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Critical Issues in Regulation – From the Journals

Four Laws of Consumption, Kenneth W Clements, *Economic Record*, 95, 310, September 2019, pp. 358-385.

This paper is about the theoretical and empirical economic analysis of consumption. It is structured around what Kenneth Clements describes as 'four laws of consumption' – Engel's Law; that quantities are more volatile than prices; that demand curves slope down; and that price elasticities are –1/2. The paper includes a discussion of different meanings of the word 'law', including from: legislated law; the natural sciences; economics; and more ordinary discourse. The detailed sections on the four laws of consumption are supported by a massive reference list including works by a large number of the most pre-eminent theoretical and/or applied micro-economists of the last two hundred and fifty years.

The first law, known as 'Engel's Law', is that food absorbs a declining proportion of the budget as consumers become richer. Another way of stating Engel's Law is that the income elasticity of demand for food is less than one. The law is attributed to the nineteenth-century German statistician and economist, Ernst Engel, particularly from a well-known 1857 publication. This law has been empirically verified, for many particular countries, across the population with the consistent finding that, the higher the household's income, the lower the proportion spent on food. There is also ample evidence of it holding across countries with poorer countries spending higher proportion of their income on food than wealthier countries. Table 1 of this paper presents the data for 138 countries, where, for example, data from Chad, reveals 55 per cent of household income is spent on food, compared with only 10 per cent for Norway which has per capita income 26 times higher.

The second law, that quantities are more volatile than prices, is also shown to be well grounded in both economic theory and empirical evidence. It is depicted as having both a macroeconomic heritage and a microeconomic heritage, and to have been considered by many of the most celebrated economists. In view of the consistency of findings, it seems reasonable to Kenneth Clements 'to endow the regularity of more dispersed quantities with the status of a law of consumption economics' (p. 372).

The third law, that demand curves slope downwards, is also known as 'the law of demand'. Kenneth Clements runs through the standard microeconomic analysis establishing this law, and observes that the empirical evidence for it can be traced back to, at latest, the late seventeenth century. The detailed discussion in this section also covers the case of the 'Giffen good' which has long been suggested as an exception to the usual case where the income effect outweighs the substitution effect, and demand for a strongly inferior good slopes upwards. There is also a detailed technical discussion of the 'Divisia correlation', attributed to Francois Divisia, a prominent French economist of the first half of the twentieth century.

The fourth law is that price elasticities are –1/2, implying, for instance, that a ten per cent increase in price will cause a five per cent reduction in quantity. This section of the paper includes a long discussion about the important role of the price elasticity of demand in applied microeconomic analysis (such as computable general-equilibrium models) and in the design of policy (such as rates for commodity taxation and in measures to rectify externalities). While the author presents substantial theoretical and quantitative support for this fourth law, his final conclusion about it is qualified – it 'does not have … the same status as the other three' and is presented as a 'broad guideline' rather than as a law *per* se.

Contents

There are six sections in the paper: Introduction; Law 1: Engel's Law; Law 2: Quantities are More Volatile than Prices; Law 3: Demand Curves Slope Down; Law 4: Price Elasticities are –1/2; and Concluding Comments.

There are 119 items in the reference list, with year of publication ranging from 1776 to 2019. Economists and econometricians cited include Gary Becker, Angus Deaton, Erwin Diewert, Francois Divisia, Ernst Engel, Milton Friedman, Ragnar Frisch, Arthur Goldberger, Alfred Marshall, Karl Marx, Arthur Pigou, Paul Samuelson, Richard Stone, Adam Smith, George Stigler and Henri Theil. A classic reference is Hendrik Houthakker's 'An International Comparison of Household Expenditure Patterns, Commemorating the Centenary of Engel's Law' published in *Econometrica* in 1957.

The article can be accessed by subscription to the *Economic Record.*

The Chicago School and the Formal Rule of Law, Ryan R Stones, *The Journal of Competition Law and Economics*, 14, 4, 2018, pp. 527-567.

This paper is about the influence of the Chicago School on antitrust and on economic analysis. The Chicago School of Antitrust is depicted as an offshoot from the body of interwar scholarship often referred to as the Chicago School of Economics. There is a particular emphasis on how, in the author's view, the Chicago School advanced a particular conceptualisation of the relationship between law and economics in antitrust that 'has been misunderstood for decades'. The author's reemphasis of the importance of legal form in Chicagoan writing throws out challenges to the common contemporary portrayal of the Chicago School and to the supposed 'neo-Chicago' approach which, in the author's view, 'is simply a more rigorous version of what Chicagoans have been proposing since the 1960s'.

