



Australian Government

Commonwealth Environmental Water Office

Review of the Water Charges Rules  
Australian Competition and Consumer Commission  
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Via email to: [waterchargerules@acc.gov.au](mailto:waterchargerules@acc.gov.au)

## Response to the ACCC Review of Water Charges Rules Draft Advice, November 2015

As the Commonwealth Environmental Water Holder I am pleased make the following submission in response to the *Australian Competition and Consumer Commission (ACCC) Review of Water Charges Rules Draft Advice, November 2015*.

### *Background of Commonwealth Environmental Water*

The Commonwealth Environmental Water Holder has statutory obligations under the *Water Act 2007* to manage the Commonwealth environmental water holdings for the purpose of protecting or restoring environmental assets within the Murray-Darling Basin. The Commonwealth Environmental Water Office supports the Commonwealth Environmental Water Holder in carrying out these functions.

The Commonwealth environmental water holdings are a mix of entitlement types, including regulated, unregulated and groundwater licences with varying levels of security. Commonwealth environmental water entitlements are held in four states, across 19 catchments within the Murray-Darling Basin. The entitlements are subject to the same allocation, carryover and other rules as equivalent entitlements held by other water users. They are also subject to the same fixed and variable tariffs as other equivalent entitlements across the Basin. In 2014-15 the Office paid over \$15.6 million in fixed and variable fees and charges to nine state government water authorities and public irrigation infrastructure operators across the Basin.

### *Comments on the ACCC's Draft Advice*

I support proposed changes to the Water Charge Rules which promote the efficient operation of the water market including through transparent and non-discriminatory practices. In concert with the *Basin Plan water trading rules*, the Water Charge Rules should provide a framework that enables all market participants to operate within the market with confidence that tariff structures send clear signals on the real cost of services provided by water authorities to their customers, whilst ensuring that charges imposed do not discriminate based on the purpose for which the water is being used.



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The following submission supports the ACCC's Draft Advice, with a focus on those rules and recommendations that are of particular relevance to managing the Commonwealth environmental water holdings.

*Rule advice 4-A and 4-B*

As proposed in the ACCC Draft Advice, it would simplify the approach to water charges if the Water Charge (Infrastructure) Rules, the Water Charge (Termination Fees) Rules and the Water Charge (Planning and Management Information) Rules were combined into one instrument. The amalgamation of these instruments would also provide the opportunity to review the relevant definitions and remove ambiguity where the same terminology is applied in a different way to each set of the existing rules. It is appropriate, however, to not combine the market rules with the charge rules.

*Rule advice 5-A and 5-B*

An efficient water market is facilitated by consistent and non-discriminatory application of rules. The ACCC's advice to apply the Water Charge Rules to all infrastructure operators, and ensure that fees and charges imposed by operators are not based on the purpose for which the water is, or will be, used, will help to support an efficient market.

The Water Charge (Infrastructure) Rules should promote variable use charges that reflect the prudent and efficient costs of using water and providing inter-valley and interstate trade services. The rules, however, should also discourage approaches to charging that have the potential to distort water market prices, distort use and transfer decisions, or present additional barriers to trade.

*Rule advice 5-E to 5-I*

Rule changes that improve the transparency of the determination and publication of water product fees and charges would contribute to the efficient and effective operation of the water market. Rules that require infrastructure operators to produce an easily accessible schedule of fees and charges which clearly identify the purpose for which specific charges are being levied and the circumstances under which those charges will be applied would support such an objective.

Fees and charges should be made available to customers well in advance of when the new fees will be applied. Further, where applicable, the schedule of charges should clearly identify whether tariffs include a pass-through charge component to fund other state or Commonwealth government activities, such as the Murray-Darling Basin Authority River Murray Operations, or the Dumaresq-Barwon Border Rivers Commission.

#### *Recommendations 4-A and 4-B*

The *Basin Water Charging Objectives and Principles* require state water authorities and irrigation infrastructure operators to implement a suite of charges that are based on cost recovery principles and the movement towards upper bound pricing (where practicable). Implementation of the charging principles would be assisted by the development of practical guidance materials. This guidance could draw from and enhance the guidance provided by existing government- approved principles including the COAG Water Resource Pricing Principles and the National Water Initiative (NWI) Pricing Principles.

It is important that the determination of fees and charges continue to be subject to independent price regulation. The recommendation to review the ACCC's *Pricing principles for price approvals and determinations under the Water Charge (Infrastructure) Rules* in close consultation with industry stakeholders and Basin State price regulators would support consistency across jurisdictions and regulatory best practice.

#### *Recommendation 7-A*

The NWI Pricing Principles identify that if planning and management costs are recovered it should be done using an impactor pays approach. Planning and management activities identified by the NWI Pricing Principles include, among other things, promoting the *long term sustainability of the water resource* and *maintaining the health of natural ecosystems*.

The emergence of the Commonwealth Environmental Water Holder as a relatively new entity in the water market has resulted in a larger proportion of the existing volumes of water being managed for environmental outcomes. With regards to planning and management costs, the consolidation of a large number of smaller water rights that were previously held for consumptive purposes into a relatively small number of large scale environmental water releases provides some efficiency gains. The *Basin Water Charging Objectives and Principles* inherently provide for the recognition of efficiency gains. Further, providing water for environmental outcomes supports the planning and management activities of promoting sustainability and long term river health.

The Water Charge Rules may not be an effective policy tool to ensure the commitment to the NWI pricing principles are met by Basin governments (as outlined in Recommendation 7-A of the ACCC's Draft Advice), however, the Water Charge Rules can acknowledge that infrastructure operators across the Basin are obliged to plan and manage their resource for multiple purposes and multiple users, including for agricultural, urban, recreational, industrial and environmental objectives. Planning and management costs are therefore incurred by and apply to all entitlement classes, irrespective of the intended use of the water.

Implementation of planning and management charge rules should prevent undue price discrimination based solely on the class of entitlement holder, or the purpose for which the water is to be used. The price characteristics of licensed entitlements held for environmental use should neither be enhanced nor diminished relative to equivalent entitlements held for other purposes in the same river system. Such an approach would facilitate an efficient and transparent water market, where water can be traded between market participants for different uses according to its highest value.

*Recommendations 8-A and 8-B*

The Commonwealth Environmental Water Holder, supported by the Commonwealth Environmental Water Office, administers a large water portfolio which is actively managed between connected river systems and state jurisdictions. Market mechanisms, such as water transfers and trade, are used to maximise whole-of-Basin environmental outcomes from these holdings in accordance with the objectives of the *Water Act 2007* and the *Basin Plan*.

Improvements to state register reporting mechanisms and the provision of clear and concise information to water rights holders regarding water trading will assist in addressing the potential for the asymmetric availability of information to market participants. Improvements to the water trade reporting mechanisms could include providing clarity on whether transactions are considered market or 'commercial' trades or are for environmental or other 'non-commercial' purposes (e.g. water allocation transfers). Other initiatives may also improve the transparency of water market reporting, including enhancements to the interoperability of state based water registers; access to up-to-date and reliable water market data in a consistent format across all state registers; and the clear separation of water market trade prices when transactions involve other matters such as land and water delivery rights.

I recognise the important role that the Water Charges Rules play in providing a framework for determining and transparently communicating relevant water charges, and for preventing the potential for discriminatory pricing practices. If clarification or further information is needed with respect to this submission, please contact my office on (02) 6274 9245.

Yours sincerely



Mr David Papps

Commonwealth Environmental Water Holder

8<sup>th</sup> March 2016