Intergovernmental Cooperation on Infrastructure, Transport, Energy and Cities: The COAG Reform Council’s Perspective

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Introduction

The Council of Australian Governments (COAG) was established in the early 1990s as a forum for Commonwealth, State and Territory leaders. It has evolved to be the peak intergovernmental institution in Australia. Key national reforms are initiated, developed and monitored by COAG, and the COAG process provides an important institutional framework for ongoing policy and fiscal cooperation between the Commonwealth, State and Territory governments.

The COAG Reform Council was set up by COAG to assist it to drive the national reform agenda by strengthening accountability through independent and evidence-based monitoring, assessment and public reporting on the performance of governments. The council is funded by all governments, but is independent of individual governments, and reports directly to COAG. Its core business is monitoring, assessing and publicly reporting across a wide range of COAG’s agreements, including competition and regulation reform, healthcare, education and skills, disability, Indigenous reform, Murray-Darling Basin reform, capital cities and an overall report on progress. The common thread between these reforms is that intergovernmental cooperation and long-term planning by both levels of government is both necessary and desirable to their achievement.

Intergovernmental cooperation and long-term planning are clearly very important for meeting future challenges in infrastructure, transport, energy and for Australia’s cities – which are the focus of this article. Many of the challenges Australia faces in these sectors are simply beyond the capacity of any one government to solve. With continued growth predicted, both in population and trade, existing infrastructure will be subject to more frequent and larger demands. Long-term, coordinated and consistent planning by both levels of government will be essential to providing the certainty needed for private sector investment—including as a destination for foreign capital.

This article provides an overview of the current work that COAG is doing on the national issues of infrastructure, transport, energy and for Australia’s cities. It also sets out what the Council has found so far on governments’ progress on these important reform commitments.

Contents

<table>
<thead>
<tr>
<th>Contents</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lead Article</td>
<td>1</td>
</tr>
<tr>
<td>From the Journals</td>
<td>8</td>
</tr>
<tr>
<td>Regulatory Decisions in Australia and New Zealand</td>
<td>14</td>
</tr>
<tr>
<td>Notes on Interesting Decisions</td>
<td>23</td>
</tr>
<tr>
<td>Regulatory News</td>
<td>25</td>
</tr>
</tbody>
</table>

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Seamless National Economy

COAG’s agenda for infrastructure, energy and transport reform is being progressed through a number of reform streams that are part of the National Partnership to Deliver a Seamless National Economy (the National Partnership) (COAG, 2008, 2009). This National Partnership was agreed by all governments to drive a set of reforms which are aimed at harmonising regulation across the country, addressing poorly designed or unnecessary regulation, or enhancing economic regulation of infrastructure. The National Partnership covers 36 individual streams of reform, and provides for Commonwealth reward payments to the States and Territories of up to $450 million. The Seamless National Economy competition reforms cover critical areas such as infrastructure regulation, access regimes, energy, transport regulation, and road reform. These competition reforms are not tied to incentive payments – the reward money is only targeted at the 27 regulation reforms. The main driver for the competition reforms is public accountability. The competition reforms are aimed at reducing regulatory uncertainty and compliance costs, and supporting the efficient use of national infrastructure through a coordinated approach to infrastructure financing and delivery. There is potential for reforms in this area to lead to an increase in private funding of infrastructure projects. At the very least, achievement of these reforms should provide greater certainty to the private sector.

The COAG Reform Council has provided two reports to COAG on the National Partnership. The first report, National Partnership Agreement to Deliver a Seamless National Economy: Performance report for 2008-09, focussed on 2008-09 reform progress (COAG Reform Council, 2009) and expresses the Council’s concern that COAG’s competition reform agenda had lost momentum. In particular, it found that reforms (including reforms to access regimes) in the key areas of infrastructure – energy, and transport – required COAG’s attention to bring them back on track, and recommended that COAG reinvigorate and clarify its competition reform agenda. In the second report, released recently on 11 February 2011, the Council welcomed the fact that COAG had accepted its recommendation and had updated the competition reform implementation plans to clarify its existing commitments in the key areas of energy, infrastructure and transport (COAG Reform Council 2010). However, it was disappointing that this did not happen until August 2010, two months after the end of the reporting period, preventing the Council from reporting on substantive progress on these reforms until next year.

COAG responded to the Council’s 2009-10 (second) report at its latest meeting on 13 February 2011. COAG broadly accepted all of our recommendations and, significantly, brought forward the final completion date for all of the Seamless National Economy reforms from June 2013 to December 2012 (COAG 2011b). COAG has also asked relevant ministers and officials to report back on options to be developed for a ‘further wave’ of regulatory and competition reforms, with options to be considered by COAG later in 2011 (COAG 2011a). This in-principle agreement provides COAG with an excellent opportunity to take stock of what has been achieved so far, to keep working on the existing reforms with a new, more ambitious timeframe, and to decide on what further commitments could further advance competition and regulation reform in Australia.

Infrastructure

COAG’s commitment to a simpler and nationally-consistent system of economic regulation for nationally-significant infrastructure is underpinned by the Competition and Infrastructure Reform Agreement (CIRA), which was agreed by COAG in February 2006 (COAG, 2006). Under the CIRA, five broad commitments were made, which are now reflected in the Seamless National Economy implementation plan. These five reform areas are:

- certification of State Access Regimes (and the National Access Regime covered in a separate reform stream of the National Partnership, discussed below)
- access regulation of interstate and major intrastate rail track/rail networks
- regulation of significant ports
- competitive tendering principles
- competitive neutrality.

There were no 2009-10 milestones in the updated implementation plan for the first three of these five reform areas. This means that the Council’s second report could not incorporate many substantive updates to the 2008-09 report findings, where it was found that, by and large, progress on infrastructure reforms in the areas of access regimes and ports had been slow and the path forward was not clear. Importantly, though, the implementation plan now includes a milestone for the Productivity Commission to commence a review of the CIRA by December 2012. This milestone reflecting clause 8.1 of the CIRA, which provides for a review of the operation and terms of the agreement once it has operated for five years. This review should provide governments with an opportunity – in addition to COAG’s recent commitment to consider further potential areas of reform – to review the operation of the CIRA, and to consider whether there are further reforms that
should be agreed in pursuit of infrastructure reform objectives. The Council was pleased to see this included – it is important to remember that the CIRA is not an end in itself, but instead is an important means to achievement of better and more efficient infrastructure systems.

**Access regimes**

Monopoly infrastructure can often give rise to an imbalance in bargaining power between the infrastructure owner and access-seeking third parties, resulting in inefficiencies. The objective of access regime reform is to ensure that the third-party access regimes for significant infrastructure facilities apply principles which promote market competition. The regime aims to enhance the incentives for negotiation and provides a means of access should these negotiations fail. The ACCC has an important role to play here as it is one of the three pathways through which a business can gain access to a service—that being that an access undertaking can be submitted to the ACCC. Through assessing these undertakings, the ACCC can facilitate shared access which results in more efficient end-to-end supply chains.

Under the National Partnership, this reform is concerned with the legislative arrangements for the National Access Regime under the, newly renamed, Competition and Consumer Act 2010 (Cwlth). It comprises reforms to the timeframes for regulator decisions, object clauses, regulated access prices and limited merits reviews of regulatory decisions.

It has taken a long time but there has now been some progress on access regimes. Amendments to the National Access Regime – designed to reduce delay, increase certainty for facility owners and access seekers, and streamline administrative processes – commenced on 14 July 2010. The Council has been monitoring progress towards these changes since 2007. Now that these amendments are in place, more access regimes should be submitted to the National Competition Council to be certified as ‘effective’. Under the National Partnership, access regimes listed under the CIRA are to be submitted to the National Competition Council by December 2010 and the National Competition Council has already received a number of applications. The Council will formally report on this process in its next report.

The Productivity Commission’s review of the CIRA will consider the effectiveness of the agreement and assess the impact of certification and the agreement’s regulatory principles on the National and State Access Regimes.

**Energy**

COAG’s focus on energy is an important step in recognising that a national approach is required if Australia is to meet its future energy needs. COAG’s energy reform agenda is designed to achieve a well-functioning national energy market that promotes efficient investment in, and efficient operation and use of, electricity services and natural gas services for the long-term interests of consumers with respect to price, quality, safety, reliability and security of supply. The Council’s 2008-09 report found that COAG’s energy agenda needed renewal – milestones were limited, with many of these out of date. This meant that the Council could only present a partial picture of the status of energy reform in Australia, and progress against these limited milestones was mixed.

In response to the recommendation for COAG to clarify its energy reform agenda, COAG agreed to a revised implementation plan in August 2010 which sets milestones for four key areas of energy reform being pursued by COAG: retail price deregulation; harmonisation of energy market legislation; energy market investment; and demand side participation. In its 2009-10 report, the Council welcomed the revisions to the implementation plan – which certainly provide a clearer guide to the current COAG commitments on energy reform. However, like in the case of the infrastructure reforms, some high-level progress on these key areas was noted, but there were few milestones set for the 2009-10 reporting year for the Council to formally assess. The Council also identified some specific risks for each of these streams of energy reform, which are detailed in the report.

**Transport**

Transport reforms are often presented as being about the creation of a national transport system. This is only partly true because Australia already has a national transport system – nearly 20 per cent of Australia’s freight task crosses jurisdictional boundaries, making it a significant national system. However, there are shortcomings in how the system works. Inefficiencies and distortions mean that transport services are likely to be more costly, less dynamic and less versatile than they otherwise would be.

COAG’s transport reforms aim to address the two main shortcomings: regulatory fragmentation; and significant economic, social and environmental externalities. These reforms are being pursued through the creation of national safety regulators for rail, maritime and heavy vehicles, and through road reform. If these reforms are delivered and if they are done properly, they should hopefully result in cheaper transport, particularly for freight. If the impacts of regulatory reforms in other areas are anything to go by, they should also result in more innovative transport services – improved efficiency, to further reduce costs, and improvements in the safety,
quality and diversity of services offered. In short, these reforms should increase productivity.