From the 1920s, the University of Chicago developed a strong reputation in regard to neoclassical price theory, largely associated with the scholarship of Frank Knight, Jacob Viner, and Henry Simons. Knight and Simons were 'particularly prominent guardians of the price mechanism against the growing advocacy of central economic direction and eager interventionism'. Knight's 'concretisation of a Chicagoan style' of neo-classical microeconomic analysis influenced his Nobel Laureate students Milton Friedman and George Stigler. This consisted of two parts. First, there was the adoption of an economic method that put much greater emphasis on the explanatory power of the theoretical assumptions of neoclassical price theory. Second, it involved an exclusive reliance on total economic welfare (that is, societal efficiency as the sum of allocative and productive efficiency) as the motivation behind market intervention.

The work on industrial concentration, oligopoly theory, and barriers to entry provided especially important economic foundations to the later legal writing of the Chicagoan antitrust scholars. Henry Simons, the first economist at the Chicago Law School, set an interdisciplinary precedent and was instrumental in the appointment of Aaron Director to the Law School. The Chicagoan approach to antitrust, as portrayed in this paper, is the *ex ante* incorporation of economics into the design of generalised norms (rules, presumptions, structured tests). This incorporation of economics was to foster virtues associated with the formal rule of law, namely legal certainty and administrability. What the author sees as the 'overlooked importance of the ideal of the formal rule of law' can be discerned from Robert Bork and Frank Easterbrook's antitrust writing and Richard Posner's economic analysis of law.

There are five sections in the paper: Introduction; The History, Approach, and Implications of the Chicago School of Antitrust; The Chicagoan Rejection of *Ad Hoc*, Subject-Specific Determination of Legality; Why? The Chicago School and the Rule of Law; and Conclusion. Each of the main sections is divided into sub-sections and even finer divisions. There are 265 footnotes listed at the end of the article.

Economists and Legal Scholars cited in this paper include Jonathan B Baker, Ronald Coase, Harold Demsetz, Aaron Director, Frank Easterbrook, Milton Friedman, Friedrich von Hayek, William Kovacic, Herbert Hovenkamp, Thomas G Krattenmaker, Robert Lande, Sam Peltzman, Richard Posner, George L Priest, Steven Salop, Carl Shapiro, William G Shepherd, Henry Simons, George Stigler, Lester Telser and Jacob Viner. Classic references include Robert Bork's *Antitrust Paradox* (1978) and Oliver Williamson's 'Allocative Efficiency and the Limits of Antitrust', published in the *American Economic Review* in 1969.

This paper can be accessed by subscription to *The Journal of Competition Law and Economics*.

Funding Natural Monopoly Infrastructure Expansion: Auctions versus Regulated Uniform Access Prices, Peyman Khezr and Flavio Menezes, *Journal of Regulatory Economics*, 55, 2, April 2019, pp. 193-213.

This paper is about how to ensure that capacity expansion of monopoly infrastructure occurs in a timely and efficient manner. In the absence of vertical integration (which the authors say creates its own problems) access regimes need to specify how new capacity will be paid for by access seekers. This is above and beyond the issue of how to design the

regulatory system to provide an economic incentive for the regulated business to expand the facility whenever it is socially efficient to do so.

A standard regulatory approach is to set up an ex ante mechanism, whereby a uniform price is determined at a level that is sufficient to recover the cost of providing the infrastructure, including a return on capital and depreciation. According to the authors this mechanism provides regulatory certainty – if the facility is provided, access seekers will pay no more than the cost of provision of the infrastructure. However, according to the authors, it is not ex post efficient because such an approach does not take into consideration the private information of businesses. It is *ex ante* in nature even if prices are calculated after the construction of the facility.

In this paper, the authors examine whether a bidding mechanism to fund new infrastructure can improve economic efficiency. Access seekers submit a bid representing the unit price they are willing to pay for access. The authors characterise equilibrium behaviour and show, by means of an example, that the bidding mechanism can do better in terms of economic efficiency than the standard *ex ante* mechanism. In their view, due consideration ought to be given to the use of market mechanisms when setting up a regulatory regime governing access to new infrastructure.

