



ACCC Regulatory conference

Welcome Address

30 July 2009

Graeme Samuel, Chairman

Good Morning. Welcome everybody to the tenth regulatory conference of the Australian Competition and Consumer Commission and the Australian Energy Regulator. The theme of the conference this year is **The Regulation of Infrastructure in a Time of Transition**.

It would be exaggeration to say that as soon as one conference finishes we start on the next – after all, staff are allowed to have the weekend off. However, we certainly move quickly to set-up the framework for the next conference. In thinking about issues such as national broadband deployment, the Carbon Pollution Reduction Scheme and the increase in Renewable Energy Targets, the theme, **The Regulation of Infrastructure in a Time of Transition**, certainly had resonance.

Of course at about this time (September 2008) we also had the bankruptcy of the Lehman Brothers, the failure of various prominent banks in America and Europe, the effective nationalisation of a number of UK banks followed quickly by some of the most extraordinary volatility in the stock market. Given this turbulence, some may have wondered whether there was any sense in discussing the regulation of infrastructure – would anyone have wanted to attend a regulatory conference in Queensland in 2009?

Conference attendance is around the 430 mark – we talk about a firm ceiling on numbers but each year we seem to let the numbers creep-up just a little more. There is no doubt that the regulated sectors are grappling with a plethora of transition issues in energy, transport, water and communications, and these issues about technological changes and changes in the real economy go on regardless of any upheavals in the financial market and the business cycle.

I think the conference has now achieved the status of a must-do event for those with any involvement in economic regulation of infrastructure – firms from the regulated sectors, consultants, lawyers, academics and, of course, the different regulatory bodies in Australia and elsewhere. Within the structure of the conference it allows this group to come together and to listen, discuss, contribute and argue about the latest thinking on a diverse range of regulatory issues. The conference program has been designed to promote or provoke discussion – please take advantage of this opportunity.

This year we maintained our tradition of inviting eminent international speakers to the conference, and while we are particularly pleased to again have Professor Ingo Vogelsang and Professor Stephen Littlechild with us, the other eminent international speakers are first timers – reflecting in part the new issues that have come to prominence. Also, following on from its success last year, we are again having a legal session as one of our breakouts. I note the title – ‘Economic experts: how necessary are they?’ Depending on the conclusions drawn, we might or might not have a legal session in the conference in 2010.

We also have a break from tradition. This year we are not ending the conference with a summation or an overview, but with a major event. Those over a certain age will remember Geoffrey Robertson on the ABC with his hypotheticals. For this session we have cast Professor Stephen King in this role – admittedly with less television experience – but of equal wit and a far superior knowledge of the economics of infrastructure. Stephen is one of the people in Australia who has given most thought to the issues concerned with the economic regulation of infrastructure.

The hypothetical will I understand focus on the establishment by Stephen, along with five other economic luminaries of a people's bank and conclude with his appearance before the royal commission of inquiry into its collapse.

Professor Timothy Brennan will open the conference and set the scene with his address on infrastructure challenges in the early part of the twenty-first century. The talk will focus particularly on the technical challenges facing the communications sector and electricity industry, looking for the implications for the design and practice of regulation.

Further developing the conference theme, **Professor Vogelsang's** session will take-up what has been in Australia, and I would think internationally, a core issue about regulation – the impact of economic regulation on incentives for investment and technological change. Debates about this have at different times ebbed, flowed and raged since the implementation of National Competition Policy and the formation of the current regulatory-regime structure in 1995. The combined forces of **Professors**

Vogelsang and King will give their take on what for regulators is a fundamental ‘meaning of life’ question – ‘Is regulation inherently in conflict with the objectives of facilitating technological transition or of achieving efficient investment?’

If a partial answer to the question is – it depends on the nature of the regulatory regime – it then follows that the nature of different regimes have to be explored, and this is the right place in our proceedings to look at substitutes for traditional economic regulation of monopoly infrastructure. Who better to explore this question than **Professor Stephen Littlechild**.

Professor Littlechild has been with us in the Melbourne office in the past few days discussing with my colleagues in the AER, Ofgem’s RPI-X (Retail Price Index-X) review. Given Professor Littlechild’s key role in UK regulation in the last few decades, as both an academic and a regulator, we will be particularly interested to get his take on the available substitutes, and on what may be achieved when they are used to ‘regulate’ monopoly infrastructure. **Greg Houston**, who has considerable experience in reflecting on the theory and outcome of light-handed regulation in Australia and New Zealand, will open discussion.