For example, the objective of COAG’s Road Reform Plan is to provide better price signals for transport freight infrastructure providers and users to enable Australia to meet more efficiently the forecast growth in the national freight task. COAG agreed in July 2009 to commission a feasibility study that will assess alternative forms of heavy-vehicle charging and funding arrangements, including mass distance location pricing, as well as supply-side reforms such as ‘closing the loop’ between revenue and investment. Based on the findings of the feasibility study, that is due to COAG at the end of 2011, COAG will decide whether to proceed with a regulatory impact statement and implementation of a pricing option as part of the next phase of reforms. Whether these benefits are realised will depend largely on the determination and ability of governments to see the transport reform agenda implemented. The Council’s first report found that governments had generally made poor progress on the transport reforms.

Again, COAG responded to the Council’s report by agreeing to a revised implementation plan in August 2010 splitting the reform into three streams with individual milestones for the establishment of the heavy vehicle regulator; rail safety regulator and investigator; and maritime safety regulator. In its most recent report, the Council recommended that COAG consider including additional interim steps needed to establish the three regulators. At its 13 February 2011 meeting, COAG accepted that recommendation and will release a further updated implementation plan later in the year.

The COAG Reform Council’s roles in Cities

The Council has another area of work related to infrastructure. In December 2009, COAG asked the Council to review the strategic planning systems of capital cities (COAG, 2009). This review is associated with a commitment from governments to have in place strategic planning systems that are consistent with nine nationally agreed criteria (see box) by 1 January 2012 and that, from that date, Commonwealth infrastructure funding to the States and Territories would be linked to consistency with the criteria. In addition to reviewing the strategic planning system of Australia’s eight capital cities, the Council was asked to support continuous improvement in capital city strategic planning and to build and share knowledge of best-practice planning approaches.

Australia’s capital cities are obviously important to national outcomes. For example, in 2006, almost 64 per cent of Australia’s population and over 65 per cent of its labour force resided in capital cities (Infrastructure Australia 2010). The importance of strategic planning in capital cities goes beyond this simple issue of scale. If future living standards are determined by the ‘three Ps’ of the Commonwealth Government’s intergenerational reports – population, participation and productivity – then capital cities are an important strategic focus. Consider the three Ps in turn:

• Population growth: It is illustrative that, from 2001 to 2006, capital cities accounted for just over 66 per cent of Australia’s population growth – slightly more than their current share of population. Accommodating growth is not as simple a matter as building enough places for new people to live. How and where housing is built and to what standard have a big impact on the ability to achieve a broader range of economic, environmental and social goals. This is especially the case when trying to integrate new housing into existing complex economic and social systems, like the capital cities.

• Participation: In 2006, almost 67 per cent of the full-time labour force resided in capital cities. This is not surprising, as capital cities provide larger, more concentrated and more diverse labour markets, meaning greater employment opportunities to encourage people into the labour force. However, cities may also generate disincentives to participation, such as dispiriting commuting times and other problems of poorly organised cities.

• Productivity: Ultimately, however, cities are about productivity. The desire to improve the material standard of living through the benefits of agglomeration and economies of scale – that is, productivity improvement – is one of the underlying drivers of urbanisation through human history. But the marginal returns on urbanisation do not increase endlessly. If not managed properly, the benefits of urbanisation can run up against its detractors in diseconomies of scale, such as congestion.

As noted above, COAG was formed to provide a forum for Australian governments to cooperate on the economic, social, environmental and political imperatives of nationhood. Its formation acknowledged that cooperation was both necessary and desirable, to reconcile the national interest and imperatives with the expertise and experience of service delivery by the States and Territories. This can be seen in COAG’s cities reforms. COAG agreed to an objective for capital cities that provides for the national imperative:

to ensure Australian cities are globally competitive, productive, sustainable, liveable and socially inclusive and are well placed to meet future challenges and growth (COAG 2009).
No single sphere of government has the necessary knowledge, experience and policy tools to achieve these ends. It requires cooperation across the Commonwealth, State and Territory governments.

There is arguably a significant ‘backlog’ in infrastructure provision in Australia. At the high end, Infrastructure Partnerships Australia (IPA) has stated that as much as $755 billion – or more than half of Australia’s annual gross domestic product – could be needed for infrastructure in the coming decades (IPA, 2009). This relates not just to new projects to accommodate growth, but also to a significant maintenance task for Australia’s existing stock of infrastructure, the average age of which has been increasing since the 1980s. This backlog will need to be dealt with in the context of a number of key challenges:

- Significant population growth: Significant population growth is forecast even under low-growth scenarios. For example, the most recent intergenerational report, based on fairly conservative assumptions, projected that, by 2050, Australia’s population would reach 36 million, the populations of the cities of Sydney and Melbourne would reach 7 million, and that the populations of Brisbane and Perth would reach 4 million and 3.5 million respectively (The Treasury 2010). That is, Australia’s four largest cities would house a population roughly equivalent to Australia’s current total population.

- Labour constraints: Demographic change over the coming decades is forecast to cause a slow decline in overall workforce participation accentuated by declining hours worked by those in the labour force. This is likely to lead to competition between industries for labour, including in building and construction of major infrastructure projects.

- Constraints on States and Territories: The primary source of infrastructure funding in Australia, State and Territory governments, face long-term fiscal constraints due to inefficient and volatile revenue sources and growing expenditure on services, such as health. For instance, in 2007 the NSW Treasury projected that by 2044 there would be a ‘gap’ between annual revenue and expenditure equivalent to 3.5 per cent of NSW gross state product, and that some 75 per cent of this gap could be explained by growth in health expenditure (NSW Treasury, 2006). Projected health expenditure by the NSW Government in 2044 would be greater than the NSW Treasury projected that by 2044 there would be a ‘gap’ between annual revenue and expenditure equivalent to 3.5 per cent of NSW gross state product, and that some 75 per cent of this gap could be explained by growth in health expenditure (NSW Treasury, 2006). Projected health expenditure by the NSW Government in 2044 would be greater than the Government’s projected own-source taxation revenues. A similar situation would pertain in other States and Territories, leaving them to fund infrastructure from a declining proportion of their budgets.

- Energy constraints: It is likely that future energy costs will be higher in real terms than they are now, both in terms of potential moves toward pricing greenhouse gas emissions and in terms of the increasing costs of obtaining oil as easily accessed sources are depleted. Increased energy costs will have implications for the economic feasibility of low-density settlement patterns and, in turn, for the nature and viability of infrastructure investments over long-term timelines.

In this context, it is necessary to make the most productive use of available funds for infrastructure. It is often considered axiomatic that infrastructure improves productivity. From the point of view of the firms using infrastructure but not directly bearing its costs, this is probably true. However, it is not always the case from a broader perspective where the cost of provision of infrastructure, including its opportunity cost, must be taken into account. Further, infrastructure may reduce productivity through overinvestment if it is not deployed strategically and as a result:

- is built to deal with peak demand but is unused between peaks
- is poorly timed or based on poor needs-analysis and is not fully used even at peak times
- is not integrated into how existing infrastructure networks work and therefore shifts capacity problems elsewhere.

Infrastructure Australia was established in an effort to drive more rigorous analysis of infrastructure proposals, including a focus on, and prioritisation according to the economic, environmental and social returns offered by these proposals. COAG’s reforms to capital city strategic planning are, in part, driven by the findings of Infrastructure Australia. In its first report to COAG in 2008, Infrastructure Australia found that:

- there was poor alignment of government budget processes for infrastructure with whole-of-government strategic planning focused on achieving desired outcomes
- there was an associated dominance of reactive and incremental policy responses that led to a tendency to avoid public criticism of needed major projects and wait for congestion, bottlenecks, risk or other inefficiencies to reach a critical point before committing to major projects (Infrastructure Australia, 2008).

A core part of COAG’s agreement on capital cities is that, from 1 January 2012, Commonwealth infrastructure funding to the States and Territories will be linked to consistency with the agreed national criteria for capital city strategic planning. Criteria 1 and 2 agreed by COAG are particularly relevant to the more strategic deployment of infrastructure in together requiring horizontal and vertical integration of capital city strategic planning systems. Horizontal
integration of capital city strategic planning systems requires that infrastructure, land use and economic development planning be done in a mutually reinforcing and reflexive manner. Vertical integration requires that the current actions being taken by governments, be they land-use decisions or infrastructure projects, serve the long-term vision and goals for the city’s development over the next 30 to 50 years.

Conclusion

COAG’s reform agenda in infrastructure, transport, energy and cities – which is being progressed through the competition reforms in the National Partnership Agreement to Deliver a Seamless National Economy and the review of capital city strategic planning systems – aims to provide for greater intergovernmental cooperation in meeting future challenges, more efficient and effective regulation, and more clarity for private sector operators and investors about governments’ intentions.

The COAG Reform Council’s role is to report to COAG, and the public, on how governments are tracking on these important commitments. The Council has reported on progress under the Seamless National Economy for two years now – and has been encouraged by progress on some specific reforms and COAG’s responses to its recommendations. It is, however, clear that there is more to be done on the existing competition-reform commitments, at the same time that COAG is considering its ‘next reform steps’. On capital city strategic planning systems, the Council is working with governments to deliver a report to COAG by the end of 2011. The report will be publicly released soon after.