Finally, the authors note that the proposed bidding mechanism does not eliminate the need for an economic regulator. A regulator is required to assess the *ex post* prudency of the cost of expanding the facility, and to ensure that the revenue in excess of the construction cost (including the cost of capital) is recycled back to users in a way that does not distort bidding.

There are nine sections in the paper: Introduction; Related Literature; The Model; The Regulator's Approach; The *ex post* Optimal Mechanism (two subsections); The Bidding Mechanism: Homogeneous Firms; Firms with Different Capacities; and Conclusion. There is one appendix.

There are 17 items in the reference list, with year of publication ranging from 1982 to 2016. Economists cited include Jeffrey Church, Michael Crew, William Hogan, Paul Kleindorfer, Jean-Jacques Laffont and Jean Tirole.

The article can be accessed by subscription to the *Journal of Regulatory Economics*.

Maximum Entropy: A Stochastic Frontier Approach for Electricity Distribution Regulation, Elvira Silva, Pedro Macedo and Isabel Soares, *Journal of Regulatory Economics*, 55, 3, June 2019, pp. 237-257.

This paper is about incentive-based regulation of electricity distribution, with particular reference to benchmarking of performance. The authors observe that such regulation has been introduced in many countries during the last three decades. The authors further observe that, although there is a wide variety of incentive-based schemes used for electricity utilities, most regulation practices are based on benchmarking. This involves assessing a business's efficiency against a reference performance in order to promote economic efficiency (interpreted in terms of productive efficiency and cost efficiency) of the regulated businesses.

The literature on incentive-based regulation in electricity distribution is reviewed in the second section of the paper. The authors conclude from this review that the size of this industry in a country constrains both the choice of frontier methods and the model specification itself to measure the economic efficiency of regulated businesses.

The authors propose a stochastic frontier approach (SFA) with 'maximum entropy' estimation. This is designed to extract information from limited and 'noisy' data with minimal statements on the data-generation process. SFA with generalised maximum entropy (GME) and data envelopment analysis (DEA) are applied to a cross-section dataset on thirteen European electricity distribution businesses. The authors note that DEA is the technique that has been widely used by national regulators.

Technical efficiency scores and rankings of the distribution businesses generated by both approaches are found to be sensitive to model specification. Nevertheless, the SFA with GME results indicate that technical efficiency scores have similar distributional properties; and that these scores and the rankings of the businesses are not very sensitive to the prior information. In general, the same electricity distribution businesses are found to be in the highest and lowest efficient groups, reflecting weak sensitivity to the prior information considered in the estimation procedure.

There are five sections in the paper: Introduction; A Brief Literature Review; Distance Function and GME Estimation; Data and Empirical Results; and Conclusions. There are two technical appendices.

There are 41 items in the reference list, with year of publication ranging from 1953 to 2016. Economists cited include Carlo Cambini, Ray Fare, Michael Pollitt and Graham Shuttleworth. A classic reference is to Ronald Shephard's *Theory of Cost and Production*

Functions published by Princeton University Press in 1953.

The original reference for 'Maximum Entropy' is Amos Golan, George Garrett Judge, and Douglas Miller's *Maximum Entropy Econometrics: Robust Estimation with Limited Data* published by Wiley in 1996.

The paper can be accessed by subscription to the *Journal of Regulatory Economics*.

Ultra-fast Broadband Investment and Adoption: A Survey, Laura Abrardi and Carlo Cambini, *Telecommunications Policy*, 43, 3, April 2019, pp. 183-198.

This paper is about the messages provided by recent contributions on the impact of ultra-fast broadband investment on growth, local development, and productivity; and on the interplay between ultra-fast broadband investment, regulation and competition. The authors, Laura Abrardi and Carlo Cambini, offer five key insights from their review.

First, from a methodological perspective, one of the key issues in empirically assessing the role and impact of ultra-fast broadband investment is to account for the potential endogeneity issue. Regulation could be revised by national regulators to reach specific investment or adoption targets; or a higher local growth in a certain country or region might drive the telecom operators' decision to invest in ultra-fast broadband infrastructure and not *vice versa*. Addressing these identification problems is fundamental to providing solid and trustful results that could be used to define policies and interventions.