Having set-up and traversed these big questions confronting the economic regulation of all types of infrastructure, we move to the breakout sessions. These breakouts have traditionally given us the opportunity to ask speakers to talk about topical issues as they impact on a specific sector or about issues that are sector specific.

Professor Brennan will return to the podium to provide us with his understanding of the challenges that climate change will pose for

the regulation of energy markets. His focus will be international, while David Swift, representing the newly formed Australian Energy Market Operator, will open discussion bringing-in the Australian experience.

For the communications break-out session we thought it important to acknowledge that broadband deployment is not the only big issue confronting the sector. The switch-off or impending switch-off of analogue television services in the US, UK and Australia can free-up an amount of highly valued spectrum. We have asked **Professor Thomas Hazlett** to talk about the US experience, and specifically to provide us with his insights about the major economic issues that have emerged from the spectrum auction. Given his expertise, **Professor Gary Madden** is particularly well placed to look at these insights from the US and to consider them in the Australian context.

At the conclusion of these sessions you do have a short space of free time – the blackberry obsessives can find themselves a quiet place, the fitness enthusiasts can get into their sporting gear and coffee connoisseurs can continue to explore the area to locate the best espresso. However, the conference will reassemble for dinner. **Dr Cento Veljanovski** was to be our dinner speaker. Dr Veljanovski was due to fly in this morning, having in his own words, travelled through three continents over desert, sea and air from a small Greek island. However, it was not to be and we heard early yesterday that after a five hour wait at the local airport on his Greek Island, with the chance of all connecting flights blown, Cento has had to abandon his trip to Australia.

On Friday we are starting early with our first session commencing at 8:30 sharp. I am delighted to welcome **Justice Finkelstein** as a discussant to our session, 'Economic experts: how necessary are they?' I fully expect to get quite different perspectives on these issues from **Simon Uthmeyer** and **Dr Philip Williams**. Of course our speakers draw upon a wealth of experience.

Over the past year, the ACCC has completed many of its advice functions under the new powers that it was given under the Water Act. In June 2009, the Water market rules and Water charge (termination fees) rules came into effect. Work has also commenced in preparing advice to the Murray–Darling Basin Authority on water trade rules. Water scarcity (at least for some parts of Australia) is one of the most critical issues facing us today and the conference is an opportunity to consider what we can take from international experience regarding the development of water markets. **Professor Gary Libecap** will speak on the topic of water markets to address increased scarcity, comparing the Murray-Darling Basin with the US Southwest. **Dr Lin Crase**, focussing particularly on the issues of rural to urban water trade, will open the discussion.

The conference theme, **The Regulation of Infrastructure in a Time of Transition** has caused us to concentrate upon the challenges facing the regulation of infrastructure in the early part of the twenty–first century. But periods of transition are not unique to this age. It is for this reason that we have asked **Professor Leslie Hannah** to move us away from the preoccupation with 2009, to discuss how natural monopoly problems were addressed 100 years ago, no doubt providing insight to how the current system of

monopoly regulation has come to be. **Dr Chris Decker** will reflect on this paper and the Australian experience.

In the context of this session this is my opportunity to mention the release, just a fortnight ago, of the first ACCC working paper, titled ***The Evolution of Regulation in Australia*** by Harriet Gray, who holds the position of Counsel with the ACCC/AER. The paper provides an overview of the historical developments in the evolution of regulation in Australia, as well as the current form of economic regulation across the different sectors. I understand that there is information in your conference packs about the paper and how to locate it on the ACCC website.

The conference concludes with a star cast for the grand finale – **Logjam at the port**. It is a hypothetical and our panel has been chosen for their clear-thinking and wisdom, not for any known hands-on experience with our ‘colourful’ export port history. **Professors Hazlett and Libecap** can happily plead ignorance of this history, and for the other panel members; **Rachel Trindade, Kirsten Webb, Simon Uthmeyer, Philip Williams** and **Rod Shogren**, they will be have to suspend any preconceived ideas they may have as Professor King directs them through scenarios of his own making.

It is now time for the conference to commence. Again welcome and I hope that we have two days of stimulating and enthusiastic ideas exchange. I will now ask Mark Pearson to introduce our first speaker.