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**COAG Criteria for Capital City Strategic Planning Systems**

**Capital city strategic planning systems should:**

1. **be integrated:**
   a) across functions, including land-use and transport planning, economic and infrastructure development, environmental assessment and urban development, and
   b) across government agencies;
2. **provide for a consistent hierarchy of future oriented and publicly available plans, including:**
   a) long term (for example, 15-30 year) integrated strategic plans,
   b) medium term (for example, 5-15 year) prioritised infrastructure and land-use plans, and
   c) near term prioritised infrastructure project pipeline backed by appropriately detailed project plans;
3. **provide for nationally-significant economic infrastructure (both new and upgrade of existing) including:**
   a) transport corridors,
   b) international gateways,
   c) intermodal connections,
   d) major communications and utilities infrastructure, and
   e) reservation of appropriate lands to support future expansion;
4. **address nationally-significant policy issues including:**
   a) population growth and demographic change,
   b) productivity and global competitiveness,
   c) climate change mitigation and adaptation,
   d) efficient development and use of existing and new infrastructure and other public assets,
   e) connectivity of people to jobs and businesses to markets,
   f) development of major urban corridors,
   g) social inclusion,
   h) health, liveability, and community wellbeing,
   i) housing affordability, and
   j) matters of national environmental significance;
5. **consider and strengthen the networks between capital cities and major regional centres, and other important domestic and international connections;**
6. **provide for planned, sequenced and evidence-based land release and an appropriate balance of infill and greenfields development;**
7. **clearly identify priorities for investment and policy effort by governments, and provide an effective framework for private sector investment and innovation;**
8. **encourage world-class urban design and architecture; and**
9. **provide effective implementation arrangements and supporting mechanisms, including:**
   a) clear accountabilities, timelines and appropriate performance measures,
   b) coordination between all three levels of government, with opportunities for Commonwealth and Local Government input, and linked, streamlined and efficient approval processes including under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*,
   c) evaluation and review cycles that support the need for balance between flexibility and certainty, including trigger points that identify the need for change in policy settings, and
   d) appropriate consultation and engagement with external stakeholders, experts and the wider community.
Critical Issues in Regulation – From the Journals


This paper explores three aspects of regulation: (1) what makes a regulatory authority effective; (2) what is the legitimate role of a regulatory authority in the making and implementation of policy and how that role may be regarded by others; and (3) the issue of independence of regulation from undue political intervention.

Winsor argues that regulators are usually established to carry out complex technical tasks which the government is unable or unwilling to do, where the latter unwillingness arises from the government avoiding the direct responsibility associated with intrusive and detailed regulatory powers. However, political or bureaucratic impatience or intolerance of that power may result in undue government pressure or interventions. Such interventions may result in a severe loss of confidence in the regulatory system and a loss of confidence in the government’s reputation for fairness and respect for the integrity of the system’s checks and balances. Using the regulation of transport industries (particularly rail) as an example, the author argues that regulatory effectiveness and independence is contingent on regulatory entity’s behaviour and its legal status.

When the consumer has a choice, the best regulator is the consumer. However, in cases of monopoly, that choice is not available. The author notes that rail infrastructure is a natural monopoly, and because of the exclusivity which is conferred on passenger rail operators either de jure or de facto, rail services (particularly passenger train operators) are also monopolies. Therefore, regulation of transport infrastructure may be necessary for two reasons:

1. transport infrastructure is a monopoly and the transport infrastructure provider has an incentive to charge excessive fees and/or provide poor or declining quality of service; and
2. transport may be deemed a critical local, regional or national service, where the price, quality and security of supply are important to the economy and consumers.

Within the context of regulation of transport infrastructure, the author first outlines what makes a regulatory body effective – effective regulation requires the regulator to be assiduous in doing its job well, professionally, proactively, proportionally and within its legal jurisdiction. It also needs to explain what it is doing, why it is doing it, and the principles upon which it is operating. An effective regulator does not give into improper political pressure and withdraw from its statutory duties for fear it will be removed or diminished – while political intolerance of regulatory power may result in political intervention, ineffective regulation is also a principal cause of political intervention.

Secondly, the author discusses what is the legitimate role of a regulatory authority in the making and implementation of policy. The author argues that regulatory policy requires a correct balance of political jurisdiction and political criteria on the one hand, and regulatory jurisdiction and regulatory criteria on the other. If politicians are uncertain or uncomfortable about the scope of regulatory power, they could first design regulatory policy so that the regulatory entity acts in an advisory capacity, and, over time, the entity could be given more autonomy – a sliding-scale system of independent regulation could be established.

Lastly, the author argues that effective regulatory institutions require regulatory independence. In highlighting this point, the author quotes the OECD: ‘The key benefits sought from the independent regulatory model are to shield market interventions from interference from “captured” politicians and bureaucrats.’ Regulators must remain vigilant in relation to political pressure and encroachments on their jurisdiction. Until or unless the legislature has made a change, regulators should adhere to their statutory remit as it stands, and not as ministers may threaten to change it.

Winsor argues that while ministers should retain responsibility for broad sectoral policy, regulators should work within that policy framework and that the framework should not be altered frequently or arbitrarily. The demarcation is particularly important for rail – Winsor’s area of interest – because rail is often subject to political incursions (such as long-term subsidies). Therefore, the government needs to determine, from the outset, what it wants the regulatory authorities to do, and that once the regulatory body’s jurisdiction is determined, regulatory independence is crucial.

Other papers mentioned

OECD, Regulatory Policies in OECD Countries – From Interventionism to Regulatory Governance,

This paper reviews developments in the field of industrial organisation over the past few decades, focussing in particular on developments in empirical research. It also briefly suggests possible directions for future research.

The authors describe a key shift in the approach to empirical studies of industrial organisation. Prior to the 1980s, cross-industry regression analysis was the most prominent strand of empirical research. This strand of research relied on data for a cross-section of industries to examine the influence on industry outcomes of industry concentration. In a typical cross-industry regression, industry profitability might be regressed on the combined share of the largest four firms in the industry. Cross-industry regressions gave rise to econometric identification problems, however, with the consequence that in the 1980s there was a shift away from cross-industry studies towards a focus on particular industries.

The paper identifies five active areas current empirical research. First, considerable advances have been made in the econometric modelling of demand, with solutions being provided to the modelling challenges posed by product differentiation. Second, recent empirical studies on collusion have departed from some of the simplifying assumptions of traditional models, and have incorporated, for example, the effects of search costs, price discrimination, consumer stockpiling, adverse selection, and non-price strategies. Third, one important form of imperfect competition is a bidding or auction market. Recent developments in empirical methods for analysing auction markets are parallel to more general developments in examining outcomes in imperfectly competitive markets. Fourth, new approaches have been developed for examining barriers to entry. For example, one type of approach focuses on particular episodes of exit from or entry to a market. Fifth, there are two important recent strands of research into industry dynamics. One examines patterns of survivorship, firm growth and turnover across industries, while the other develops models of dynamic equilibrium for particular industries.

The authors conclude by suggesting directions for future research. They express a concern that empirical work in industrial organisation has focussed excessively on the development of new econometric tools rather than on compelling applications of these tools. One diagnosis for the focus on developing new tools is the limited data that, at least historically, have been available for industrial-organisation research. The authors observe that firms now collect far more data than in the past. In the future, therefore, data limitations may be less of a problem, and so researchers will be able to focus more on the application rather than the development of econometric tools. In addition, the authors suggest that, having moved away from cross-industry studies over the past two decades, researchers should now return to this traditional high-level, more aggregated approach.


The authors argue that ordinary least squares (OLS) estimates of the equity betas of utility stocks in the United States are inefficient. The authors show that quasi-maximum-likelihood estimation produces more efficient estimators of the equity betas for the utility sector.

It is well-established that distributions of stock returns are typically non-normal. These distributions tend to display high kurtosis (thick tails) and skewness. It has also been shown, in particular, that the returns of utility companies in the United States do not have normal distributions. The authors reach a similar conclusion for their sample of 36 companies. They find that the stock returns of 28 of the 36 companies are non-normal.

Using monthly data from January 1990 until December 2004, the authors estimate equity betas for the sample. They use a range of estimators, including OLS estimation and quasi-maximum likelihood estimation with ‘flexible’ parametric probability distributions. These distributions include the skewed generalised T distribution (SGT), the skewed generalised error distribution (SGED), the skewed exponential generalised beta of the second kind (SEGB2) and the inverse hyperbolic sine distribution (IHS). The mean beta estimated using the OLS was 0.265, using SGED was 0.299, using SEGB2 was 0.294, and using SGT was 0.287.

The authors show that, in the presence of non-normal returns, OLS estimates of equity betas are inefficient. More efficient estimates can be produced using quasi-maximum likelihood estimation with SGT, SGED, SEGB2 and IHS. The authors use Monte Carlo simulations to generate distributions of the beta parameter for a range of estimators. For the simulation in which the error term displays kurtosis (thick tails), OLS is the worst-performing estimator. The probability distribution of OLS betas has a higher dispersion than the distribution of betas generated by the other methods. Accordingly it had the highest root mean square error of any of the estimators. The
four estimates based on ‘flexible’ parametric probability distributions have the lowest root mean square error.

The authors conclude that if the distribution of stock returns has thick tails or skewness, quasi-maximum likelihood estimation should be used with SGT, IHS or SEGB2. If such ‘flexible’ parametric probability distributions are used, the estimation error will be reduced, and it is more likely that the estimated beta will be significant.


In this paper, a TFP productivity index is used to assess the effect of regulatory reform on the productivity of terminals at the port of Las Palmas, Spain. Between 1986 and 1999, a series of labour reforms at Spanish ports, accompanied by agreements between the union, employers and government, increased the flexibility of wages and labour practices at the ports. The authors assess the influence of these reforms using monthly panel data from 1991 to 1999 for three terminals at the port of Las Palmas. The three terminals are representative of middle-sized firms operating in the Spanish port system. The panel data are used to estimate normalised quadratic cost functions for the three terminals. The estimated cost functions are then used to construct a TFP productivity index. In constructing the TFP index, six inputs are specified: non-port workers, port workers (ordinary and special), capital, intermediate consumption and total area. The authors distinguish three outputs: containers, ro-ro cargo and general break-bulk cargo.

The TFP productivity index can be decomposed into two components, technical change and scale effects. The scale effects measure the influence of changes of scale on productivity when economies of scale are not constant. Technical change can then be decomposed into three components: pure technical change, which represents a shift in the production function; non-neutral technical change, which reflects an alteration in the slope of the isoquants; and scale-augmenting technical change, which depends upon the scale of operations. The authors use a decomposition that is adapted to discrete data, as continuous data are unavailable.