Second, notwithstanding the efforts provided by several researchers, there is only a scant literature that addresses the impact of fibre investment on economic growth and assesses the differentiated effect of speed on national or local growth. The analysis of direct and indirect impact of ultra-fast broadband investment is extremely complex. The empirical literature on the effects of broadband diffusion in general, and of ultra-fast broadband diffusion in particular, tries to capture network effects indirectly through the use of alternative economic metrics such as economic growth, changes in the labour market or productivity. Such effects are hard to capture empirically, especially where ultra-fast broadband has low take-up rates, the network effects that these connections may generate are still small and typically the positive welfare effects pointed out in current studies are also underestimated. More research on evaluating the network effects generated by ultra-fast broadband connections is seen as important in order to provide sound policy recommendations.

Third, the use of micro-data at country level is the most important step to assess how regulatory policies might affect investment decisions. Many studies use a large dataset for a single country. These analyses can hardly establish a clear relationship between regulatory intervention and investment, because of lack of variation in the access regulation's intensity (for example, LLU prices) at the country level. The only variation in a single-country study comes from changes in the intensity of regulation across time, which might be easily confounded with other changes, such as NGA infrastructure deployment costs. This implies that valuable future research might consider using geographically disaggregated micro-data from multiple countries to assess the real impact of regulatory interventions across countries.

Fourth, it might be important to assess empirically the potential implementation of demand-side instruments, such as vouchers and tax exemptions. These are particularly costly from a public finance point of view and thus they would only have merit if they actually did help to raise ultra-fast broadband adoption considerably.

Finally, there are no studies on the potential impact of alternative regulatory regimes such as geographically differentiated access regulation and the obligation to co-invest. Further studies are then relevant and valuable since they may have a greater role in spurring ultra-fast broadband investment in coming years.

There are 62 items in the reference list, with year of publication ranging from 1995 to 2018. Economists cited include Mark Bourreau, Wolfgang Briglauer, Robert Crandall, Lukasz Grzybowski, Steffen Hoernig and Tommaso Valletti.

This paper can be accessed by subscription to *Telecommunications Policy*.

Path Dependencies versus Efficiencies in Regulation: Evidence from 'Old' and 'New' Broadband Markets in the EU, Wolfgang Briglauer, Enrico Maria Camarda and Ingo Vogelsang, *Telecommunications Policy*, 43, 8, September 2019, Article 101825.

This paper examines the determinants of sector-specific regulation applied to broadband markets with next-generation networks (NGNs). The enquiry is related particularly both to efficiency objectives of regulators and the objectives of narrowly-defined interest groups. The authors test hypotheses derived from the normative and positive theoretical literature employing recent panel data on 27 European Union (EU) member states for the years from 2003 to 2015.

The second and third sections of the paper are titled (respectively) Literature and Testable Hypotheses. The authors survey both normative theoretical and

empirical contributions that analyse the NGN investment and migration incentives related to access regulations. None of the studies examines the determinants of NGN regulation. Regarding the older positive theoretical literature, the authors find that there has been no previous attempt to examine empirically their predictions based on path dependence or interest-group behaviour in view of regulatory measures underlying old and new broadband infrastructure. From the older theory of regulation, however, the positive approach more likely induces path dependence than the normative approach leading to a different market outcome. This work intends to fill these gaps.

Section 4 covers Econometric Specification and Identification Strategy; Section 5 and the Annex covers Data; and Section 6 details the Estimation Results. The econometric analysis takes into account endogeneity of the underlying regulation and market structure variables. The authors' empirical specification employs three different estimators based on instrumental variables in order to identify causal effects.

The authors find evidence supporting both regulators pursuing normative objectives and inefficiencies related to regulatory path dependence, bureaucracy goals and an inadequate consideration of competition from mobile broadband networks. EU proposals would extend access regulations by applying the concept of market dominance into the context of narrow oligopolies, and expand symmetric remedies to a potentially large number of network operators and access elements. In view of the authors' results, such developments present strong concerns as the total number of NGN regulations appear to further increase despite an ever-increasing competitive intensity in broadband markets. Any new access regulations should be subject to close scrutiny as regards their normative foundation in order to avoid inefficient over-regulations. More broadly, the authors' empirical results cause them to call for adjustments in the institutional design of the decision-making process under the current EU regulatory framework.

There are 42 items in the reference list, with year of publication ranging from 1971 to 2017. Economists cited include Mark Bourreau, Carlo Cambini, Martin Cave, William Niskanen, Sam Peltzman and George Stigler. A classic reference is Gary Becker's 'A Theory of Competition among Pressure Groups for Political Influence' published in the *Quarterly Journal of Economics* in 1983.

