints are beginning to rise. The Department believes doorknocking will increase as telemarketing is phased out (if Option A, a telemarketing-only ban were to proceed). Additionally, as the VEU program develops, the type of upgrades will become higher value and more complex, which is likely to increase risks associated with doorknocking as a marketing method for these upgrades.

Increased protection for vulnerable consumers

Stakeholders emphasised that the ban/s will protect vulnerable consumers likely to be at heightened risk from, or to suffer amplified harms as a result of, inappropriate telemarketing. A ban would mean simple guidance could be provided to the public that any VEU telemarketing calls and/or visits are not legitimate, and the Department recommends the public to hang up or not engage.

Consumer complaints (described in Chapter 2) highlight that doorknocking, while it has lower complaint numbers, presents especially concerning risks and harms for older and vulnerable consumers due to the physical presence of the marketer in a person's home (or potentially, their workplace). Pressure tactics, intimidation and being told (or implied to) that participation in VEU is mandatory are particularly of concern. Doorknocking is also anticipated to create higher stakes risks to vulnerable consumers as activities become more complex and higher value. For example, a vulnerable senior citizen being pressured into purchasing an unwanted air-conditioning system upgrade for several thousand dollars is higher consequence than being pressured into installing free weather sealing. Refer to sections 2.3.8 and 2.4 for further detail on this risk and the increasing rates due to changing activities.

Options B and C, therefore, deliver particularly high benefits given their coverage of doorknocking, compared to Option A, which only addresses telemarketing. Option B is strongest because the serious risks to vulnerable consumers are addressed immediately.

Reputational harm to VEU avoided, and meeting community expectations

As previously noted, market research conducted in 2021 by the department found that poor marketing practices may damage consumer confidence in, and the social license of, the program. Stakeholder feedback reflected this concern. Many industry survey respondents considered that the bans (and switching to other marketing methods) would improve sentiment towards and improve trust in the VEU program, which would likely foster program participation.

Option B has the greatest potential for addressing the reputational damage caused by VEU telemarketing and doorknocking. A complete ban signals an alignment with community expectations about the regulation and prohibition of unsolicited marketing, particularly for a government program. It also aligns with the ban imposed on energy retailers.

Option C does not provide as much benefit as Option B. It may even lead to additional reputational damage and distrust in the program if consumers become confused about the ban commencement dates and perceive that the ban is not working. Ultimately however this delay of three months is fairly minor compared to the minimum remaining time of the program of five years.

Option A would eliminate the least reputational harm. While telemarketing arguably is of greatest concern among the public and stakeholders, allowing doorknocking to continue would leave open a considerable reputational risk from inappropriate doorknocking. Unfortunately, it only takes a few 'bad actors' to damage the program's reputation. This outcome would not be in line with community expectations. The VEU program introduced a Code of conduct to attempt to mitigate this issue through penalties and suspensions, but this regulatory framework has not been sufficient to address the problem, as described in section 2.7.

Risk of ban leading to unintended increase in risks and harms

Some stakeholders suggested that the bans could inadvertently lead to an increased rate of poor industry behaviour across telemarketing, doorknocking and/or digital marketing methods. This could occur before or after the ban/s come into effect. Unfortunately, it appears that telemarketing complaints have continued to increase despite the announcement of the telemarketing ban. The average amount of weekly telemarketing complaints received by the ESC increased from 11 to 19 per week since the ban announcement.⁶⁵

The average weekly doorknocking complaints remained relatively unchanged at approximately 3-3.5 complaints per week both before and after the initial consultation paper (which flagged the option of banning doorknocking) was released. Refer to section 2.3.2 for further detail.

For the purpose of this RIS, it is assumed that all options carry some risks that the ban might lead to unintended negative consequences to consumers. The specific risks vary for each option and are discussed

⁶⁵ This increase in average weekly telemarketing complaints is based on the amount of complaints received in the two months leading up to the announcement, and two months immediately after the announcement.

below. In addition, if unwanted or inappropriate calls and/or door-to-door sales were still made despite the ban/s being in place, the community may question the Government's ability to effectively enforce the ban and have some reputational harm to VEU. This risk applies to all three options.

The ESC currently requires APs to report which marketing method was used for free or cheap activities. The ESC may modify this monitoring process as part of managing the risk of unintended harms. This issue is covered further in section 6.

Option A, a telemarketing only ban, is assessed to have the greatest unintended risks, since APs and third parties could shift from using telemarketing to doorknocking. This could increase the risks and harms associated with poor doorknocking practices. This risk is based on the similarity of the business models between doorknocking and telemarketing, making it likely that APs that focus on primarily on aggressive telemarketing shift to aggressive doorknocking methods.

Industry survey results indicated that under a telemarketing ban, five of the 15 APs who said they use telemarketing would switch or make other changes to their marketing strategies, including digital advertising, direct marketing (e.g., leaflets) and doorknocking. For further analysis on this issue refer to section 5.2.4.

Option B, a combined ban, is assessed to the next greatest level of risk. Banning doorknocking with limited notice to industry could lead to APs increasing their doorknocking efforts ahead of the ban, to use up their inventory stores. Banning doorknocking is also assessed to risk leading to greater levels of inappropriate digital marketing compared to a telemarketing only ban – this risk is the same for Option C.

Option C, a phased ban, involves the lowest level of risk. Doorknockers could deliberately continue marketing to consumers past the ban start date and then seek to avoid compliance action for their misconduct by citing confusion or ambiguities in the ban.

Time and effort to understand consumers' rights under the ban

Stakeholders emphasised in their feedback the importance of making the new ban scope and requirements clear, simple and easily understood. Part of this was to assist consumers in understanding their rights under the ban, and to be able to take appropriate actions in response to unwanted contact in relation to the VEU program.

Option A, a telemarketing only ban, is much simpler for consumers than the current situation, where consumers need to understand and assert their rights in relation to the general and marketing-specific protections under the VEU Code of Conduct. A blanket ban was generally preferred by members of the public and consumers groups as being the simplest to communicate to consumers and establish a clear expectation among the public on what is permitted.

Option B is equally simple to understand for consumers, as it covers both problematic types of marketing at the same time.

Option C, a phased ban, will be slightly more complicated and involve more time and effort for consumers to understand compared to both the current situation and Options A and B. There is also a risk that households and businesses will become confused about their rights and what is allowed. However this is a fairly insignificant added complexity and hence Option C scores very similarly to Option B.

Total scores for consumer experience and program reputation

Taking account of each of the above factors, Option B, due to its combined and immediate coverage of both telemarketing and doorknocking, had the greatest ability to improve the consumer experience of the VEU and enhance the program's reputation. Option B was hence allocated an unweighted score of +6.50 (weighted to +3.25). The potential for unintended harm and the additional time for consumers to understand the ban reduced this score from the maximum +10 positive score. The ban is also not expected to completely eradicate all calls or door-to-door sales, since some marketers are believed to operate illegally and may not abide by the ban (until enforcement action is taken).

Option C, a phased ban, was also assessed to have significant potential to address these risks and harms. However, the delay to the doorknocking ban would mean moderately lower benefits for three months, along with some associated risks. Option C was hence allocated an unweighted score of +6.25 (weighted to +3.13).

Option A, a telemarketing only ban, would still deliver important benefits to consumers, but less than Options B and C because it does not include the benefits of banning doorknocking and carries considerable risks of the VEU industry shifting from telemarketing to doorknocking. Option A hence scores the lowest (unweighted score of +3.50; weighted to +1.75).

5.2.3 Costs to consumers

Increased program costs passed through to consumers

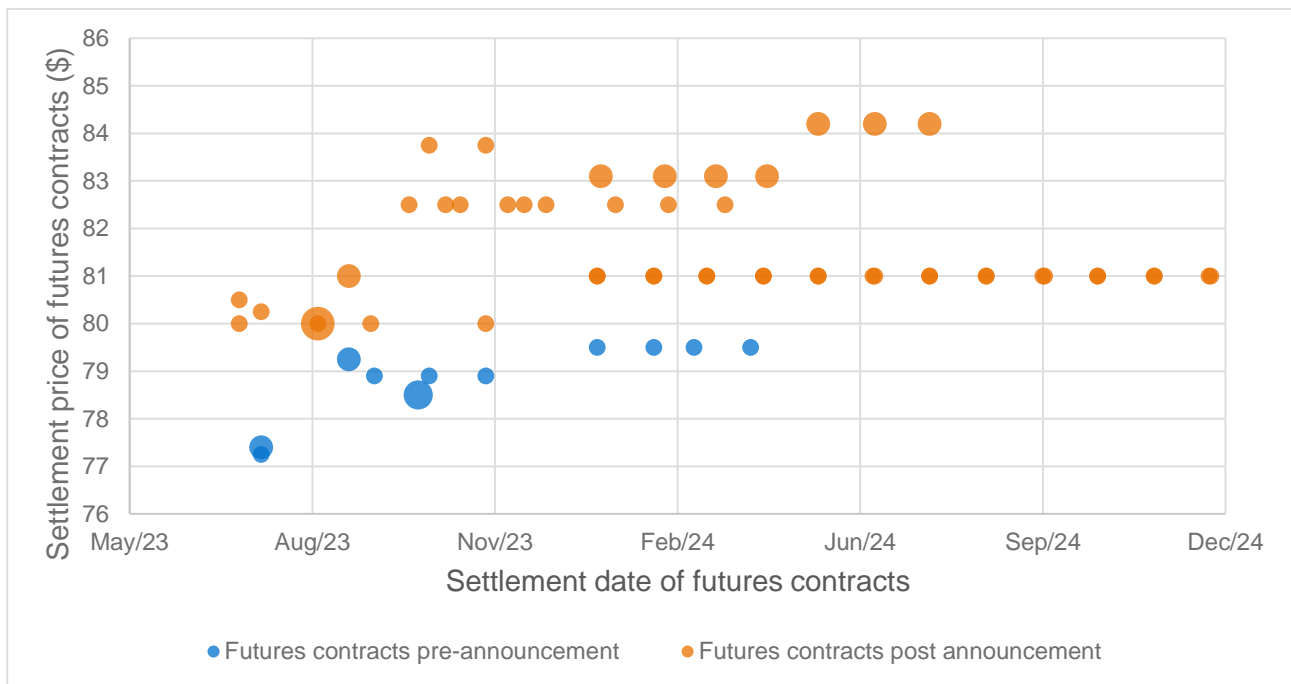
This RIS takes a conservative approach to analysing the impact on consumers and assumes that potential increases to VEEC costs as a consequence of the ban are passed on to energy consumers as a whole, rather than absorbed by the supply chain. These costs are assessed here.