The authors find that productivity growth was very strong over the period of the study, averaging more than 20 per cent per annum. Most of the change was, however, accounted for by growth in the scale of the operations, particularly towards the end of the period. Scale effects contributed an average of 91.6 per cent of the growth in productivity. The authors conclude that there are considerable economies of scale in operating container terminals. Technical change accounts on average for only 8.4 per cent of the productivity gains. The effect of technological change varied over the period. Early in the period, between 1992 and 1994, it contributed positively to productivity change, but in 1995-99, it did not make a positive contribution. This suggests that the impact of regulatory reforms was early rather than late in the period. In the early years, non-neutral technical change made a negative contribution to technical change, while the pure technical change made a positive contribution.


This paper studies consumer search and pricing behaviour in the British electricity market following its opening to competition in 1999. The authors develop a sequential search model in which an incumbent and an entrant group compete for consumers who find it costly to obtain information on prices other than from their current supplier.

Since electricity is homogeneous, Bertrand-type economic arguments suggest that if supplier prices differ, all consumers flock to the cheapest supplier. However, in Britain this has not happened, despite every consumer having had the opportunity to switch for over ten years and despite a higher proportion switching than in any other European country or US state. Faced with six major suppliers offering differing prices, significant switching does occur but a majority of consumers still pay above the lowest-priced supplier, and company prices still diverge considerably.

The authors ask the question as to how search costs might explain the observed differences in prices across suppliers of electricity. They build a model that takes search frictions as an important determinant in price-setting behaviour of electricity providers. The model makes a distinction between optimal behaviour of the incumbent and of the entrants to the market. The model suggests that consumers will begin searching for alternative suppliers if the expected gains of switching suppliers are larger than the search cost.

The predictions made by their model are statistically significant. Search costs have been high, and for some consumers the search costs have been so high (in the Midlands region of the United Kingdom) that it has not been worthwhile to start searching at all. The authors also find that high margins (calculated by comparing observed prices with their measure of marginal cost) gave some indication that firms have a lot of market power, and the authors argue that this
can be rationalised by their model if consumers have relatively high search costs. That said, the authors note that search costs in the Midlands area have decreased from £46.88 in 2002 to £19.17 in 2005 – a 59 per cent decrease in search costs. And while the authors find that search costs differ substantially across regions, search costs have fallen in most regions. Indeed, for most regions, search costs in 2005 were approximately 25 per cent of what they were in 2002.

The authors conclude that during the late 1990s, the British electricity market was one of the first to completely open up for competition, leading to a substantial inflow of new suppliers. Since then UK consumers have more readily switched suppliers than their European counterparts. However, switching lethargy remains, and they argue that this arises from high search costs. Using a sequential search model that distinguishes between an incumbent and a group of entrants, the authors find that most consumers do not switch, but this may start to change. Search costs appear to be declining rapidly. The authors attribute this decline to the establishment and use of price-comparison websites.


This paper examines the value of underground low-voltage electricity and telecommunications distribution networks to households.

In Australia and New Zealand, a number of cities have implemented undergrounding programs to replace overhead low-voltage distribution lines with new underground wires. Underground networks generally provide a more reliable and secure supply and improved visual amenity to the residential areas. For program evaluation, the benefit of undergrounding to both network service providers and households should be evaluated against the cost of undergrounding networks. Existing studies estimate capital cost of undergrounding networks in established residential areas to be between $10 000 and $20 000 per property, of which only a small proportion can be offset by the cost savings to network service providers. However, it is difficult to quantify the value of the benefits to the households. The authors consider that there is little or no evidence from the literature in the field of either stated preference studies or revealed preference studies.

The authors apply the hedonic pricing method to examine the relationship between observed house prices and types of networks (i.e., underground versus overhead) in three suburbs in Canberra that contain a mix of properties serviced by overhead and underground networks. Holding other things (e.g., house and neighbourhood characteristics) constant, house price is estimated to increase by 2.9 per cent with the presence of underground networks (as opposed to overhead networks). The results show that households are willing to pay $12,350 or more for underground networks in the sample average property valued at $426,000.

The authors consider that this study contributes to the literature and provides useful information to policy-makers considering the economic value of an undergrounding program. However, the authors urge caution in the generalisation of the estimate derived from the study of three suburbs in Canberra. Values of underground networks in other cities may differ with different social-economic features and different network supply conditions.


There is a small but growing literature in the economics of regulation which views public utility regulation as a long-term contract. Specifically, using the language of transactions-cost economics, this literature views the regulatory contract as one form of governance mechanism for solving the hold-up problem that arises from sunk, relationship-specific investments. The opening sentence of this article reminds readers: "The parallels between utility regulation and long-term contracts have been evident to economists since the papers by Goldberg (1976) and Williamson (1976), if not before". Quoting Williamson (1976) the authors note: "At the risk of over-simplification, regulation may be described contractually as a highly incomplete form of long-term contracting in which (1) the regulatee is assured an overall fair rate of return, in exchange for which (2) adaptations to changing circumstances are successively introduced without the costly haggling that attends such changes when parties to the contract enjoy greater autonomy".

But this raises the question: What can we say about the form of that long-term contract between the service provider and its customers? What key provisions or clauses might it contain? This paper by Lyon and Huang explores one aspect of this problem. They develop a simple stylized model of the interaction between the service provider and its customers in which both sides must make a specific investment. The need for the service provider to make a substantial sunk investment has been widely recognised, but very few papers model the sunk investments of customers. To justify buyer-side sunk investment the authors quote from the history of gas utility regulation by Troesken (1996): "Consumers
also had to make irrevocable investments to use gas. In the twentieth century, consumers purchased gas stoves and furnaces. In the nineteenth century, consumers purchased gas-lighting fixtures. These fixtures were often immobile and had no alternative uses. To induce consumers to purchase the necessary fixtures, gas producers needed to commit themselves to competitive rates and good service”.

In Lyon and Huang's model, both sides make a sunk investment, but the value of the service to the buyer is uncertain. In some outcomes the value of the service to the buyer is very low. In effect, Lyon and Huang's model is best viewed as a model of stranding risk - where the service provider must make an investment in a service whose ultimate value is uncertain. Perhaps the NBN investment is a relevant local example. Lyon and Huang focus on the question of how much the customers should promise to compensate the service provider if they do not choose to take the service ex post (that is, if the service is stranded). They show that, under certain conditions, it is possible to achieve the efficient level of investment by both the service provider and the customers with a rule that says that the service provider will be compensated for its entire investment costs whether or not the customers choose to take the service. In other words, efficient investment can be achieved with a rule that the service provider will be fully compensated for any stranded costs.

Lyon and Huang's model is highly stylized and somewhat technical. They seem to have chosen key features of the model "out of the air" rather than arguing that the chosen approach is the optimal ex ante long-term contract that the parties would have signed if they could have negotiated ex ante. Nevertheless, this paper is important as a rare example of a theoretical analysis of features of the regulatory contract, and is particularly rare for its focus on investments by the buyers of the monopoly service. As Lyon and Huang say in their conclusion: "A notable feature of our model is that regulation not only supports efficient investment by both the service provider and the consumers to themselves to competitive rates and good service".

This paper is about the economic evaluation of competition policy, either in its entirety or of particular aspects such as effectiveness of merger control or cartel enforcement. The authors believe (p. 398) that such evaluation has gained significance in the last couple of years [while] ... the development of a methodology to guide such analysis is still in its infancy.

The authors seek to devise a ‘general design’ for this type of evaluation, and consider this in three stages – preparation, execution and reporting. Each stage has three building blocks, and each building block of each stage is treated in some detail, with particular attention to the three in the second stage – derivation of evaluation criteria, definition of the counterfactual and selection and application of indicators and methods.

The consideration of evaluation criteria includes a discussion of how ‘welfare’ should be defined. Specialists in utility regulation are used to a total-welfare criterion, summing up consumer-surplus change and producer-surplus change, netting out transfers, to arrive at the overall change in economic efficiency. They are often surprised that competition policy routinely considers the consumer-welfare standard, and Huschelrath and Leheyda – for practical and other reasons – favour the latter approach.

The authors then move on to a discussion of the counterfactual that, ‘by definition … cannot be observed’ (p. 407). For examples: If a merger is prohibited, what would have happened if it had been cleared? Were a competition authority to intervene with respect to a cartel, what would have happened in the market had that intervention not occurred? This case is discussed in more detail in the next sub-section.

The final execution topic relates to indicators and methods. This sub-section consumes almost half of the length of the paper and covers a range of topics such as the importance of the original objective of the policy being considered; the potential for evaluating the entire competition policy rather than particular aspects of it; the specification of the counterfactual in particular circumstances (with much detail on cartels); the deterrence effect of cartel enforcement and the relevance of the results of appeals against an authority’s decisions. On this last point, the authors conclude (p. 415):

'[if] the decisions of the competition authority (in a certain area) are frequently corrected or annulled by a court, a suboptimal performance of the authority seems likely.

However, this conclusion is qualified in the ensuing discussion.

The authors review the practices of a number of competition bodies in assessing their own performance, including the Department of Justice in the United States, the Office of Fair Trading in the...
United Kingdom and the NMa in the Netherlands. The Government Performance and Results Act (GPRA) in the United States is mentioned a number of times. The review role of the OECD is also discussed, including its ‘Competition Law and Policy Indicator’ it calculates for all member countries.

The paper has only a short conclusion – and this is only slightly conclusive – although some of the conclusion is in the introduction. This fragmentation disguises the substantial amount of ground covered in this paper. There is a large amount of factual material about the practice of evaluation of competition policy; a (non-technical) review of the relevant literature, and some interesting observations on the field. While the use of a consumer-welfare criterion limits its generality, the paper nonetheless provides a good starting point for any researcher embarking on a study of the success of competition policy.