This paper can be accessed by subscription to *Telecommunications Policy*.

Impact of HFC Networks on FTTx Investment in Europe, Fabian Queder, Marcus Stronzik, Christian Wernick, WIK Discussion Paper No. 442, July 2019.

The objective of the authors of this paper is to investigate the influence of the existence of hybrid fibre coaxial (HFC) networks on the investment behaviour of incumbents and alternative suppliers in the European Union (EU) 28 for the period 2011 and 2017.

The authors point out that most European cable networks were already established for the purpose of distributing television content before liberalisation of telecommunications markets took place. Liberalisation involved: the ownership and organisational unbundling of cable and telecommunications providers; the upgrading of the originally uni-directional to bi-directional networks; and the introduction of the Data Over Cable Service Interface Specification (DOCSIS) standard as the basis for high-performance broadband products. As a consequence, cable network operators have become the main alternative competitors in the market for broadband services in numerous Member States.

In contrast to earlier econometric studies, the authors' results for the EU 28 reveal a high level of complexity with regard to the interplay between HFC and FTTx deployment:

First, while in 2011, there is a strong correlation between cable and FTTx coverage; in 2017 this correlation can no longer be observed.

Second, for the period from 2011 to 2017, the existence of cable networks has had a negative impact on investment in new FTTx infrastructures.

Third, on the other hand, investments in cable networks expansion have led to counter-investments by incumbents and alternative providers.

It is difficult for the authors to make generalised statements with regard to further developments at the Member State level due to the heterogeneous conditions across jurisdictions. However, their overall results suggest that, over time, it cannot be assumed there will be a comprehensive market-driven overbuilding of HFC areas through FTTP infrastructure in the sense of infrastructure competition.

This paper, which is only available in the German language, can be ordered for a fee of 7 Euro including VAT from **www.wik.org**.

Exploring the Impact of Artificial Intelligence: Prediction versus Judgment, Ajay Agrawal, Joshua Gans and Avi Goldfarb, *Information Economics and Policy*, 47, June 2019, pp. 1-6.

This paper is about the impact of recent developments in the field of artificial intelligence (AI). The particular focus is on what type of human labour will be a substitute for emerging technologies as against the type of human labour that will be a complement to emerging technologies.

The authors argue that recent developments in AI reduce the costs of providing a particular set of tasks, known as prediction tasks. This is important because prediction about uncertain states of the world is an input into decision-making. The authors further demonstrate that prediction allows riskier decisions to be taken and this is its impact on observed productivity. However, it could also increase the variance of outcomes.

The paper also contains a consideration of the role of human judgement in decision-making as prediction technology improves. Judgement is exercised when the objective function for a particular set of decisions cannot be described (that is, coded). However, the authors demonstrate in their model that better prediction impacts the returns to different types of judgement in opposite ways. Hence, the authors conclude, not all human judgement will be a complement to AI.

Finally, the authors show in their model that humans will delegate some decisions to machines even when the decision would be superior with human input.

There are six sections in the paper: Introduction; Impact of Prediction on Decisions; Prediction and Human Judgment; Unreliable Prediction; Inattention and Real Machine Authority; and Conclusions.

Economists cited in the reference list include David Autor, Ben Bernanke, William Nordhaus, Jean Tirole and Hal Varian.

This paper can be accessed by subscription to *Information Economics and Policy*.

Australian Passenger Vehicle Classification and Distance-Based Charging: Current Practices and the Way Forward, Suman Sen, Michael B Charles and Michael A Kortt, *Economic Papers*, 38, 1, March 2019, pp. 1-14.

This paper is about the ways of addressing road congestion and infrastructure funding challenges that have become a major concern in urban centres in Australia. Recent debates pertaining to private motor vehicle usage have given rise to a renewed interest in alternative road-user charging (RUC). This has the aim of internalising the external costs associated with private motor vehicle usage. One possible solution is distance-based charging (DBC), which could provide a more transparent road-pricing system.

The authors: review the salient features of RUC and DBC; consider the costs associated with private vehicle usage that DBC is expected to capture; and undertake an analysis of existing vehicle classification systems that underpin current RUC schemes within Australia.

Based on this analysis, the authors propose a new vehicle classification system that could be used to support the design of a workable DBC scheme.