The impact on VEEC prices can be estimated through the reaction of the futures market for VEECs to the first public announcement of the ban on the 22 June 2023. The department notes that VEEC market prices (both spot and futures) reflect multiple factors affecting prices. Price fluctuations cannot definitively be attributed to any one specific cause. Nevertheless, analysing the reaction of prices to new information is the best possible way to attempt to understand the impact of the ban on VEEC prices.

Futures contracts for VEECs are agreements between a buyer and a seller to exchange VEECs at a predetermined date in the future, at an agreed-upon price. This date is known as the settlement date, and the agreed-upon price is the settlement price, which may vary from the spot price.

Figure 15 shows a range of estimates from market participants on the impacts of a telemarketing ban, with the volume weighted average being an approximate \$3 increase to the VEEC futures price, with a range from \$0.50 to \$4.50. These futures contracts are based on Green Energy Market contracts entered on 19 June 2023 prior to the ban announcement, and on 22 June 2023 after the ban announcement.

Figure 15: VEEC futures market reaction to announcement of telemarketing ban



This data has been interpreted as indicative of the views of the VEEC market on increased costs to APs in adjusting their business model, whether that be changing their products, marketing strategies, target audience or any other adaptations to the ban.

It is assumed these increases to the VEEC price indicate that all costs to the APs are forecast to be passed on to consumers. This equates to an assumed average increase to annual bills of \$2.90 for residential households, and \$14.60 for businesses.⁶⁶

In terms of the doorknocking ban, the department assesses that this may lead to an increase in VEEC prices of about \$2.50 to \$8, with a central estimate of about \$4. This analysis is based on the VEEC futures market response to the initial consultation paper in July, which flagged the potential for a doorknocking ban (Figure 16).

⁶⁶ These calculations assumed average annual bills of \$1,400 for households and \$5,612 for businesses, based on a simple retail price model, populated with cost estimates from the ESC's 2022-23 Victorian Default Offer (VDO) decision. This VDO was accurate at the time of the telemarketing ban announcement, and when the increases in settlement price of futures contracts were observed. The 2023-24 VDO decision has since been published.

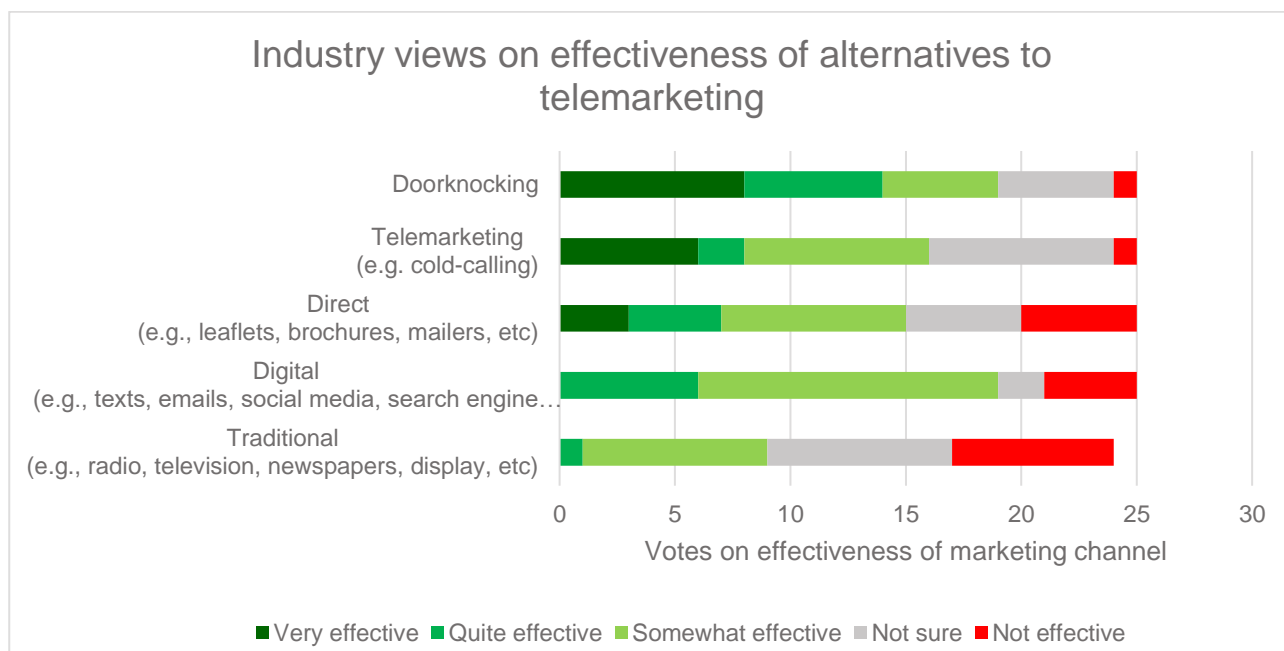
In their feedback to the initial consultation, stakeholders provided a range of views on the extent and duration of any impacts to the VEEC price for both telemarketing and doorknocking.

With these caveats in mind, Option B was assessed to involve the greatest impact to the VEEC price and pass through costs, followed by Option C, since the delayed doorknocking ban is assumed to reduce cost impacts to industry and hence VEEC prices. Option A was assessed to have the least impact.

Costs to access the VEU program or missed energy savings from low-cost upgrades

Most stakeholders, including members of the public, consumer groups and industry, recognised that the bans could lead to consumers having less knowledge of the VEU program and finding it harder to learn about new and existing energy upgrades. Indeed, Figure 17 highlights that industry stakeholders viewed doorknocking as the most effective marketing method overall, followed by telemarketing which also had a high rate of APs that considered it “very effective”. Digital marketing was also seen to be “quite” or “somewhat” effective. Traditional media options were seen as the least effective, and also the most expensive.

Figure 17: Industry views on the effectiveness of different ways to promote the VEU program



Views on doorknocking effectiveness were reasonably evenly distributed across the range of sizes of APs (Table 16).

Table 16: Views on doorknocking effectiveness by size of AP

Size of AP responding – Number of certificates per year	View on effectiveness of doorknocking				
	Not sure	Not effective	Somewhat effective	Quite effective	Very effective
1 to 2,000	1				2
2,001 to 5,000				1	1
5,001 to 20,000	1			2	2
20,001 to 70,000	1		3	1	2
70,001 to 150,000	1	1	1		

150,001 to 500,000				2	1
More than 500,000			1		1

Some stakeholders hence felt the bans could lead to consumers missing out on energy (and water) savings, especially from the low-cost upgrades which have traditionally relied on telemarketing and doorknocking. Others suggested that after an initial reduction in VEU participation, there will be better long-term program engagement as other promotional methods are implemented and the program's reputation and credibility improve.

It is likely that the bans will have little impact on engaged consumers, who will seek out APs or be more likely to respond to other forms of marketing.

Telemarketing and doorknocking channels primarily target disengaged consumers. Sales representatives, when making a successful sale, can contribute to a consumer taking up an energy upgrade that saves them on their energy bills and is hence in their interest. It is possible that a ban on these types of marketing channel could lead to disengaged consumers not being made aware of these opportunities.

Some members of the VEU industry cited particular concerns about a doorknocking ban on consumer access to low-cost upgrades (especially for vulnerable consumers or those in regional areas), the viability of APs and the program more broadly. Feedback suggested that the ban would mean APs would be less able to target geographic areas and achieve economies of scale in the installation of low-cost, high-volume upgrades.

Some stakeholders considered the risk of missing out on upgrades a particular concern for the elderly, lower socioeconomic groups and others who might not use social media. However, in its submission the CPRC considered this risk to be low, arguing that those Victorians less likely to engage online or proactively seek out information about VEU can still find out through information provided in public spaces such as in shopping centres. APs switching to alternative marketing methods will also mitigate this to an extent.

Finally, many members of the public (and consumer groups) felt that any increased effort to find out about VEU and the risk of missing out on upgrades was an acceptable trade-off for no longer receiving telemarketing calls. In its submission, CALC considered that the potential harm to all consumers through problematic sales methods would outweigh any missed opportunities resulting from ending telemarketing in the VEU program and extending the ban to include doorknocking. The Department notes that formal submissions to a Government's public consultation do not represent all consumers, especially the cohort who is less familiar with the program but will still be affected by the ban; however, the consumers sentiment shown in the submissions has been consistent with the marketing complaints that the Department has been receiving.

A telemarketing ban may also contribute to a decline in the availability of low cost or free energy upgrades. Historically, low cost or free upgrades, such as energy efficient lighting or water saving shower roses, have dominated the program. However, residential lighting upgrades were phased out in 2021 and future targets are expected to be met by deeper retrofits such as moving from gas to electric appliances. As previously noted, consumer complaints indicate that the majority of VEU telemarketing and doorknocking relates to high volume energy upgrades, such as weather sealing and shower roses. Some in industry suggested that APs would not invest in alternative advertising methods to promote products that yield a low number of VEECs (such as efficient showerheads), making these types of upgrades no longer commercially viable. One AP felt it was unlikely that any current or future low-cost residential activities would be viable if contacting previous customers was banned. Of the three APs who said they would exit the VEU program under a telemarketing ban (see section 5.2.4), they largely offered weather sealing, showerheads, heating, cooling and/or hot water systems.

There was some overlap between the APs who said they may exit the VEU program under a telemarketing ban, and doorknocking ban. There were two APs who answered that they would not try alternative marketing methods first and would exit under a combined telemarketing and doorknocking ban. These two APs offered heating and cooling systems, in-home displays and weather sealing.

Based on this, all options are expected to accelerate the end of low cost and free activities in the program. Option B is assessed have the greatest impact, followed by Option C and then Option A.

Total scores for costs to consumers

Overall, Option B and C are allocated an unweighted score of -5.00 (weighted to -1.25) and have the greatest costs to consumers, in terms of significant program pass through costs predicted by the market, disengaged consumers that could miss out on energy upgrades, and the fastest acceleration of the end of low cost and free upgrades under the program. However, Option C provides the market some time to adjust to the doorknocking ban (which has flow-on reductions or delays in costs to consumers). Option A is assessed to involve the least costs because of its narrower scope, and has an unweighted score of -2.50 (weighted to -0.63) (see Table 14).