In this paper, the authors review the literature on the ‘equity risk premium’ (ERP), which is also termed the market risk premium. They observe that over the past century in the United States the ERP has averaged six per cent per year, and they summarise and evaluate the different studies that attempt to explain the magnitude of the ERP. The authors argue that over the next few decades the ERP may fall to a level below its historical average, possibly to four per cent per year.

One major determinant of the ERP is the volatility of equity returns. If the risk of equity returns increases then all else equal the ERP should increase. The ‘equity premium puzzle’ is that the observed ERP of about six per cent is higher than would be expected given what we know about the risk of equity returns. The authors illustrate the equity premium puzzle using historical data on returns to equity and treasury bills. This data is used to evaluate the risk associated with an investment strategy of holding equities for a period of 20 years. They find that there is only a nine per cent probability that this investment strategy will have a lower return than a strategy of holding treasury bills for 20 years. Given the downside risk is so small, it is unclear why the premium for taking on equity risk is as large as six per cent.

The authors consider a range of explanations for why the ERP is so high relative to the risks. One possible explanation is that investors are highly risk averse. This explanation is rejected, because the level of risk aversion consistent with the six per cent ERP is implausibly high. Estimates of risk aversion have been calculated in a range of studies, and the authors cite a study on the purchasing of insurance. In this study, the estimate of risk aversion is far lower than the level that would be required to support an ERP of six per cent.

A second possible explanation is the standard utility theory does not apply to financial investment decisions because investment decisions are governed by non-standard preferences. For example, theorists have suggested that investors behave as though they have preferences over consumption relative to past consumption, or over losses rather than risk. A similar type of explanation is offered by behaviour finance theorists, who have suggested that investors are psychologically incapable of appropriate optimising behaviour when making investment decisions.

A third explanation emphasises transaction costs and investor heterogeneity. Two-thirds of Americans have negligible investments in the stock market, and transactions costs are at least partly responsible for excluding them from the equity market. Moreover, transactions costs impose borrowing constraints, which prevent the young from borrowing on a large scale and thus restricts their ability to take on equity investments.

The authors suggest that a fourth explanation, which draws attention to a 'small numbers problem', is the most promising solution to the equity premium puzzle. When investors form a view about the distribution of equity returns, they need to make an assessment of the magnitude of the risk of low probability, high impact events. However, they do not possess sufficient evidence to do so – the sample of low probability, high impact economic catastrophes over the past century is too small. Thus the standard model of behaviour under risk, according to which agents maximize expected utility on the basis of a known probability distribution, does not obtain. When agents do not know the probability distribution, they are said to face 'uncertainty' rather than mere 'risk.' This increases the ERP.

The authors suggest that going forward, the ERP is more likely to fall than to rise or to stay the same. In reaching this conclusion, they particularly emphasise the reduction in the restrictions on investing in equity. For example, investors with defined-contribution plans find it easier to invest in equities than in the past. Moreover, mutual funds make it easier to diversify equity investments. The authors also emphasise that memories of the Great Depression are increasingly fading. Their sense is that, as a result, the ERP over the next couple of decades will be significantly lower than its historical value of six per cent, and will perhaps be closer to four per cent.
Regulatory Decisions in Australia and New Zealand

Australia

Australian Competition and Consumer Commission (ACCC)

ACCC Issues Draft Decision on GrainCorp’s Proposed Wheat Port Access Arrangements

On 24 March 2011 the ACCC issued a draft decision on GrainCorp’s proposed wheat port access arrangements for October 2011 to September 2014. The proposed arrangements would replace GrainCorp’s current undertaking, which was accepted by the ACCC on 29 September 2009. The deadline for the draft decision is 22 April 2011. Read more

ACCC Ushers in New Era of Telecommunications Regulation with Release of Interim Access Determinations

On 3 March 2011 the ACCC issued interim access determinations (IADs) for fixed-line telecommunications services under the new telecommunications access regime, which came into operation on 1 January 2011. The IADs provide interim price and non-price terms for the six declared fixed-line services. Read more

Government Releases ACCC’s Advice on Points of Interconnect to the National Broadband Network

In February 2011 the Government released the ACCC’s advice on the number and location of initial Points of Interconnect (POIs) to the National Broadband Network (NBN). The government had requested the ACCC and NBN Co conduct a public consultation and provide advice on the competition implications of alternative options for locating POIs, which are the locations where access seekers will connect to the NBN. The ACCC’s advice recommended a ‘semi-distributed’ approach to initial POI locations. Under this approach, POIs would be located in areas serviced by two or more transmission operators or where a transmission route is likely to become competitive. The ACCC’s advice also recommends a process for reviewing POI locations should competitive outcomes not eventuate and for adding POIs to enable competitive transmission to develop where market conditions change. A revised list of POIs and submissions to the public confirmation process was released on 1 March 2011. Read more

Comment Sought on Proposed Increases in Business Mail Prices

On 25 February 2011 the ACCC released an issues paper seeking comment on Australia Post’s proposal to increase prices across a number of its monopoly business mail letter services. No increases were proposed to the 60 cent basic postage rate or the price of other Ordinary letters. Submissions were due by 16 March 2011. Read more

Water Charge (Infrastructure) Rules Commence: ACCC Issues Guides

On 17 January 2011 the ACCC published information to assist infrastructure operators to understand their obligations, upon the commencement of The Water Charge (Infrastructure) Rules 2010. The rules regulate charges for infrastructure services provided by rural water infrastructure operators in the Murray Darling Basin and take effect following a three-month transition. Read more

ACCC Begins Monitoring NSW Irrigation Trusts and Districts

On 25 January 2011 the ACCC announced it would begin actively monitoring and working with the NSW-based trusts and irrigator districts to ensure compliance with the rules. This is in response to recent amendments to the NSW Water Management Act 2000, which mean there are no longer impediments to private water trusts and private irrigation districts in NSW complying with the Water Market Rules and the Water Charge (Termination Fees) Rules. These amendments were made following concerns raised by a number of NSW private water trusts and private irrigation districts about their ability to give effect to their obligations under the Rules. Read more

Government Releases Interim Anti-Siphoning List

On 22 December 2010 the Minister for Broadband, Communications and the Digital Economy announced that an interim anti-siphoning list has been made to ensure the continued operation of the anti-siphoning scheme. The Government is also continuing to work with stakeholders in finalising elements of the reform model that will maintain the quality of sports on free-to-air television. In early 2011, details on these quality guarantees for free-to-air coverage of AFL and NRL matches will be announced, and legislation to amend the anti-siphoning scheme will be introduced into the Parliament. Read more
ACCC Issues Position on Hunter Valley Rail Network

On 21 December 2010 the ACCC issued its position on the access arrangements proposed by the Australian Rail Track Corporation (ARTC) for the Hunter Valley rail network. The ARTC submitted revised rail access arrangements in September 2010. The ACCC's view is that the revised arrangements would have significant benefits for the efficient operation and use of the Hunter Valley coal chain. The ACCC will now consider any amendments made by the ARTC to finalise the matters raised in the Position Paper, before deciding whether to accept the proposed access arrangements. Read more

Australian Energy Regulator (AER)

Draft Access-Arrangement Decision for APT Allgas Gas Distribution Network

On 17 February 2011 the AER issued its draft decision on the access-arrangement proposal for the APT Allgas gas distribution network for the period 1 July 2011 to 30 June 2016. The AER's draft decision will result in a real increase in network charges as at 1 July 2011 of eight per cent, and average around three per cent per annum in subsequent years. The effect on retail tariffs, of which distribution-network charges make up approximately 60 per cent, is a real increase of around five per cent as at 1 July 2011. Real increases in subsequent years would average around two per cent per annum. APT Allgas has until 23 March 2011 to respond to the AER's draft decision and submit a revised access arrangement proposal. The deadline for submissions on the draft decision is 21 April 2011. Read more

Draft Access-Arrangement Decision for Envestra's Queensland Gas Distribution Network

On 17 February 2011 the AER issued its draft decision on Envestra's access-arrangement proposal for its Queensland gas distribution network for the period 1 July 2011 to 30 June 2016. The AER's draft decision will result in a real increase in network charges as at 1 July 2011 of three per cent, and an average around three per cent per annum in subsequent years. The effect on retail tariffs, of which distribution-network charges make up approximately 60 per cent, is a real increase of around two per cent as at 1 July 2011. Real increases in subsequent years would average around two per cent per annum. Envestra has until 23 March 2011 to respond to the AER's draft decision and submit a revised access arrangement proposal. The deadline for submissions on the draft decision is 21 April 2011. Read more

National Competition Council (NCC)

Application for Certification of the Dalrymple Bay Coal Terminal Access Regime

On 16 March 2011 the NCC released its draft recommendation on the application for certification of the Dalrymple Bay Coal Terminal access regime. The Council proposes to recommend that the Commonwealth Minister certify the regime as effective for a period of ten years. Read more

Application for Certification of the Western Australian Rail Access Regime

On 11 February 2011, the Hon David Bradbury, Parliamentary Secretary to the Treasurer, decided to certify the WA Rail Access Regime as an ‘effective access regime’. The NCC’s preliminary view, upon receiving the application from the Premier of Western Australia, the Hon Colin Barnett MLA, under s44M of the Trade Practices Act (TPA) for the certification of the Western Australian Rail Access Regime established under the Railways (Access) Act 1998 (WA) and the Railways (Access) Code 2000, had been that the WA Rail Access Regime met the requirements for certification and should be certified as effective until 31 December 2015. Read more

Application for Certification of the South Australian Ports Access Regime

On 13 January 2011 the NCC released its draft recommendation to the Commonwealth Minister being that the South Australian Ports Access Regime be certified as effective for a period of ten years. Submissions on the draft recommendation were due by Friday 18 February 2011. The NCC will consider the one submission in developing its final recommendation to the Commonwealth Minister who will decide whether or not to certify the Regime as effective. The draft recommendation follows an application received on 15 October 2010 from the Premier of South Australia, the Hon Mike Rann MP, under s44M of the Trade Practices Act, for the certification of the South Australian Ports Access Regime established under the Maritime Services (Access) Act 2000 (SA). Read more

Application for Certification of the South Australian Rail Access Regime

On 29 December 2010 the NCC received an application under section 44M of the Trade Practices Act from the Premier of South Australia, for certification of the South Australian rail access regime set out in the Railways (Operations and Access) Act 1997 (SA). Two submissions on the application were received by 14 February 2011. After considering submissions the Council will release a
draft recommendation and provide a further opportunity for public comment before making its final recommendation to the Commonwealth Minister. Read more

**Australian Energy Market Commission (AEMC)**

**AEMO's STTM Data Validation and Price Setting Process Rule Change Request**

On 24 March 2011, the AEMC published a notice in accordance with sections 303 and 304 of the National Gas Law (NGL) to initiate and assess a Rule change request, which was submitted by AEMO, under an expedited (urgent) Rule making process. In response to two high price events in the STTM towards the end of 2010, this Rule change request proposes to introduce a STTM pipeline facility data validation process for the setting of schedules and prices in the STTM. Submissions on the content of the Rule change request are due by 21 April 2011. Read more

**DNSP Recovery of Transmission-related Charges - Publication of Final Rule Determination and Rule as Made**

On 24 March 2011, the Commission gave notice under sections 102 and 103 of the National Electricity Law to make the Distribution Network Service Provider (DNSP) Recovery of Transmission-related Charges final Rule determination and Rule as Made. The Rule commenced operation on 24 March 2011. Read more

**Consultation on Calculation of the STTM Participant Compensation Fund Contributions**

On 3 February 2011 the AEMC gave notice under section 303 of the National Gas Law (NGL) to commence consultation on Australian Energy Market Operator (AEMO)'s Calculation of the Short-Term Trading Market (STTM) Participant Compensation Fund Contributions Rule change request. The AEMC also gave notice under section 304 of the NGL that it intends to expedite the Rule-making process on the grounds that it considers the proposed Rule is non-controversial, subject to the receipt of written objections. Written objections to the expedited Rule-making process were due by 17 February 2011. The deadline for submissions on the Rule change request was 3 March 2011. Read more

**AEMC Extends Publication Date of Reliability Settings Determination**

On 3 February 2011 the AEMC gave notice under section 107 of the National Electricity Law to extend the publication date of the draft Rule determination to 24 March 2011. The AEMC considered the Rule raises issues of sufficient complexity or difficulty that an extension of time is necessary. A major aspect of the Rule change proposal is the introduction of indexation, and the AEMC wishes to undertake further work to identify and evaluate which indices might be the most appropriate to use. Read more

**AEMC Publishes Final Report on Request for Advice on Cost Recovery for Mandated Smart Metering Infrastructure**

On 22 December 2010 the AEMC published its final report in response to the Ministerial Council on Energy's request for advice on whether Chapter 6 of the National Electricity Rules (Rules) efficiently accommodates cost recovery for smart-metering infrastructure mandated by a Ministerial determination. The AEMC has found that the existing Chapter 6 framework would adequately accommodate the recovery of the efficient costs of mandated smart-metering infrastructure, subject to some incremental amendments to the Rules being made. A draft Rule change proposal and draft Rules have been prepared by the AEMC to implement its proposed changes. Read more

**AEMC Publishes the Final Report for the Annual Market Performance Review 2010**

On 23 December 2010 the AEMC published the final report for the Annual Market Performance Review 2010 in accordance with the National Electricity Rules. Read more

**Industry Workshop on Total Factor Productivity Review Draft Report**

On 16 December 2010, and following the publication of the Draft Report on 29 November 2010, the AEMC held a workshop which explained the workings of the Economic Insights model and also how the AEMC has had regard to the modelling results in reaching its draft recommendations. Read more

**Australian Capital Territory**

**Independent Competition and Regulatory Commission (ICRC)**

**Final Report for the Review of Competition in the ACT Electricity Retail Market**

On 3 March 2011, in response to the Stage 1 finding that competition in the ACT electricity retail market was not effective, the AEMC published its Stage 2 Final Report outlining its recommendations to promote competition in the ACT electricity retail market. The recommendations consist of a package of policy measures to address the issues identified during the Stage 1 analysis, which the AEMC
New South Wales

Independent Pricing and Regulatory Tribunal (IPART)

Fact Sheet and Proposals – Electricity Cost Pass Through

On 4 February 2011 the IPART released the annual review that followed on from its March 2010 final determination of regulated electricity retail tariffs and charges for small customers from 2010 to 2013 (the 2010 determination). The regulatory package for the 2010 determination included annual reviews of the total energy cost allowances for 2011-12 and 2012-13 for each Standard Retailer. Work has commenced on the 2011-12 annual review. Read more

Final Decision – Financeability Tests and their Role in Price Regulation

On 25 January 2011 the IPART released a Final Report, explaining the IPART’s final decisions on the approach it will use for future price determinations in conducting financeability tests and deciding how to respond to potential financeability issues. Its aim is to improve the transparency of the IPART’s approach and provide greater certainty to the businesses it regulates, the NSW Government (as owner and shareholder of many of these businesses), the ratings agencies and consumers, while still allowing the IPART scope to respond to the specific circumstances of each determination. Read more

NSW Country Regional Network Access Pricing Review

On 23 December 2010 the IPART published the Terms of Reference for a review into rail access pricing on the Country Regional Network. Read more

Review of Approach used in Determining Allowances for Return on Assets and Regulatory Depreciation

On 23 December 2010 the IPART released its Final Report relating to the approach used by IPART to assess capital expenditure of regulated businesses for the purpose of deciding how much of this expenditure should be recovered through prices for regulated services. This assessment is made when the IPART uses the building block approach to estimate the total efficient costs of providing these services. Read more

2010 Household Survey Released

On 16 December 2010 the IPART released its 2010 Household survey; its aims being to better understand how household characteristics influence consumption, and to identify income and affordability issues. Where possible, the survey also aimed to identify changes in Sydney since 2006, by comparing 2010 findings with those of the IPART’s 2006 survey. Read more
Northern Territory
Utilities Commission

Retail Licence Issued by the Utilities Commission to QEnergy
On 4 February 2011 a Retail Electricity Licence was issued to QEnergy Limited (QEnergy) in accordance with the requirements set out in section 16 of the Electricity Reform Act. The Utilities Commission received the application on 10 January 2011. Submissions were sought from stakeholders and interested parties. A copy of the QEnergy retail licence can be viewed on the Register of Current Licences. Read more

Queensland

Queensland Competition Authority (QCA)

QR Network’s 2011 Draft Amending Access Undertaking
On 18 March 2011, the QCA received submissions from 11 parties in response to QR Network Pty Ltd (QR Network’s) 24 December 2010 submission of a draft amending access undertaking (the 2011 DAAU) and a proposed standard user funding agreement (SUFA). QR Network provided a submission on 25 January 2011. Under section 142 of the Queensland Competition Authority Act 1997 (the QCA Act), the QCA must consider QR Network’s 2011 DAAU and either approve, or refuse to approve, it. On 5 January 2011, the QCA issued QR Network with a notice of investigation, under section 146 of the QCA Act, indicating its intention to undertake an investigation into the 2011 DAAU and the proposed SUFA. On 26 January 2011, the QCA extended the deadline for submissions from 18 February 2011 to 18 March 2011, in response to the impact on many stakeholders of the recent flooding events. Read more

DBCT Non-Expansion Capital Expenditure
On 17 March 2011, the Authority made a final decision to approve the Dalrymple Bay Coal Terminal (DBCT) Management’s draft amending access undertaking (DAAU), submitted on 24 February 2011 and seeking to revise the provisions for approving non-expansion capital expenditure (NECAP) under the 2010 access undertaking. NECAP works are not designed to increase terminal capacity, but are undertaken to satisfy workplace, health & safety and environmental requirements or are beyond the scope of the operator’s annual maintenance plan. The 2010 access undertaking contains a streamlined approvals process for NECAP expenditure less than $20 million per annum that is to be included in the regulatory asset base (clause 12.10(b)). On 25 February 2011, the Authority published the DAAU and requested stakeholders to lodge submissions by 9 March 2011. Stakeholders were also advised that the Authority may proceed directly to a final decision if no submissions were received. The Authority did not receive any submissions by the due date. Read more

2010/11 Interim Price Monitoring of SEQ Water and Wastewater Distribution and Retail Activities
On 9 February 2011 the QCA announced the Premier and the Treasurer had referred to it the monopoly distribution and retail water and wastewater business activities of Queensland Urban Utilities, Allconnex Water and Unitywater, for price monitoring covering the period from 1 July 2010 to 30 June 2013. The QCA was required to provide a Final Report for 2010-11 by 31 March 2011. Read more

Irrigation Prices for SunWater Schemes: 2011-2016
On 18 January 2011, the QCA announced receipt of SunWater’s Network Service Plans (NSPs) for its bulk water supply schemes. The QCA has been directed by the Premier and the Treasurer to recommend irrigation prices to apply to SunWater water supply schemes from 1 July 2011 through to 30 June 2016. SunWater provides water supply services to agricultural, industrial, urban and rural users. The current price path for irrigators commenced on 1 July 2006 and is scheduled to end on 30 June 2011. The QCA has an ongoing consultation program with customers of each relevant water supply scheme. Read more

2009-10 Revenue Cap Adjustment
On 29 November 2010, QR National Network (QRNN) submitted a revenue cap adjustment proposal for the Authority’s approval. In it, QRNN sought a net reduction of $150,000 in 2011-12 revenues to account for a $6.1 million over-recovery in non-electric revenues and a $5.9 million shortfall in electric revenues in 2009-10. The QCA received two submissions by 27 January 2011 and response from QRNN to these submissions was due by 14 February 2011. Read more
South Australia

Essential Services Commission of South Australia (ESCOSA)

Review of REES Energy Efficiency Activities – Phase 2 Report

On 17 March 2011, the ESCOSA announced the completion of Phase 2 of the review of Residential Energy Efficiency Scheme (REES) energy efficiency activities to apply from 1 January 2012. The Terms of Reference were released in June 2010 and are available on the ESCOSA's website. The Terms of Reference provide for the review to be undertaken in three Phases. The purpose of Phase 2 was to consider the various contextual factors that influence the take-up of energy efficiency activities in the residential sector in South Australia. The ESCOSA seeks comments from interested parties on the Phase 2 Report and Consultant’s Report by 15 April 2011.