5.2.4 Impacts on the VEU industry

All ban options will involve some adjustment for the VEU industry and so they all have a negative score. Most industry survey respondents in favour of a telemarketing and/or doorknocking ban noted that those APs engaging in poor marketing practices are likely to experience greater impacts than those engaging in quality marketing practices, although the Department notes that those APs that undertake ethical telemarketing and doorknocking will also be affected by the ban/s to some degrees. The department notes that during earlier stakeholder consultation on VEU protections in late 2021, industry strongly supported more stringent requirements for regulation of the program, even if this meant imposing some burden on themselves.

As noted above, the energy saving targets for the VEU program are set in legislation. This analysis assumes that the targets are met in all future years and that if APs exit the VEEC market, other businesses expand or new businesses enter to provide upgrades to consumers and create VEECs.

It is also assumed that APs facing higher costs will be able to pass those costs on to energy retailers and ultimately to energy consumers, as discussed in section 5.2.3 above. This section hence only covers the impacts on industry that are not able to be passed on to consumers.

This analysis assesses that the program has sufficient 'buffer' to weather a short term drop in VEEC generation during industry transition. In the long run, VEEC generation is assumed to remain similar to current level and meeting legislated targets. The projected increase in VEEC prices will also help mitigate a short-term effect of reduced quantity.

Possible market impacts and impacts on accredited providers

Some industry stakeholders expressed concern that the bans will result in a range of risks and negative impacts for the VEU industry, such as increased marketing costs,⁶⁷ less effective marketing methods, finding it harder to recruit customers, a slowing of VEEC creation (whether temporary or longer-term), decreased revenue or financial loss, being unable to meet forward contracts⁶⁸ and ending up with unused inventory.

Some industry stakeholders considered these factors would lead to APs exiting the VEU market (or potential APs deciding not to enter it), with flow-on impacts for job losses and the broader market.

Telemarketing ban impacts on accredited providers exiting the VEU market

Of those APs who responded to an industry survey about their intentions once the telemarketing ban is introduced, seven indicated they would leave the scheme under a telemarketing ban⁶⁹. It includes a range of small and medium sized APs (see Figure 18; larger APs said they were likely to be unaffected by the ban because they do not use telemarketing).

However, four of these seven APs also answered that they would make changes to their marketing or business model in response to the ban (survey answers could include multiple options to capture the variety of changes to the business model). This implies they would only consider leaving the market if these other strategies didn't work, which was supported by some of the survey comments made. Assuming then that only the three APs who would not try other strategies first exit VEU, this represents 5.5 per cent of the VEU market (by number of certificates). For this estimate, DEECA assumes that all APs with strong interest and

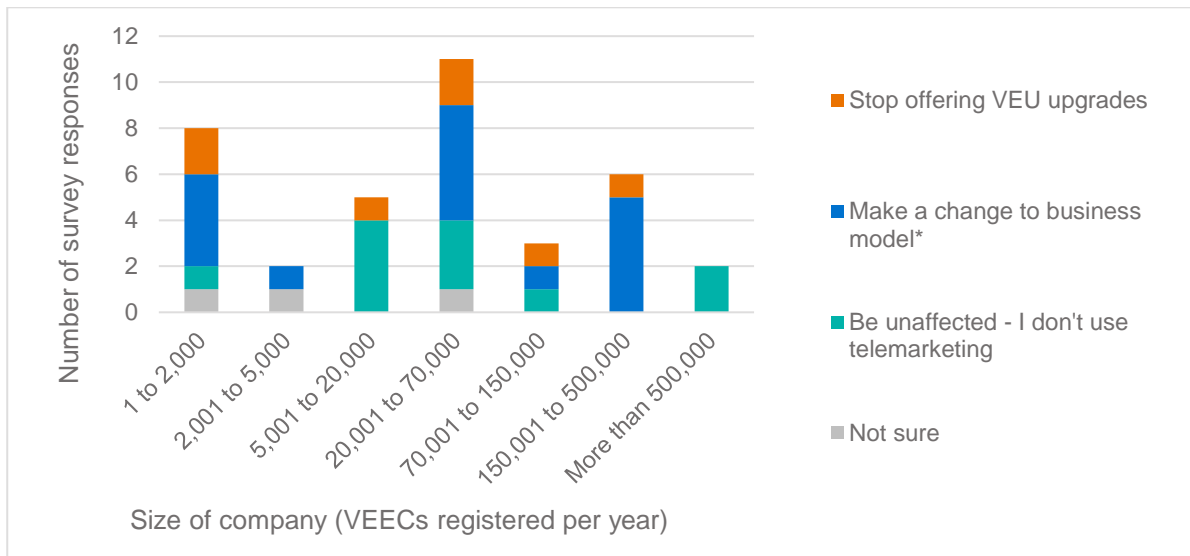
⁶⁷ Any increased advertising costs are assumed to be passed on to consumers and covered in the program pass through costs in section 5.2.2.

⁶⁸ Forward contracts are agreements that require APs to deliver a specified quantity of VEECs at an agreed-upon price on a future date, providing a way for them to hedge against price fluctuations and ensure a stable supply chain.

⁶⁹ The department assumes that all currently active APs that use telemarketing responded to the industry survey, given the ban directly relates to their business practices. The department also notes that these APs would have incentives to emphasise the ban impacts and potentially overstate their survey responses.

participation in telemarketing and doorknocking activities would have responded to the survey, and therefore did not extrapolate this survey result.

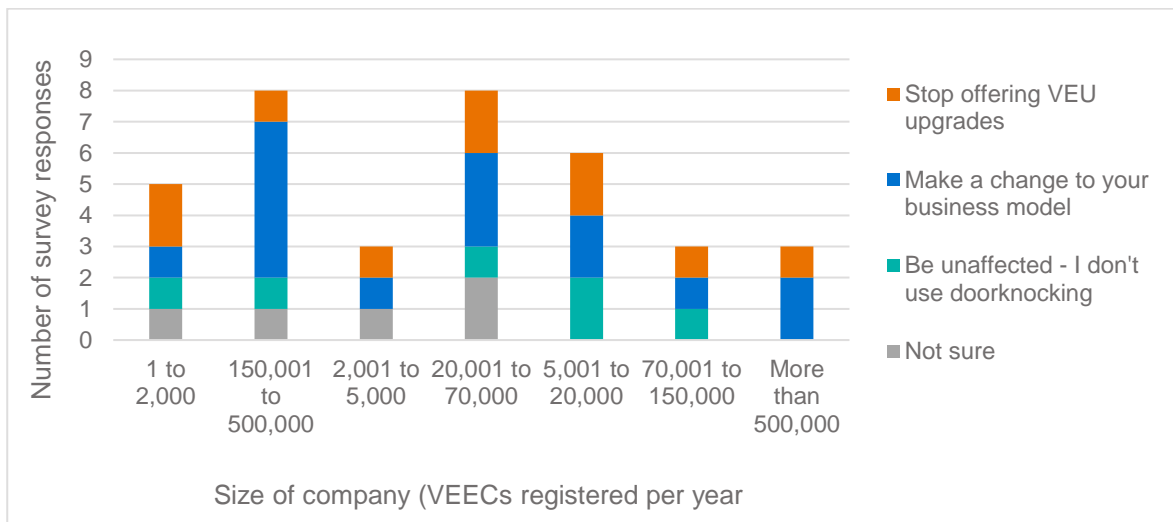
Figure 18: AP survey respondents' indication of how they would respond to the telemarketing ban, by VEEC size⁷⁰



Doorknocking ban impacts on accredited providers exiting the VEU market

Of those 26 APs who responded to an industry survey about their intentions if a doorknocking ban were to be introduced, ten indicated they may leave the scheme under a telemarketing ban (Figure 19)⁷¹. It includes a range of AP sizes. Please note that this number cannot be extrapolated to the population of all APs, as it is likely that all APs who use doorknocking already responded to the survey.

Figure 19: AP survey respondents' indication of how they would respond to the doorknocking ban, by VEEC size⁷²



⁷⁰ Changes to business model responses included: switch marketing strategy, increase or decrease marketing budget, change target audience, change products and services offered, or make other changes to marketing. Note that survey respondents could make multiple answers to the question.

⁷¹ The department assumes that all currently active APs that use telemarketing responded to the industry survey, given the ban directly relates to their business practices. The department also notes that these APs would have incentives to emphasise the ban impacts and potentially overstate their survey responses.

⁷² Changes to business model responses included: switch marketing strategy, increase or decrease marketing budget, change target audience, change products and services offered, or make other changes to marketing. Note that survey respondents could make multiple answers to the question.

However, six of these ten APs also answered that they would make changes to their marketing or business model in response to the ban (survey answers could include multiple options to capture the variety of changes to the business model). This implies they would only consider leaving the market if these other strategies didn't work, which was supported by some of the survey comments made. Of the four APs that would not try other strategies first, one overlaps with the set of APs that would leave under a telemarketing ban and would not try other marketing strategies first for telemarketing.

That leaves three remaining additional APs that answered they would definitively leave under a doorknocking ban, one is small, one is medium sized, and the other AP is very large. Assuming then that only the three APs who would not try other strategies first exit VEU, this represents an additional approximately 9 per cent of the VEU market (by number of certificates).

Assessments of ban impacts on accredited providers exiting the VEU market under the different policy options

It is assessed that while a telemarketing ban may lead to increased costs (as discussed in Section 5.2.3 above), the *net* impact of the ban on VEECs due to APs exiting or not entering the VEU market is likely to be neutral. This is because the impacts of APs that go out of business and/or leave the program are likely to be offset by other businesses expanding or entering the VEU program to meet the VEU program targets.

Option A's VEEC revenue impacts on affected APs are estimated to be approximately \$30 million per year.

Option B's impacts on affected AP's VEEC revenues are equal to telemarketing impacts plus doorknocking impacts. This is estimated to be approximately \$79 million per year.

Option C impacts on affected AP's VEEC revenue is equal to option B's impacts however it will include a moderating effect of the delay.

Impacts on jobs

Similarly, APs exiting VEU as a result of the ban will lead to a reshuffling of jobs across the industry, involving losses and gains to some individual APs rather than a *net* job loss.

The department undertook quantitative modelling of the *gross* number of jobs lost from APs exiting the market as a result of a telemarketing ban. The gross impacts of lost jobs are estimated to be approximately \$1.3 million worth of lost salary or 12 full-time equivalent (FTE) years under Option A as the tradespeople and other staff employed by APs search for other work (assuming it takes them 10 weeks to find another job). This impact is expected to be fully offset by other APs expanding or new APs entering the program to ensure the target continues to be met.