Submissions received on the Economic Regulation of the South Australian Water Industry – Statement of Issues

On 23 February 2011 the ESCOSA announced receipt of submissions to the Economic Regulation of the South Australian Water Industry – Statement of Issues. Read more

Chairperson Appointment

On 18 February 2011 the ESCOSA announced the appointment of Dr Pat Walsh as Commissioner and Chairperson of the Commission for a period of five years. Mr Rajat Sarawat will continue as Acting Chief Executive Officer of the Commission. Read more

2010 Gas Standing Contract Price Path Inquiry – Submissions Received

On 17 January 2011 the ESCOSA announced receipt of its latest submission to the Inquiry. Read more

Consumer Information Requirements for the Energy Retail Market in South Australia – Final Decision

On 16 December 2011 the ESCOSA announced the findings of the recent review of consumers’ needs when assessing the benefits of the competitive electricity and gas retail markets. To ensure that the ESCOSA’s price comparison services continue to assist small electricity and gas customers, the Commission will conduct a further review of the functionality and reporting provided by its current online estimators during 2011. Read more

Tasmania

Office of the Tasmanian Energy Regulator (OTTER)

Pricing

On 9 March 2011 the Treasurer requested that the Office of the Tasmanian Economic Regulator (OTTER) release the 2011-12 Pricing Investigation Consultation Paper for the Water and Sewerage Industries. Consultation paper Independent regulation of water and sewerage prices in Tasmania is scheduled to commence on 1 July 2012. As determined by the Treasurer, the first price determination will cover a period of three years from 2012-13 to 2014-15 inclusive.

Accounting Ringfencing Guideline

In March 2011 the OTTER issued the Accounting Ringfencing Guideline. This Guideline is published by the Tasmanian Economic Regulator pursuant to Part H of Chapter 6 of the NER, clause 3.1 of the Electricity Supply Industry Retail Licence (Retail Licence) issued on 18 December 1998 as amended and the Electricity Supply Industry Distribution Licence (Distribution Licence) issued on 18 December 1998, as amended, to Aurora.

In February 2011, the Australian Energy Regulator requested certain changes to the Accounting Ringfencing Guideline to facilitate transfer of the economic regulation of distribution services provided by Aurora from the Tasmanian Economic Regulator to the Australian Energy Regulator (AER). The changes will enable Aurora to submit its pricing proposal in accordance with the AER’s framework for the economic regulation of these services. Read more

Price Comparison Report Update 2011

On 25 January 2011 the OTTER released its Comparison of 2011 Australian Standing Offer Energy Prices Report. This report is the most recent in a series of reports that OTTER produces six
monthly to inform electricity and gas consumers. OTTER's report provides an overview of regulated and standing offer tariffs for gas and electricity around the country.  Read more

2010 Frequency Control Ancillary Services Investigation

In December 2011 the OTTER completed its investigation into the pricing policies of Hydro Tasmania in its supply of raise contingency frequency control ancillary services to meet the Tasmanian local requirement. The OTTER is empowered under the Electricity Supply Industry (Price Control) Regulations 2003 to make determinations regulating the prices that may be charged by an electricity entity for the supply of a declared electrical service. In July 2009, the OTTER published an Issues Paper providing detail of the services, and the circumstances that, in the OTTER’s view, warranted the making of the declaration.  Read more

Compliance Enforcement Policy

On 24 November 2010 the OTTER issued a Compliance Enforcement Policy along with a Statement of Reasons explaining the outcomes of the public consultation on the draft Policy informing the community and stakeholders about how the OTTER intends to manage regulated entities’ compliance, and use its authority in a fair and equitable manner. Read more

Victoria

Essential Services Commission (ESC)

Implementation of the New Ports Price Monitoring Regime

On 28 March 2011 the ESC made the Price Monitoring Determination for Victorian Ports 2010. The Commission’s determination gives effect to the new price monitoring framework that will apply to the Victorian ports over the five-year period from 1 July 2010 to 30 June 2015. Read more


On 15 February 2011 the ESC announced the issuing of this guideline for energy retailers when developing and implementing financial hardship policies. This step was taken following a recommendation from a Committee of Inquiry into the financial hardship of energy consumers. Read more

Western Australia

Economic Regulation Authority (ERA)


On 29 March 2011 the Treasurer, Mr Christian Porter, released the ERA’s final report on its Inquiry into Water Resource Management and Planning Charges. The inquiry, requested by the Treasurer on 2 April 2009, was to provide the Government with a range of options and recommendations for the recovery of the water resource management and planning expenses incurred by the Department of Water; and the most appropriate regulatory arrangements for the setting of service standards for the water resource manager, the setting of charges and the subsequent recovery of those charges from water users. Link to main page

Inquiry into the Funding Arrangements of Horizon Power – Final Report Delivered to the Treasurer

On 18 March 2011 the ERA delivered its final report for the Inquiry into the Funding Arrangements of Horizon Power to the Treasurer. The inquiry followed a request by the Treasurer, in May 2010, for the Authority to establish Horizon Power’s efficient level of costs to supply electricity to regional Western Australia. In the final report, the Authority has determined the efficient level of costs which would be incurred by a prudent regional electricity service provider acting efficiently and in accordance with good industry practice. Link to main page

Proposed Revised Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline – Draft Decision

On 14 March 2011, the ERA issued its draft decision not to approve the proposed revisions to the Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline. The reasons for the ERA’s decision are set out in the draft decision available on the ERA’s website. Link to main page

WestNet Rail – Final Determination On WestNet Rail’s Proposed Costing Principles And Over-Payment Rules

On 9 March 2011 the ERA published its final determination on WestNet Rail’s (WNR) proposed Costing Principles and Over-payment Rules. The final determination is to approve WNR’s proposals, subject to two amendments. The final determination is available on the Authority’s website. Link to main page
Mid-West and South-West Gas Distribution System revised Access Arrangement – Final Decision
On 28 February 2011 the ERA released its final decision not to approve the proposed revisions to the Mid-West and South-West Gas Distribution Systems access arrangement. [Link to main page]

Performance Audit and Asset Management System Review Reports – Esperance Power Station Pty Ltd
On 3 February 2011 the ERA announced it had determined that Western Power’s proposed Mid West Energy Project (Southern Section) major augmentation satisfies the regulatory test under Chapter 9 of the Electricity Networks Access Code 2004. [Link to main page]

Approval of Maximum Reserve Capacity Price for 2013/14 Reserve Capacity Year – Determination
On 28 January 2011, the ERA approved the proposed Maximum Reserve Capacity Price (MRCP), effective from 1 October 2013 to 1 October 2014, of $240,600 per MW per year, as recommended by the Independent Market Operator in its final report into the MRCP review for the 2013/14 Reserve Capacity Year, which was received by the Authority on 20 January 2011. [Link to main page]

Inquiry into the Benefits and Costs Associated with the Provision of Shared Corporate Services within the Public Sector
On 21 January 2011, the ERA announced it had been requested by the Treasurer to undertake an inquiry into the benefits and costs associated with the provision of shared corporate services within the public sector. Input was sought, by 4 February 2011, from public sector agencies, relevant unions and private sector partners of the Office of Shared Services on the Terms of Reference for the above-mentioned inquiry. [Link to main page]

2009/10 Annual Performance Reports – Electricity Retailers and Gas Trading Licensees
On 14 January 2011 the ERA approved the publication of the 2009/10 Annual Performance Report – Electricity Retailers, being the fifth annual report examining the performance of electricity retailers who supply small-use customers (who consume less than 160MWh of electricity per annum) in Western Australia; and the 2009/10 Annual Performance Report – Gas Trading Licences, being the fourth annual report examining the performance of gas retailers who supply small-use customers (that consume less than 1TJ of gas per annum) in Western Australia. [Link to main page]

Appointment of ERA Governing Body Members
On 31 December 2010 the ERA Chairman, Lyndon Rowe, announced the appointment of Professor Stephen King and the reappointment of Mr Steve Edwell to the ERA’s Governing Body as part-time members, by His Excellency the Governor, in Executive Council. Professor King has been appointed for three years commencing 29 December 2010 and Mr Edwell was reappointed for three years from 17 January 2011. [Link to main page]

Invitation for Public Submissions – Determination of values for Ancillary Service ‘Margin Peak’ and ‘Margin Off-Peak’ parameters and revised values for Ancillary Service ‘Cost LR’ parameter
On 24 December 2010 the ERA announced receipt of a submission from the Independent Market Operator proposing the values of the Ancillary Service ‘Margin Peak’ and ‘Margin Off-Peak’ parameters for the financial year 1 July 2011 to 30 June 2012. The Wholesale Electricity Market Rules require the ERA to make determinations on the values for these Ancillary Service market settlement parameters by 31 March 2011. The ERA prepared an issues paper to assist interested parties wishing to make submissions, which were due 27 January 2011. [Link to main page]

New Facilities Investment Test Application for Transmission Works to Supply the Binningup Desalination Plant – Draft Determination
On 23 December 2010 the ERA released its draft determination on Western Power’s application for a new facilities investment test for proposed transmission works to supply electricity to the Binningup Desalination Plant. Submissions were due on 21 January 2011. [Link to main page]

Invitation for Public Submissions – Western Power’s Mid West Energy Project (Southern Section)
On 20 December 2010 the ERA announced it was seeking public comment on Western Power’s proposed construction of a 330 kV transmission line from Neerabup to Karara Mining Ltd’s iron ore mine site, via Eneabba, and the interconnection of the existing 132 kV Three Springs substation with a new 330 kV Three Springs Terminal. Feedback as to whether the proposal satisfies the Regulatory Test was due Thursday 6 January 2011. The Regulatory Test is an assessment of whether a proposed major augmentation maximises the net benefit to those who generate, transport and consume electricity in Western Power’s covered network and any interconnected system, after considering alternative options. [Link to main page]
New Zealand

Commerce Commission

Final Report on Unbundled Bitstream Access (UBA) Backhaul Links

On 23 March 2011, the New Zealand Commerce Commission (NZCC) announced that no competitive services have developed for unbundled bitstream access (UBA) backhaul links. This means all UBA links will remain subject to the terms of the UBA backhaul Standard Terms Determination (STD). The decision is a result of a review by the Commission into whether Telecom faces competition for providing these services. In June 2008, the Commission released the UCLL and UBA backhaul Standard Terms Determination (STD), which set out which backhaul routes were subject to regulation, as well as the terms and conditions governing the supply of the backhaul service on those routes. This is the first review conducted by the Commission since the UBA backhaul service STD was issued. The Commission intends to complete a review of all UBA backhaul links annually. Read more

Settlements in Cartel Case as Commerce Commission prepares for Court

On 18 March 2011 the NZCC announced it had reached settlements with three international airlines charged in a major cartel proceeding, ahead of the first hearing in the case scheduled for May 2011. Qantas Airways Limited, British Airways plc and Cargolux International Airlines S.A. have agreed settlements with the Commission, which involve admitting liability and paying significant penalties. Read more

More UCLL Backhaul Links are Competitive, says Commerce Commission

On 9 March 2011 the NZCC announced that 88 unbundled copper local loop (UCLL) backhaul links are now competitive. The decision is a result of a review by the Commission into whether Telecom faces competition in providing this service. Read more

Cost of Capital for Regulated Services Determined

On 4 March 2011 the Commerce Commission released its determination specifying the weighted average cost of capital (WACC) for regulated services under Part 4 of the Commerce Act. Read more

Draft Determination for Mobile Termination Access Services

On 23 December 2010 the NZCC issued its draft determination on the mobile termination access services. The NZCC will now seek submissions on the draft determinations and will release a final determination in March 2011. Read more

Input Methodologies Finalisation

On 23 December 2010 the NZCC released input methodologies that will apply to electricity distribution businesses, Transpower, gas pipeline businesses and specified airport services under Part 4 of the Commerce Act. Input methodologies are the rules, processes and requirements applying to regulation under Part 4 of the Act. Read more

Announcement of Airports Information Disclosure Requirements

On 22 December 2010 the NZCC announced that the information disclosure requirements for specified airport services supplied at Auckland, Wellington and Christchurch airports had been determined. The information disclosed by the airports will include: historical financial information; quality measures; forecast revenue requirements; and pricing information. Read more

Release of Final Individual Price Quality Path Determination for Transpower

On 22 December 2010 the NZCC released the final individual price-quality path determination and reasons paper for electricity lines services supplied by Transpower, setting out the approach for calculating Transpower’s annual revenues, and operating in conjunction with the applicable input methodology determinations. Read more

Latest Broadband Report Released

On 20 December 2010 the NZCC released a report into the quality of New Zealand’s broadband services. The report, covering the period from 1 January to 30 June 2010, aims to provide a comparison of the relative performance of internet service providers in delivering broadband services in the major New Zealand cities. Link

Decision Not to Regulate Telecom’s VDSL2 Service

On 20 December 2010 the NZCC released its Final Decision that a new wholesale VDSL2 service offered by Telecom NZ does not need to be regulated. Read more

Deregulation of Some Resale Services

On 16 December 2010 the NZCC released its Final Report for Resale Services Investigation, recommending that a number of resale services that Telecom New Zealand Limited (Telecom NZ) provides to other telecommunications companies should no longer be regulated. Read more
Notes on Interesting Decisions

ACCC Issues Annual Report on Airport Performance

On 7 February 2011 the ACCC announced it had submitted its annual airport monitoring report on Adelaide, Brisbane, Melbourne, Perth and Sydney airports for 2009-10 to the Parliamentary Secretary to the Treasurer, the Hon David Bradbury MP. The ACCC monitors the airports' prices, costs, profits, investment levels and quality of service. Monitoring occurs as a result of government concerns that the airports might use their monopoly position to reduce the quality of airport services and facilities (such as runways, aerobridges, baggage processing systems and some check-in facilities) supplied to airlines and passengers. The ACCC also monitors airport car-parking prices, costs and profits due to concerns that the airports are in a position to set car-parking prices for consumers at monopoly levels. The ACCC's monitoring includes surveys of airlines and passengers about the quality of service they receive at the airports. The 2009-10 report raises concerns about monopoly pricing at Sydney and Melbourne airports. Read more

Impacts and Benefits of COAG Reforms: Reporting Framework

The Productivity Commission (PC) has been requested by the Government to report every two to three years to the Council of Australian Governments (COAG) on the economic ‘impacts and benefits’ of COAG reforms. The PC is also required to consider the extent to which Australia’s reform potential is being achieved and opportunities for improvement. In preparation for its first report, the PC was requested to provide a framework report outlining its proposed approach.

While the Minister’s brief does not refer to costs, the PC (p. 33) interprets its task as identifying ‘the costs and benefits of reform and the likely net impact on living standards’ (essentially a social cost-benefit analysis). For some reforms, there will be a more limited ‘cost-effectiveness analysis’. There is considerable discussion in the report about how social and environmental benefits can be interpreted in an economic sense.

Consistent with its normal approach to such matters, the PC will use an economy-wide approach for its assessments. The proposed framework recognises the direct and wider flow-on effects of reforms. As far as practicable, costs incurred by government to achieve reform objectives and outcomes will also be taken into account. The framework will provide for the quantification of the impacts of COAG reforms on national economic activity, employment and income, and will also provide quantification of fiscal impacts. Distributional effects of change will be assessed at state, regional and other levels.

A dynamic general-equilibrium model will be used to estimate economy-wide impacts. The Monash Multi-regional Forecasting Model (MMRF), previously used to assess competition reforms in 2005 and 2006, will be modified to include a dynamic capability, modelling of demographic change and the inclusion of carbon emissions.

The PC will group reforms into three broad streams – competition and regulation (including in energy markets, water and transport); human capital (including health, education and training); and the environment. The framework will account for differing lead times and the implications of changing demographic and economic characteristics on reform impacts.

Taking into account the development and implementation of COAG’s reforms over time, the PC proposes that its first report (in late 2011) will provide an overview of the agenda and the potential for gains; an assessment of areas of the competition and regulation stream for which policy development and implementation are advanced; and an assessment of an area of the human capital stream, such as education, where agreements have been concluded and there are some realised as well as prospective impacts. ‘Water market reform’ and ‘energy markets, transport and infrastructure’ would be in subsequent reports. Read more

Reviews of Wheat Export Arrangements

There were substantial changes to the wheat export arrangements in 2008, when the AWB’s (formerly, the Australian Wheat Board) statutory monopoly on wheat exports was removed. The Wheat Export Marketing Act 2008, inter alia, established Wheat Exports Australia to administer an accreditation scheme for bulk wheat exporters; and required vertically integrated wheat exports/ bulk handling companies (BHCs) to pass an ‘access test’ to maintain export accreditation post 1 October 2009.

Having undertakings accepted by the ACCC is one way to pass the access test. On 29 September 2009 the ACCC accepted port terminal access undertakings from the following BHCs: Co-operative Bulk Handling Ltd, AusBulk Ltd (now Viterra) and GrainCorp Operations Ltd (GrainCorp). The Undertakings include obligations on the BHCs not to discriminate or hinder access in the provision of port terminal services; clear and transparent port-loading protocols for managing demand for port terminal services; obligations on BHCs to negotiate in good
faith with eligible wheat exporters for access to port terminal services; and the ability of wheat exporters to seek mediation or binding arbitration on terms of access in the event of a dispute.

Following the completion of the first round of access undertakings the Wheat Export Marketing Arrangements were reviewed by the Productivity Commission (PC), reporting in July 2010 (PC inquiry report no. 51). The PC recommended that the accreditation scheme should be abolished and that the access test should be retained until 30 September 2014. It saw some 'transitional issues associated with port access and contestability in the logistics supply chain'.

With the original access undertakings due to expire on 30 September 2011, a second round of undertakings is now in train. GrainCorp and Viterra have submitted new proposed undertakings for assessment by the ACCC to apply from 1 October 2011. The ACCC has also received a proposed undertaking from Australian Bulk Alliance.

Wheat export activities are also under scrutiny in two recently announced government inquiries. First, the South Australian Parliament has established a Select Committee on the Grain Handling Industry. An advertisement was placed in newspapers in March 2011 and the report is required on 14 September 2011. The terms of reference include investigation of 'the capacity of the market to ensure a vigorous and competitive marketplace' and 'export and shipping arrangements, including port access and associated costs’. (Read more) Second, the Senate’s Rural Affairs and Transport Committee is conducting a broader inquiry, announced on 24 March 2011. (Terms of reference) The terms of reference include consideration of ‘any risks of natural, virtual or other monopolies discouraging or impeding competition in the export grain storage, transport, handling and shipping network, and any implications for open and fair access to essential grains infrastructure’.
Regulatory News

2011 ACCC Regulatory Conference

The 2011 ACCC/AER Regulatory Conference will be held at the Sofitel Hotel, Brisbane, on Thursday 28 and Friday 29 July 2011. Registrations are now open. To view the program and download the registration form, please go to the following link on the ACCC website. Register

Network is a quarterly publication of the Australian Competition and Consumer Commission for the Utility Regulators Forum. For editorial enquiries please contact Rob Albon (Robert.Albon@accc.gov.au) and for mailing list enquiries please contact Genevieve Pound (Genevieve.Pound@accc.gov.au).