Gross job impacts under a combined doorknocking ban (Option B) are estimated to be approximately \$4.6 million worth of lost salary or 44 FTE years as the tradespeople and other staff employed by APs search for other work (assuming it takes them 10 weeks to find another job). Again, any jobs losses from exiting APs will be replaced by new jobs associated by new APs and/or APs that expand to fill this market gap.

Gross job impacts under a phased doorknocking ban (Option C) are estimated to be approximately \$2.9 million worth of lost salary or 28 FTE years. This is less than Option B as industry would have more time to prepare and find new work. Again, any jobs losses from exiting APs will be replaced by new jobs associated by new APs and/or APs that expand to fill this market gap.

Over time, as VEEC prices and quantities increase and upgrades in the VEU program move away from low-cost high-volume upgrades to higher value and more complex upgrades, the Department expects this to lead to a net positive effect on installation jobs and wages; however, the Department is unable able to provide a specific quantified estimate of this impact. The Department expects the program to support higher wage jobs as more complex activities require a larger number of skilled trades installers such as electrician and plumbers, rather than low skilled installers such as installers of weather sealing strips.

Impact on VEU industry third party jobs

The majority of marketing companies that specifically rely on telemarketing are based overseas and hence are not counted towards Victorian job impacts.

Small local marketing companies who conduct unsolicited telemarketing calls to VEU customers on behalf of APs, as well as those APs who directly engage unsolicited sales staff, are expected to be affected by the ban. However, these impacts are likely to be minor when viewed in the context of the broader economy, as these marketing companies will be able to focus on alternative clients and sectors. For doorknocking, these marketing companies will similarly be able to focus on alternative clients and sectors.

The broader Victorian economy could also be impacted as marketing expenditure, instead of being spent locally, goes to international corporations as a result of increased focus on digital marketing on foreign-owned platforms. However, this impact is considered immaterial compared to other fluctuations in marketing expenditures.

Total scores for impacts on the VEU industry

Overall, Option A has an unweighted score of -1.00 (weighted to -0.20), Option B has an unweighted score of -3.00 (weighted to -0.60) and Option C has an unweighted score of -2.00 (weighted to -0.40) in terms of expected impacts on the VEU industry. Option B has the greatest impacts on jobs, mostly stemming from small numbers of APs leaving the program, as well as third party doorknocking companies that will lose some work. The loss of APs would reduce competition, but this would be more than offset by improved innovation by those APs remaining who move towards modern, consumer friendly marketing methods and more complex upgrades. Option C moderates these impacts by allowing more time for industry to adjust to the doorknocking ban, and Option A has fewer costs because the ban only applies to telemarketing.

5.2.5 Costs to government

Several stakeholders agreed that the ban should be simple and easily understood, for the most effective implementation and regulation. Compared to the status quo, a ban would involve an overall increase in costs and effort to administer, at least to begin with. As such, all options receive a negative score in terms of their costs to government.

Complaint handling costs for government avoided

The bans will avoid costs of public sector staff receiving and responding to complaints regarding telemarketing and doorknocking (Table 17). The complaints that come in through email, phone, referrals by elected officials and other organisations, or other methods.

These costs fall under two categories, ESC staff whose costs are passed on to VEEC prices through VEU fees, and departmental staff whose costs are funded through taxes to the Victorian public (known as consolidated revenue). Resources required to report or provide briefings on telemarketing complaints and conduct follow up or compliance and enforcement in response to complaints are discussed under 'Costs to enforce the ban' below.

Table 17: Staff cost savings from avoided complaint handling

	Option A: Telemarketing ban only	Option B: Combined telemarketing and doorknocking ban	Option C: Phased telemarketing and doorknocking ban
ESC staff cost savings (FTE/yr)	0.1	0.12	0.12
Departmental staff cost savings (FTE/yr)	0.1	0.12	0.12
Total staff cost savings (FTE/yr)	0.2	0.24	0.24

The costs under all options represent a small percentage of one staff member's time to respond to complaints. The costs are negligible since they are spread across all of Victoria, equating to less than one cent (\$0.01) per Victorian. Hence the difference between policy options is also negligible.

Costs to enforce the ban

The ESC has advised the department that to enforce the ban/s, it will need to allocate additional resources to its communications and engagement, administration, compliance and enforcement activities.

The ESC has estimated the net additional staff resources and operating expenditure for the first five years of implementing the ban under each option (Table 18). Option A would be narrower in scope to enforce and hence involves fewer additional resources. Option B would have a broader scope and hence require more resources. Option C would both have a broader scope and be more complex to administer and regulate, given the phased introduction of the ban. The ESC expects the costs to be absorbed into the ESC's business-as-usual functions by year five under all options.

Table 18: ESC estimates of costs to regulate and enforce industry compliance with the ban

Implementation year	Option A: Telemarketing ban only		Option B: Combined telemarketing and doorknocking ban		Option C: Phased telemarketing and doorknocking ban	
	FTE/ year	Other costs (\$/year)	FTE/ year	Other costs (\$/year)	FTE/ year	Other costs (\$/year)
Year 1	2.5	\$50,000 - \$200,000	3.05	\$50,000 - \$200,000	3.7	\$50,000 - \$200,000
Year 2	2.5	\$50,000 - \$200,000	3.05	\$50,000 - \$200,000	3.05	\$50,000 - \$200,000
Year 3	1.25	\$25,000 - \$100,000	1.9	\$25,000 - \$100,000	1.9	\$25,000 - \$100,000
Year 4	1.25	\$25,000 - \$100,000	1.9	\$25,000 - \$100,000	1.9	\$25,000 - \$100,000
Year 5	0	0	0	0	0	0
Total additional costs over five year period		\$1.5 million		\$1.9 million		\$2 million

Stakeholders did not comment much on the impact of the ban on the ESC's time as regulator of the VEU program. Two members of the VEU industry argued that a telemarketing ban would enhance the ESC's capacity to regulate lead-generating activities more effectively, allowing for a more controlled and compliant environment within the program.

Total scores for costs to government

Overall, Option A is scored an unweighted -0.75 (weighted to -0.04) in terms of costs to government, outperforming both Options B and C. Option B is scored an unweighted -1.00 (weighted to -0.05) and Option C is scored an unweighted -1.25 (weighted to -0.06). Option A slightly outperforms Options B and C because it is narrower in scope, simpler and less costly for the ESC to administer and regulate. Option C is the lowest scoring in this criteria as it is slightly costlier to government to administer than Option B, a blanket ban on telemarketing and doorknocking. Avoided complaint handling costs are so low they become negligible under all options.

5.3 Conclusion and preferred policy option

5.3.1 Summary of options

All options score more highly than the base case because any ban design produces much better outcomes for the customer experience and program reputation compared to the base case of allowing current inappropriate marketing to continue unabated. These benefits outweigh the costs to consumers and impacts on the VEU industry arising from the ban.

Option A, a telemarketing only ban, scored the lowest at +0.89 and was not recommended (see Table 14 below). Banning telemarketing will significantly improve the consumer experience of VEU and enhance the program's reputation. Consumers are expected to save about 14,500 hours per year on VEU telemarketing calls and the ban is expected to reduce the risks of pressure tactics, scams and fraud. On the other hand,

VEEC prices are expected to increase by about \$4, leading to pass-through costs to consumers and some disengaged consumers missing out on upgrades. It is also expected that some APs may switch to doorknocking, which may exacerbate the harms caused by doorknocking. Option A is expected to potentially lead to a small number of APs ceasing to operate; seven APs have indicated they would cease to operate under a telemarketing ban. Under Option A the Government would incur about \$1.5m in costs to administer the ban over five years.

Option B, a combined ban on telemarketing and doorknocking, scored the second highest at +1.35 and was also not recommended. Option B was assessed to deliver the highest benefits to consumers in terms of immediately avoided risks and harms associated with both telemarketing and doorknocking, along with likely flow-on benefits from avoided poor installation incidents. Continuing to allow doorknocking means that poor door-to-door sales practices and their associated risks and harms to consumers would continue, or even increase if APs currently using telemarketing switch to doorknocking.

This option also strongly aligns with existing bans on telemarketing and doorknocking for energy retailers and doorknocking under the Solar Homes program. As with Option A, these benefits were assessed to outweigh the costs. Consumers are expected to save about 182,400 hours per year on VEU telemarketing calls and doorknocking sales pitches, and the ban is expected to further reduce the risks of pressure tactics, scams and fraud.

However, VEEC prices are expected to increase by about \$6.90 leading to pass-through costs for consumers. An immediate doorknocking ban would also likely result in avoidable costs and disruption to a significant number APs, which would likely have flow-on effects on consumers and the program more broadly. Comparing to Option A, Option B will likely result in higher passed-through costs to consumers due to higher VEECs price, and will have greater impacts on industry jobs as more APs might exit the market; however, the added benefits are estimated to be much more significant, resulting in a higher overall score for Option B. Under Option B the Government would incur about \$1.9m in costs to administer the ban over five years.

Option C, a phased ban on telemarketing and doorknocking, has a total weighted score of +1.41, which is the highest score out of the three options. Option C has the same benefits as Option B, albeit with a three month delay in realising the doorknocking ban benefits, which again outweigh the costs associated with the ban. Under Option C the Government would incur about \$2m in costs to administer the ban over five years.

The additional notice for APs on the doorknocking ban provides APs time to transition to other marketing strategies and adjust their business models as needed and hence moderates the impacts to the VEU industry and VEU program more broadly. Therefore, option C is the preferred option.

Table 14: Summary of evaluation of ban options

Criteria	Weight	Option A: Telemarketing ban only		Option B: Combined telemarketing and doorknocking ban		Option C: Phased telemarketing and doorknocking ban	
		Unweighted scores	Weighted scores	Unweighted scores	Weighted scores	Unweighted scores	Weighted scores
Customer experience and program reputation	50%	+3.50	+1.75	+6.50	+3.25	+6.25	+3.13
Costs to consumers	25%	-2.50	-0.63	-5.00	-1.25	-5.00	-1.25
Impacts on the VEU industry	20%	-1.00	-0.20	-3.00	-0.60	-2.00	-0.40
Costs to government	5%	-0.75	-0.04	-1.00	-0.05	-1.25	-0.06
Total weighted score	-		+0.89		+1.35		+1.41

5.3.2 Small business and competition impacts

The options may pose a slightly greater burden on smaller APs to understand and comply with the regulations, but this is expected to be marginal. For some APs, a blanket ban on telemarketing and doorknocking can be easier to understand and require less interpretation, comparing to the current Code of Conduct (baseline scenario), which is much more complex.

Under all options the ban may slightly reduce competition in the market, with this effect being greater under Options B and C. Of the three APs who said they would exit VEU under a telemarketing ban without trying other strategies, one created between 5 to 20,000 VEECs/year, one created between 20 to 70,000 VEECs/year and one created between 150 to 500,000 VEECs/year. Under a ban on doorknocking, three additional APs said that they would exit VEU without trying other marketing strategies first. One of these APs created between 1 to 2,000 VEECs/year, another created 20,000 to 70,000 VEECs/year and the other created more than 500,000 VEECs/year.

This suggests that, at least in the short-term, the ban/s might result in a smaller number of larger APs participating in the program. Additionally, the additional burden associated with the time and effort to understand and comply with industry's obligations might hinder new entrants into the market. Nevertheless, the department expects all impacts on competition to be moderated over the long-term as industry fully transitions. Option C provides businesses more time to adapt to the ban than option B, and therefore is expected to have a smaller impact on the industry.

Based on the responses provided to consultation, the Department does not expect there to be a disproportionate impact on smaller APs of the ban on telemarketing and doorknocking, as there is no clear association between AP size and marketing methods used.

The proposed regulations will restrict competition to some extent, especially in the short term. These restrictions are necessary to achieve the Government's objectives and the expected benefits of the restriction outweigh the expected costs.

Other flow-on market impacts

Stakeholders had mixed views about the flow-on impacts of APs exiting (or not entering) the market. In its submission, ESIA shared its concerns that this could impact VEEC creation levels and prices, which could flow through to all participants prior to a correction in the market. Others considered that non-compliant APs exiting would have positive effects on industry (and the program more broadly) in terms of improved transparency, consumer trust (discussed earlier) and assurance that VEECs created are 'legitimate' with no consumer harassment involved.

Flow on impacts are considered as part of the criteria 'consumer experience and program reputation' (section 5.2.2) and 'costs to consumers' (section 5.2.3).

Consultation question: Which is your preferred ban option? Why?

6. Implementation, monitoring and evaluation

This chapter outlines how the preferred policy will be implemented, communicated, enforced, monitored and evaluated by the department and the ESC as regulator of the VEU program.

6.1 Implementing the ban

As previously noted, the ban will be given force through amending schedule 6 of the VEET Regulations (the proposed Regulations).

The telemarketing ban is intended to take effect from 1 May 2024 and the doorknocking ban is intended to take effect from 1 August 2024. The VEU industry will have had ten months' notice of the telemarketing ban from the time it was announced on 22 June 2023, and six months' notice of the doorknocking ban from the time this RIS is publicly consulted on.

6.2 Communicating the ban

Communication of the ban to consumers, industry and other stakeholders started when the ban was first announced on 22 June 2023. This was followed by an initial public consultation process in July 2023, which sought feedback on the ban design, and this RIS, which shares the preferred design and timing for stakeholder feedback.

The department and the ESC will clearly communicate the ban so that industry understands its obligations and consumers are aware of their rights and can determine when unsolicited marketing is not legitimate.

The department will communicate the ban by:

- releasing a media statement
- publishing a government response to stakeholder feedback on this RIS on the Engage Victoria webpage⁷³
- gazetting the final Regulations to enable the ban
- delivering tailored communications for consumers and their advocates (section 6.2.1)
- delivering targeted communications for the VEU industry (section 6.2.2).

The ESC will communicate the ban by delivering targeted communications for the VEU industry (section 6.2.2).

6.2.1 Informing consumers

The department will inform consumers and their advocates about the ban and their rights through:

- updating content dedicated program webpages for households⁷⁴ and businesses,⁷⁵ which have had strong engagement, with nearly 950,000 visits and more than 30,000 unique visits respectively in the last 12 months. This includes a webpage on telemarketing and doorknocking⁷⁶
- articles in quarterly online program newsletters targeted at households and businesses, which reach audiences of 2,500 households and 300 businesses respectively
- updating a consumer factsheet about the program, which is available on the program's household webpages and is required to be provided by industry to potential VEU customers during doorknocking⁷⁷

⁷³ See <https://engage.vic.gov.au/marketing-under-the-victorian-energy-upgrades-program>

⁷⁴ See <https://www.energy.vic.gov.au/for-households/victorian-energy-upgrades-for-households>.

⁷⁵ See <https://www.energy.vic.gov.au/for-businesses/victorian-energy-upgrades-businesses>.

⁷⁶ See <https://www.energy.vic.gov.au/for-households/victorian-energy-upgrades-for-households/about-the-veu-program/telemarketing-and-door-knocking-under-the-veu-program>

⁷⁷ See https://www.energy.vic.gov.au/_data/assets/pdf_file/0028/585154/Victorian-Energy-Efficiency-Target-scheme-consumer-factsheet.pdf.

- providing content for ACMA, EWOV and consumer advocacy groups to utilise in their work and share with consumers through their channels.

The messaging will advise consumers:

- that any calls or doorknocks offering products under, or generating leads for, the VEU will not be legitimate
- that they should only expect calls relating to VEU under certain circumstances (e.g., a faulty product) and that these calls will be from their AP, not a marketing company
- the risks of engaging with cold callers and doorknockers
- how to identify, stop and block such calls and how to respond to an unwanted doorknocks
- how they can seek help or lodge a complaint if required.

The ESC will support the department in its communication approach to consumers.

6.2.2 Guiding industry

The department and the ESC will inform the VEU industry about the ban and its responsibilities through:

- an update on the department's VEU industry news webpage⁷⁸
- content developed by the department for peak bodies and other industry stakeholders to adapt and share through their own networks and communication channels
- email updates from the ESC to its stakeholders, including via the VEU program⁷⁹ and ESC newsletters⁸⁰ (stakeholders need to register for updates themselves)
- updated guidance on the ESC's VEU webpages.⁸¹

The information provided will:

- clearly set out the scope of the ban and requirements for industry, including what is and is not allowed (and what this means in practice for industry)
- clarify the consequences of not complying with the ban, including enforcement action and penalties (see section 6.3)
- confirm what alternative marketing and lead generation methods are permitted
- reference relevant laws and regulations, including the VEET Act (section 6.3), *Do Not Call Register Act 2006* and *Telecommunications Act 1997*.

6.3 Compliance and enforcement

The ESC regulates accredited persons in the VEU program and promotes compliance with obligations through monitoring, validation, and audit activities and enforcement actions.

The proposed Regulations will empower the ESC to regulate compliance with the ban. This includes providing industry with guidance on its obligations⁸² and auditing APs to assess they have the systems and processes in place to meet the Code of Conduct requirements, including the ban.

ACMA, which regulates the national Do Not Call register, advised that the ban was unlikely to eliminate all calls, particularly given indications that some calls were being made by entities acting unlawfully.

From 1 May 2024, if a consumer receives a VEU-related cold call, it would be a breach of the Code. Similarly, from 1 August 2024, if a consumer receives a VEU-related doorknock, this would also be a breach of the Code. The consumer (or someone on their behalf) can advise the ESC, who can then investigate, attempt to identify

⁷⁸ Located at <https://www.energy.vic.gov.au/for-industry/victorian-energy-upgrades-for-industry/veu-industry-latest-news>.

⁷⁹ To sign up for updates on the VEU program, scroll to the end of the page at <https://www.energy.vic.gov.au/for-industry/victorian-energy-upgrades-for-industry>

⁸⁰ To sign up for ESC newsletters, see <https://www.esc.vic.gov.au/about-us/our-newsletters>

⁸¹ Located at <https://www.esc.vic.gov.au/victorian-energy-upgrades-program>.

⁸² Industry guidance about the Code is available at <https://www.esc.vic.gov.au/media-centre/new-resource-help-industry-implement-incoming-veu-code-conduct>.

the responsible party (if their details are not already known) and, if they can be identified, take action against them.⁸³

Businesses found to be not operating in accordance with the Code will be unable to profit from the program (that is, ESC may refuse to register or require the surrender of any VEECs created in contravention of program rules).

In addition, the prohibitions against telemarketing and doorknocking are proposed to be civil penalty requirements.

In response to a breach of the prohibition, the ESC may be able to:

- apply conditions, suspend or cancel an AP's accreditation for breaches of the Code
- issue warning letters to non-compliant businesses
- issue penalty notices or commence civil proceedings for civil penalties (or other orders)
- require an AP to undertake an independent assurance audit at least every two years, which may include consideration of their marketing practice
- request an AP to demonstrate they are competent and capable of compliance, including with the Code, in order to remain accredited
- refuse to register or require the surrender of any VEECS created in contravention of program rules
- undertake compliance audits.

In its submission, ESIA suggested that periodic stakeholder information sessions be held, with expert guests including ACMA, regarding successes and continuing challenges of determining offending businesses and effective penalty regimes.

The ESC has advised the department that its regulatory approach will include additional education, communication and support to comply material for APs and other duty holders, as well as information for consumers.

The ESC will gather intelligence from consumers, APs and other scheme participants, as well as audits and other compliance activities. The ESC may implement short, automated survey requests for consumers to learn about their experience with the VEU program, and ask them if their AP performed telemarketing or doorknocking. This could be an additional method of detecting non-compliant APs, and communicating that these surveys will be taking place may deter non-compliance from APs considering the risk-reward of non-compliant telemarketing or doorknocking.

The ESC will pursue targeted investigations and enforcement actions (and public communication of relevant regulatory outcomes) in line with its compliance and enforcement policy.

6.4 Monitoring, review and evaluation

The ESC and the department will continue to monitor customer complaints about telemarketing, doorknocking and other forms of unsolicited marketing. They will also monitor and manage the risk of any unintended consequences, such as APs shifting poor behaviour to other marketing methods (section 5.2.2).

The department will evaluate the effectiveness of the ban following 12 months of operation of the doorknocking ban having taken effect, to determine whether the objectives of the ban are being met (section 4.3). This review will be undertaken in consultation with the ESC as the program regulator.

The questions to be considered during the evaluation will include:

- Has introducing the ban positively impacted consumers and the program's reputation? Is there evidence of less harm in the community? Have customers' experience under the VEU program improved?
- Has there been an impact on customer cost, with respect to the environment portion of their energy bills?
- What have been the impacts of the ban on competition in the VEU program?
- What have been the impacts of the ban on the energy efficiency and electrification industry?

⁸³ While the ESC does not have a formal dispute resolution function, it can take enforcement action where appropriate to regulate compliance with the Code.

The evaluation will be informed by consumer feedback (including through complaint data, a survey and/or market research), analysis of VEEC prices and AP participation levels, and stakeholder feedback.

This information will enable the department to consider whether any adjustments to the proposed Regulations are needed.

Appendix A: How the VEU program works

This appendix provides a high level summary about the design and operation of the VEU program.

The VEU program is the state's largest energy efficiency program and a key measure in Victoria's *Climate Change Strategy*. It is a market-based program designed to promote energy efficiency by providing incentives for upgrades undertaken in Victorian households and businesses. Incentives are provided for a broad range of upgrades, including energy efficient lighting, heating and cooling, and smart devices.

Consumers receive discounted energy efficient upgrades

The VEU program provides incentives to consumers to invest in energy efficiency upgrades. It does this by creating tradeable certificates, referred to as Victorian Energy Efficiency Certificates (VEECs, or certificates). Certificates represent the amount of emissions reduced by the upgrade.

These VEECs can be used to lower the costs to consumers of upgrades. The costs that consumers see for a technology upgrade is discounted due to the subsidy from the VEECs. As a result, more consumers can access upgrades and reduce their energy bills.

Accredited providers create and sell VEECs

When APs (businesses accredited to operate under the VEU program) undertake eligible energy efficiency upgrades in homes or businesses, they create VEECs. VEECs are registered with the ESC and then sold by APs to energy retailers, who must meet an emission savings target each year based on their annual electricity and gas sales. Each VEEC represents one tonne of greenhouse gas emissions saved over the lifetime of the upgrade. The value of VEECs is created through this market.

This value enables APs to reduce the costs paid by consumers when investing in energy efficiency upgrades.

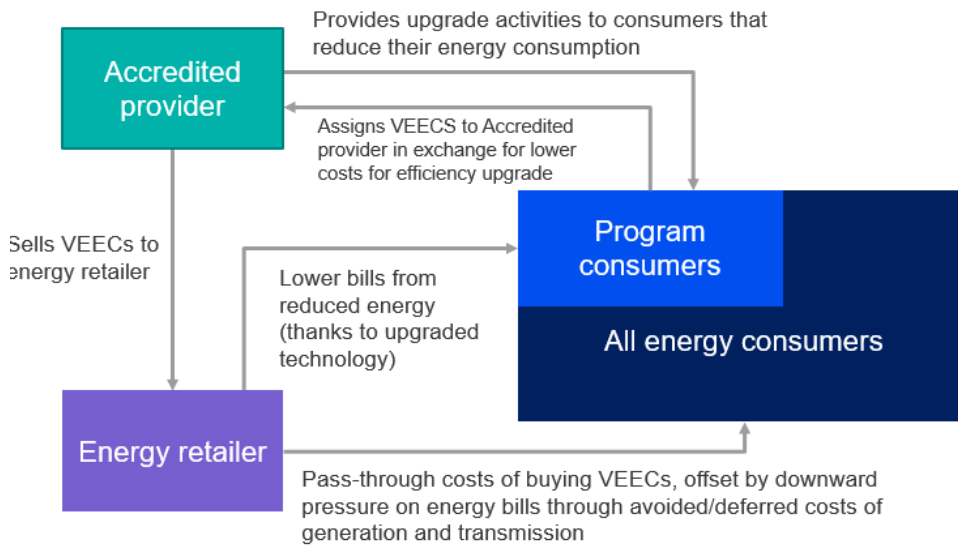
Currently, VEECs can be created in two ways:

- through upgrades that use a simplified approach, whereby the greenhouse gas abatement (and the number of VEECs) for each activity is 'deemed' through a standard method
- through project-based upgrades, which are customised, generally large scale and involve measurement of the actual energy saved.

Energy retailers buy VEECs

The number of VEECs a retailer needs to surrender each year depends on the amount of energy they purchase from the wholesale energy market. Each retailer is responsible for a share of the annual VEEC target. Energy retailers pass the cost on to their customers – including those not participating in the VEU program – through higher energy prices. Historically, this additional cost to consumers has been more than offset by the reduced demand for energy brought about by improved energy efficiency, which puts downward pressure on wholesale energy prices. Figure A1 shows how the VEU program works.

Figure A1: How the Victorian Energy Upgrades program works



Suppliers invest in new technologies

Suppliers of VEECs invest in new business models to deliver low-cost upgrades at scale. This has seen new technologies develop and rapidly achieve market penetration (for example, LED lighting). This has resulted in significant employment both to identify and deliver installations, in the manufacturing of products, and investments to generate new upgrades.

The program is growing

In December 2020, the Victorian Government announced ambitious emissions reduction targets for the VEU program for 2022 to 2025. The targets are to be met by expanding program subsidies to a range of innovative demand-side upgrades. The 2022-2025 targets are delivering an estimated net benefit of \$4.4 billion to the Victorian economy and savings to energy consumers of \$1.3 billion.

Appendix B: Summary of stakeholder engagement

This appendix summarises stakeholder engagement over 7 to 24 July 2023 undertaken by the department to inform the scope, timing and implementation of the ban.

Questions asked

The department sought stakeholder feedback via a general public survey, industry-specific survey and meetings on:

- whether anything should be excluded from the scope of the telemarketing ban
- whether the ban should cover doorknocking as well as telemarketing
- when the ban should be implemented, any transitional arrangements and support to industry to adjust.

The questions asked via the surveys and submissions are summarised in Table B1.

Table B1: Questions asked across the general public survey, industry survey and consultation paper

General public survey	Industry survey	Consultation paper
Do you support a ban on telemarketing for the VEU program?		Support for ban was distilled from responses
Do you think there any situations where telemarketing should be permitted for the VEU program under a ban?		Are there any situations that should be excluded from the scope of the telemarketing ban?
Should the ban cover doorknocking as well as telemarketing?		
What do you think the consequences of the ban will be for consumers?		
n/a	What do you think the consequences of the ban will be for accredited providers and third parties?	
n/a	How is the ban likely to impact on specific VEU upgrades and the program as a whole?	
n/a	When should the ban take effect?	
n/a	What transitional arrangements and support would help the VEU industry adjust?	
What other ways can be used to promote energy efficiency upgrades available through the VEU program?		
n/a	Please share any insights or evidence about the marketing of VEU products and services (for example, marketing trends, the consumer experience, the effectiveness of different methods, etc.).	

Key:

- Question not asked
- Question asked in one survey/consultation paper
- Question asked in two surveys/consultation paper
- Question asked in both surveys and consultation paper

In addition, APs were asked detailed questions about their current and planned marketing practices in relation to VEU (Table B2).

Table B2: Additional consultation questions asked in industry specific survey

Industry specific survey – additional questions
Is your business a Victorian Energy Upgrades (VEU) accredited provider?
What types of VEU energy upgrade products and services (activities) does your business offer? Please select all that apply: <ul style="list-style-type: none">• Weather sealing and/or showerheads• In-home displays• Heating, cooling and/or hot water systems• Insulation, pool pumps, televisions and/or window glazing• Fridges, freezers and/or refrigeration• Business lighting, gas efficiency upgrades, motors and/or pre-rinse spray valves• Custom upgrades (Project Based Activities)
How many of your business' VEU upgrades are for households?
How many certificates does your business generate each year?
Approximately how much money does your business spend on VEU-related advertising, marketing and lead generation each year?
How much is this as a proportion of your overall VEU-related expenses?
Approximately how much time does your business spend on VEU-related advertising, marketing and lead generation each year?
How much of your business' VEU-related marketing, advertising and lead generation is done by third parties (e.g., sub-contractors or companies that sell warm leads)?
[If the AP uses third parties] What type/s of third parties do you use for marketing? <ul style="list-style-type: none">• Purchase warm leads from a marketing company• Sub-contract marketing companies• Sub-contract individuals to do marketing for me• Not sure
What types of marketing does your business use to generate leads and recruit consumers to take up energy upgrades under the VEU program (either directly and/or via third parties)? <ul style="list-style-type: none">• Telemarketing ('cold calling')• Doorknocking• Digital marketing (e.g., texts, emails, social media, search engine optimisation, websites, etc.)• Traditional media advertising (e.g., radio, television, newspapers, display, etc.)• Direct marketing (e.g., leaflets, brochures, mailers, etc.)• Contacting previous customers• Via government marketing and advertising (e.g., VEU webpages, newsletters, etc.)• Other (please specify)
As far as you know, how effective are each of the different marketing practices at generating leads and resulting in upgrades? <ul style="list-style-type: none">• Telemarketing ('cold calling')• Doorknocking• Digital marketing (e.g., texts, emails, social media, search engine optimisation, websites, etc.)• Traditional media advertising (e.g., radio, television, newspapers, display, etc.)• Direct marketing (e.g., leaflets, brochures, mailers, etc.)• Contacting previous customers• Via government marketing and advertising (e.g., VEU webpages, newsletters, etc.)

-
- Other (please specify)
-

Why do you use your current marketing strategies?

- To save time
 - To save money
 - To reach more customers
 - To reach certain customers
 - I've always done it this way
 - Other reasons (please specify)
 - Not sure
-

How does industry misconduct during marketing affect your VEU-related sales and business?

- Reputational damage / consumer mistrust
 - Decreased sales
 - Need to work harder to get sales
 - Affecting the viability of my business offering VEU upgrades
 - Other impacts (please specify)
 - No impacts on my business
 - Not sure
-

When the ban on VEU telemarketing is introduced, will you:

- Switch to other marketing strategies
 - Increase your marketing budget
 - Decrease your marketing budget
 - Change your target audience
 - Change the products and services you offer
 - Make other changes to your marketing
 - Stop offering VEU upgrades
 - Be unaffected – I don't use telemarketing
 - Not sure
 - Please add any comments (optional)
-

Which marketing strategies will you switch to?

- Doorknocking
 - Digital marketing (e.g., texts, emails, social media, search engine optimisation, websites, etc.)
 - Traditional media advertising (e.g., radio, television, newspapers, display, etc.)
 - Direct marketing (e.g., leaflets, brochures, mailers, etc.)
 - Contacting previous customers
 - Via government marketing and advertising (e.g., VEU webpages, newsletters, etc.)
 - Other (please specify)
 - Not sure
-

Please estimate the costs, if any, of making any changes to your marketing methods?

Please add any other costs or benefits, if any, of a telemarketing ban on your business (e.g., for increased/reduced marketing costs, sales or upgrades)?

[Question for respondents who use doorknocking] If a ban on VEU doorknocking was introduced, would you:

- Switch to other marketing strategies
 - Increase your marketing budget
 - Decrease your marketing budget
 - Change your target audience
-

- Change the products and services you offer
- Make other changes to your marketing
- Stop offering VEU upgrades
- Not sure

Which marketing strategies would you switch to?

- Digital marketing (e.g., texts, emails, social media, search engine optimisation, websites, etc.)
- Traditional media advertising (e.g., radio, television, newspapers, display, etc.)
- Direct marketing (e.g., leaflets, brochures, mailers, etc.)
- Contacting previous customers
- Via government marketing and advertising (e.g., VEU webpages, newsletters, etc.)
- Other (please specify)
- Not sure

[Question for respondents who use doorknocking] Please estimate the costs, if any, of making these changes away from doorknocking?

Please share any other comments in relation to your VEU marketing practices (optional)

We may follow up with some accredited providers if we need to clarify or discuss their answers. If you are comfortable with us contacting you, please share your details (optional)

Stakeholder responses

Overall, more than 270 organisations and individuals engaged in the consultation process. This included:

- 191 responses to a general public survey
- 62 responses to an industry survey, which includes varying levels of responses to the detailed survey questions (between 0 to 50 responses per question) described in Table B2
- 19 written submissions in response to the consultation paper (see Table B3)
- meetings and discussions with key stakeholders, including ESIA, ECA, members of the Energy Consumer Insights Forum and relevant regulators the ESC, the Department of Government Services (which has oversight of Consumer Affairs Victoria) and the ACMA.

Table B3: Written submissions received

Stakeholder type	Stakeholder
Consumer advocacy group	Consumer Action Law Centre (CALC) Consumer Policy Research Centre (CPRC) ECA Victorian Council of Social Services (VCOSS)
Industry	AGL (energy retailer) Emerald Group (manufacturer and supplier) and Creditex (AP) (joint submission) Energy Makeovers (AP) ESIA Three anonymous VEU industry members
Regulators	ACMA Energy Water Ombudsman of Victoria (EWOV)
Individuals	Six members of the general public

Of the 253 survey responses, there were two instances where the same respondent filled out both surveys. The language used in these responses indicated that these individuals were affiliated with the VEU industry. In these cases, the general public survey response was removed and the industry survey response retained.

In addition, there were seven instances where a member of industry only filled out the general public survey, where the respondent explicitly referred to their industry affiliation. Likewise, there were two instances where a member of the public filled out the industry survey. These responses were transferred to the proper survey and subsequently analysed. In one instance, an individual submitted two responses to the general public survey. In this case, one of the responses was removed. Finally, some survey respondents gave answers that were unclear or contradicted their response to earlier questions. Depending on the question, these answers were either excluded or caveated.

For these reasons, and because it was unclear how representative the survey respondents were of members of the public and the VEU industry as a whole, stakeholder responses to surveys are typically described in the RIS as 'some stakeholders', 'many stakeholders' or 'most stakeholders' rather than exact response rates.

Appendix C: Related issues

This appendix summarises stakeholder feedback to, and a departmental response on, the initial consultation on topics that are outside the scope of this RIS.

Other forms of marketing

The department also sought stakeholder feedback on whether there were any other high-risk forms of marketing under the VEU program where further action was needed. In their feedback, some consumer groups wanted the VEU program to include further protections for marketing texts, digital advertising and marketing in public spaces.

For example, the CPRC argued in its submission that high pressure sales tactics can still be used and still cause harm in public places (such as shopping centres). The CPRC advocated for a prohibition on VEU providers asking consumers to share personal information or sign a contract at that point, so that consumers can take time to consider if that VEU provider is right for their needs outside of a sales conversation.

The ECA argued in its submission that more needed to be done about digital advertising, expressing concerns about targeted online advertising that promoted, for example, 'free' hot water heat pumps and promised major energy bill savings. The ECA has raised these concerns with the Australian Competition and Consumer Commission (ACCC) and also recommended the ESC monitor the activities of relevant parties online, over the phone and in-person and take similar appropriate action to ensure consumers are protected from potentially misleading and predatory behaviours.

In its submission, one AP argued for opt-in requirements for VEU related social media by industry, whereby third parties establish a 'community' of energy efficiency interested people, keep them up to date with new activities and offers as they become available and provide options to opt-in to these communications. Another AP advocated for a review of social media advertising of hot water heat pumps, given concerns about some in industry engaging in misleading and deceptive conduct, or making false or misleading representations.

EWOV suggested there may be a case to extend the definition of telemarketing to include contacts via text.

There is no evidence of large-scale or problematic misconduct by industry or community concern about emails, texts or marketing in public places (such as shopping centres). In addition, texts and emails are more 'passive' forms of marketing that require the consumer to take action to respond to the incoming marketing and are less intrusive than cold-calling or doorknocking.

If there is any misconduct, regulators should be able to identify and take action against the offending business. The department has passed on stakeholder feedback relating to possible breaches of the VEU Code of Conduct or other inappropriate behaviour to the ESC as regulator of the VEU program.

The bans on traditional energy retailers and Solar Homes participants did not include emails, texts or marketing in public places, so banning these activities under the VEU would be inconsistent with other, similar policies.

As such, in Chapter 4 the department has proposed that industry still be allowed to use the following marketing methods:

- digital advertising (e.g. texts, emails, social media, websites, search engine optimisation, etc.)
- traditional media advertising (e.g. radio, television, newspapers, displays, etc.)
- direct marketing (e.g. stalls, leaflets, brochures, mailers, etc.).

Other consumer protections

Cooling off periods

During consultation in late 2021 on the draft Code, some consumer advocacy groups suggested including mandatory 'cooling off periods' in the Code. They argued this was particularly important for elderly or vulnerable consumers and was commonplace in other energy contracts. One advocacy group went further in proposing additional provisions beyond the ACL, for example where an agreement was deemed invalid unless the consumer deliberately opted in after the end of the cooling off period. The advocate pointed to

research that suggests an opt-in model may be more effective at protecting consumers than ‘cooling off periods’.⁸⁴

The department did not proceed with this suggestion when it created the Code. In its response to consultation, the department clarified that the proposed Code requirements already required that consumers be informed of their cooling off rights under the ACL when agreeing to an upgrade, where relevant. Under the ACL, consumers are entitled to a ten-business day cooling off period for unsolicited products/services valued at more than \$100.⁸⁵ The original Code aimed to remain consistent with the ACL, including ‘cooling off periods’, and provide consumers and accredited businesses under the VEU program with clarity on consumer rights and industry obligations under ACL.

The department committed to revisit this topic when it reviewed the Code. The department and the ESC are not aware of any consumer complaints relating to issues that could effectively be addressed through cooling off periods under the VEU program. The department has hence determined not to make this change.

Requiring installations to be undertaken by those who initially agreed to undertake the upgrade

During consultation in late 2021, some stakeholders suggested the Code include a requirement that installations be undertaken by those who initially agreed to undertake the activity (or if this changes, notify customers of the change and proceed if customers agree to it).

At the time, the department responded that this requirement would not be added to the initial version of the Code, but it would reconsider this suggestion when the Code is reviewed. Given that this would unduly restrict the business models of APs, the department has determined not to make this change. The reason that this requirement is considered too restrictive is that there are legitimate reasons why APs would need to use third parties for marketing or for installation, for example to manage cash flow and fluctuations in customer demand.

Independent dispute resolution

In its submission to the initial consultation paper on VEU telemarketing, EWOV suggested consideration be given to providing consumers with access to independent dispute resolution for energy efficiency upgrades.

As more Victorians seek to improve the energy efficiency of their homes, through upgrading inefficient heating, cooling or cooking appliances, or switching from gas to electric appliances, ensuring that consumers have a clear pathway and free access to an experienced, independent complaints and dispute resolution body is increasingly important in the transitioning energy market. This will be an important consideration as further regulatory and legislative framework updates are considered.

In its submission, EWOV pointed out that its decades-long experience as the Victorian energy ombudsman scheme means EWOV can play an important role in ensuring consumers have trust and confidence in the evolving market, and that fair and reasonable outcomes are reached when problems arise.

The department will consider this suggestion as part of broader future reviews relating to energy consumer protections.

Unsolicited marketing outside of the VEU program

The department notes that some stakeholders would like for the ban to extend beyond the VEU program. In its submission, the CPRC advocated for the Victorian Government should start a process to ban or further restrict unsolicited marketing tactics more broadly. This position reflects broader community concern with telemarketing and unsolicited marketing more generally, which is discussed in section 2.5.

The Victorian Government has already taken action on unsolicited marketing in a number of energy related areas. Solar Homes program participants were banned from undertaking unsolicited door-to-door sales from 1 September 2021 and electricity and gas retailers were banned from using high pressure sales tactics for

⁸⁴ Consumer Action Law Centre, Loddon Campaspe Community Legal Centre & Westjustice 2017, *Knock it Off! Door-to-door sales and consumer harm in Victoria*, viewed at: <https://consumeraction.org.au/knock-it-off/>.

⁸⁵ See <https://www.consumer.vic.gov.au/products-and-services/business-practices/door-to-door-sales-and-telemarketing/door-to-door-sales>

energy retail contracts, such as door-to-door sales or cold-calling from 31 December 2021.⁸⁶ The proposed ban on telemarketing would bring the VEU program in line with these bans.

The department is also considering protections for consumers of distributed energy resources (DER) through a separate review.⁸⁷ In October 2022, the department publicly consulted on whether further protections for consumers of DER products and services are needed as Victorians participate in the energy transition to a decarbonised grid. Stakeholders and members of the public made 55 submissions to the consultation paper. The department is reviewing this feedback and expects to update stakeholders by early 2024 about potential reforms to consumer protections.

In terms of unsolicited marketing more generally, consumers have rights and protections under the consumer law, which regulates unsolicited marketing and provides certain protections for consumers when a salesperson approaches them over the phone, at their door, or in public. Consumer protections include requirements that salespeople can only call or approach within certain times, salespeople must identify themselves, including the business they represent and why they are calling or visiting, salespeople must end the call or leave as soon as they are requested to by the consumer, and the consumer has 10 day cooling off period for any agreements signed. See section 2.6.3 for details.

⁸⁶ 'Banning Harmful Energy Sales Tactics' media release, 27 December 2021, at <https://www.premier.vic.gov.au/banning-harmful-energy-sales-tactics>. Energy retailers are permitted to market by door-to-door sales or phone if the customer invites them to do so.

⁸⁷ Department of Energy, Environment and Climate Action, 2022, 'Protecting consumers of distributed energy resources (DER)' consultation page, <https://engage.vic.gov.au/protecting-consumers-of-der>

Appendix D: Protections under other similar schemes

This appendix summarises existing protections under similar schemes for comparative purposes. For a summary of provisions under the VEU program, see Chapter 2.

Victoria's Solar Homes program

The Solar Homes program offers rebates to eligible Victorians to reduce the upfront cost of installing solar panels, to upgrade to an efficient hot water system, or to install a solar battery.⁸⁸

As previously mentioned, doorknocking was banned under the program from 1 September 2021.

Authorised retailers must comply with all laws when publicising Solar Victoria programs, under the terms and conditions. This includes laws prohibiting false and misleading representations and a 10 business day cooling-off period, which allows consumers to reconsider agreements made in any circumstances. Solar installers must be a Clean Energy Council (CEC) Accredited Installer and must comply with the CEC Code of Conduct for Accredited Designers and Installers.⁸⁹

New South Wales Energy Savers Scheme and Peak Demand Reduction Scheme

The NSW has a similar scheme to the VEU program, known as the Energy Savers Scheme (ESS) incentivising energy efficiency. It is part of the Energy Security Safeguard, that also included the Peak Demand Reduction Scheme (PDRS), which provides financial incentives to households and businesses to provide peak demand reduction capacity during hours of high peak demand in summer.

Marketers must be able to provide identification information and adhere to minimum standards of conduct and relevant legislation. This includes that private Accredited Certificate Providers (ACPs) must ensure that they and their representatives:

- properly identify themselves as representatives of the ACP
- explain the schemes to the consumer, including providing fact sheets and explaining any mandatory requirements
- properly inform the consumer about the equipment that is to be installed
- provide appropriate customer service and after sales assistance.⁹⁰

However, the ESS Rule and legislation doesn't explicitly ban telemarketing calls or door-to-door sales. The ESS requires ACPs to comply with the Minimum Requirements of Conduct,⁹¹ which includes a requirement for ACPs to train representatives in telemarketing and doorknocking provisions under Australian Consumer Law.

South Australia Retailer Energy Productivity Scheme

Under SA's Retailer Energy Productivity Scheme (REPS), households and businesses are provided with incentives to save energy. The REPS improves energy productivity for households, business and the broader energy system by setting energy productivity targets to be met by electricity and gas retailers.⁹² The REPS delivery model is different to the VEU program, as activities are provided through REPS obliged energy retailers and activity providers.

⁸⁸ For more information on the Solar Homes Program, see the Solar Victoria website <https://www.solar.vic.gov.au/solar-homes-program>.

⁸⁹ Solar Victoria 2023, <https://www.solar.vic.gov.au/consumer-protection>.

⁹⁰ Independent Pricing and Review Tribunal, <https://www.energysustainabilityschemes.nsw.gov.au/Home/About-ESS/FAQs/Residential-activities>.

⁹¹ IPART Minimum Requirements of Conduct, <https://www.energysustainabilityschemes.nsw.gov.au/Accredited-Certificate-Providers/Obligations-of-an-ACP/Minimum-Requirements-of-conduct#:~:text=The%20Minimum%20Requirements%20of%20Conduct.Provision%20of%20training>.

⁹² For more information on the REPS, see the SA Government website <https://www.sa.gov.au/topics/energy-and-environment/using-saving-energy/retailer-energy-productivity-scheme>.

REPS obliged retailers or activity providers must adhere to the REPS Code, which sets out minimum obligations aimed at protecting consumers, including during telemarketing and doorknocking (which are permitted)⁹³. Relevant requirements for REPS obliged retailers and activity providers include to:

- comply with all applicable Commonwealth and State laws
- explain why they are contacting the consumer
- not say things that are misleading, deceptive or false
- not use high-pressure tactics, harass or coerce to sell or market products or services
- provide information that is truthful, complete and in plain language
- provide access to applicable complaint handling and dispute resolution processes.^{94, 95}

Consumers may make a complaint directly to the offending business if they have issues. If this option is unsatisfactory, the consumer may contact the Essential Services Commission of South Australia (ESCOSA), which is responsible for protections under the REPS Code.

Australian Capital Territory Energy Efficiency Improvement Scheme

Under the ACT's Energy Efficiency Improvement Scheme (EEIS), electricity retailers are required to help households and small-to-medium businesses to save energy.⁹⁶

Electricity retailers and Approved Energy Savings Providers can achieve energy savings through eligible activities, including installing efficient electric space heating and cooling systems, electric hot water heat pumps and insulation.⁹⁷

There is currently one retailer delivering activities under the EEIS.

Retailers delivering activities under the EEIS must meet the requirements of the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Code of Practice 2019*, in particular Section A, Part 3.3:

A retailer must maintain adequate awareness of the general requirements of the Act and the Scheme in its customer contact centres to respond to consumer requests for general information. As far as is reasonable, information provided to customer contact centre staff by the retailer on the Act and the Scheme must be kept current.

⁹³ Government of South Australia 2022, <https://www.sa.gov.au/topics/energy-and-environment/using-saving-energy/retailer-energy-productivity-scheme>

⁹⁴ Essential Services Commission of South Australia, <https://www.escosa.sa.gov.au/industry/reps/faqs/households-businesses>.

⁹⁵ See REPS Bulletin no <https://www.escosa.sa.gov.au/industry/reps/bulletins>.

⁹⁶ For more information on the EEIS, see the ACT Government website, <https://www.climatechoices.act.gov.au/policy-programs/energy-efficiency-improvement-scheme>.

⁹⁷ *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination 2022 (No 2)*, <https://www.legislation.act.gov.au/View/di/2022-244/current/html/2022-244.html>

Appendix E: Stakeholder feedback on communications

This appendix summarises stakeholder feedback and relevant research and analysis by the department in relation to better engaging consumers on the VEU program.

Strong support for greater government promotion and options for consumers to approach industry

The initial consultation revealed a strong desire from members of the public and consumer advocacy groups for accessible and trustworthy information about the VEU program.

Market research by the department in 2021 found that independent sources, such as government websites, were considered to be more credible than direct selling approaches such as telemarketing. They play an important role in providing information alongside other sources, including word-of-mouth, reviews, and social media.

Based on some of the initial consultation feedback received, it was apparent that not all stakeholders were aware of the current range of government materials.

There was also an interest from both consumers and industry in moving to marketing methods that allow households and businesses to approach APs. Stakeholder feedback, as well as market research by the department in 2021, found that supporting consumers to do their own research without feeling pressured is important to establishing trust in the program and helps to minimise any decision-making risks associated with program uptake (such as obtaining an energy upgrade that does not suit their situation).

Stakeholders were particularly interested in improvements to the AP register, including keeping the content up to date (including options to encourage APs to update their availability in particular areas), making it more user-friendly (particularly with regards to the search functions) and promoting it more.

Consumers want a range of ways to learn about and access the program

There was concern from some industry stakeholders about their ability to afford 'above-the-line' marketing strategies (non-targeted, wide-reaching advertising such as television, radio and print media) as an alternative to telemarketing.

However, stakeholder feedback and market research by the department both indicate that consumers need and value a diverse range of options to access the program. Respondents to the general public and industry surveys suggested a wide range of marketing options, including social media, online or digital advertising, direct marketing (addressed mail, preferably from the government), brochures or flyers, and a letter or note in electricity and gas bills (from their current provider) – as well as TV and radio.

Stakeholders felt that these communications should be used to provide general information on upgrades available under the program, in addition to announcing new upgrades.

Other less common suggestions by stakeholders included:

- a department-initiated public awareness campaign about available upgrades
- a SMS message or an app notifying consumers when new activities are added
- public events, stalls and information booths
- billboards and public posters (for example, on public transport)
- newsletters or print media (including seniors and local government newsletters)
- local government promotion and community events (for example, through libraries, community houses and sporting clubs)
- advertising the program through real estate agencies and contractors (such as electricians), industry associations and Centrelink to assist vulnerable communities.

Appendix F: Underlying assumptions and data inputs used for calculations

This appendix summarises key inputs and assumptions used to inform the assessment of policy options in this RIS.

Assumption	Values		Source
	Telemarketing	Doorknocking	
Number of upgrades by households	752,993	752,993	ESC data portal
Number of upgrades by businesses	65,202	65,202	ESC data portal
Proportion of business customers who are small businesses	84%	84%	ESC data portal
Proportion of business customers who are med-large businesses	16%	16%	ESC data portal
Estimated % of <u>household</u> upgrades from marketing method	5.05%	43.50%	ESC complaints reports and DEECA estimate
Estimated % of <u>small business</u> upgrades from marketing method	5.05%	43.50%	ESC complaints reports and DEECA estimate
Estimated percentage of <u>med-large business</u> upgrades from marketing method	1.01%	4.35%	ESC complaints reports and DEECA estimate
% number of complaints from households	92%	92%	DEECA estimate
% number of complaints from small businesses	7%	7%	DEECA estimate
% number of complaints from med-large businesses	1%	1%	DEECA estimate
Number of written complaints to DEECA, Minister and Premier per year	122	8.5	DEECA data

Number of complaints to ESC per year	457	103	ESC data
Number of call complaints to DEECA Customer Call Centre per year	540	100	DEECA data using estimate of ratio
Total number of email complaints per year	579	111.5	DEECA and ESC data
Total number of phone complaints per year	540	100	DEECA and ESC data
VEEC spot price		\$80	Demand Manager Certificate Prices
VEU proportion of annual energy bill for households		\$50	DEECA estimate based on recent data
VEU proportion of annual energy bill for businesses		\$250	DEECA estimate based on recent data
Compliance rate of the bans	85% in the first year, close to 100% after 4 years		ESC estimate
Number of calls / knocks answered to get a sale	20 for households 80 for businesses	10 for households 35 for businesses	DEECA estimate from industry discussion
Number of full-length pitches per sale	3 for households 5 for businesses	5 for households 10 for businesses	DEECA estimate from industry discussion
Number of minutes per short calls/knocks answered	30 seconds	30 seconds	DEECA estimate from industry discussion
Number of minutes per full-length pitch	Households: 5 minutes Businesses: 10 minutes	Households: 5 minutes Businesses: 10 minutes	DEECA estimate from industry discussion
Number of minutes per email complaint	20 minutes	20 minutes	DEECA estimate
Number of minutes per call complaint	15 minutes	15 minutes	DEECA data
Median weekly salary per FTE (AP staff)		\$2,000	DEECA estimate based on ABS data