There are seven sections in the paper: Introduction; Economic Overview of RUC and DBC; External Costs Associated with Private Vehicle Use; Description of Vehicle Classification Systems across Australia; Ability of Existing RUC Systems to Capture External Costs of Road Use; Proposed Vehicle Classification System for DBC; and Conclusion.

There are 58 items in the reference list, with year of publication ranging from 1962 to 2018. Economists cited include Anthony Downs, David Hensher, and Ian Parry. A classic reference is William Vickrey's 'Pricing in Urban and Suburban Transport' published in the American Economic Review in 1963.

The article can be accessed by subscription to *Economic Papers*.

The European Court of Justice and the More Economic Approach to EU Competition Law – Is the Tide Turning?, Anne C Witt, *The Antitrust Bulletin*, 64, 2, June 2019, pp. 172-213.

This paper is about the economic approach to competition law taken by the European Court of Justice in the European Union (EU). Anne Witt observes that, in the late 1990s, the European Commission (EC) embarked on a mission to bring EU competition policy more into line with contemporary economic theory. Over a period of ten years, the EU systematically revised key legal concepts of all three pillars of EU competition law. According to the author, most importantly it: adopted the consumer-welfare aim; revised its understanding of competitive harm and countervailing effects accordingly; and committed itself to carrying out more in-depth assessments of the investigated conduct's effects instead of relying on form-based presumptions of illegality.

Initially, many tenets of the more economic approach were in conflict with the case law of the European Court of Justice, which had a broader understanding of the aims of EU competition law. After a few initial setbacks for the EC, recent judgements in cases

such as *MEO, Intel, Post Danmark I*, and *Cartes Bancaires* suggest to the author that the Court's understanding of EU competition law is evolving and that it is willing to embrace at least a few of the EC's revised principles. In particular, it is adopting a more effects-based approach to assessing business conduct and is cautiously curbing its former concept of harm in exclusionary situations. At the same time, however, it adheres to many of its former principles based on freedom and fairness. As a consequence, in the author's view, a number of uncertainties and inconsistencies remain.

There are six sections in the paper and 310 footnotes.

Economists cited include Phillip Areeda, Jonathan B Baker, Gary Becker, Simon Bishop, Timothy Brennan, David S Evans, Derek Ridyard, Carl Shapiro, David Turner and John Vickers.

This paper can be accessed by subscription to *The Antitrust Bulletin*.

Regulatory Decisions in Australia and New Zealand

Australia

Australian Competition and Consumer Commission (ACCC)

Action against TasPorts for Alleged Misuse of Market Power Announced

On 9 December 2019 **the ACCC announced that it has instituted Federal Court proceedings** against Tasmanian Ports Corporation Pty Ltd, its first under the amended misuse of market power provision.

Possible Class Exemption for Liner Shipping from Competition Laws – Issues Paper Released

On 3 December 2019 the ACCC released an issues paper on a possible class exemption from Australian competition laws, for cargo liners. **Feedback is required by 28 February 2020.**

Wholesale Market Indicators Report Released

On 15 November 2019 the ACCC released its **Wholesale Market Indicators Report** relating to connections to the NBN.

ACCC Does not Object to the Proposed Increase in the Basic Postage Rate (BPR)

On 14 November 2019 the ACCC decided not to object to Australia Post's **draft proposal to increase the prices of ordinary letter services**, in January 2020.

Measuring Broadband Australia Report 7 Published

On 7 November 2019 the ACCC **published a report into retail service providers**, as part of a government-funded program commenced in 2017 to monitor national broadband performance.

Container Stevedoring Monitoring Report 2018-19 Released

On 6 November 2019 the ACCC released its **container stevedoring monitoring report for 2018-19**.

Fixed-Line Wholesale Services – Decision to Maintain Existing Prices and Non-Price Terms

On 1 November 2019 the ACCC announced its **decision to maintain existing price and non-price terms** until 30 June 2024 for seven declared, or regulated, fixed line wholesale services. To take effect on 15 November 2019.

Murray-Darling Basin Water Markets – Views Sought

On 17 October 2019 the ACCC released an issues paper for its **Murray-Darling Basin water markets inquiry** into trading activity since 2012.

NBN Co Given Formal Warning on Discrimination between Retail Service Providers

On 9 October 2019 **the ACCC issued a formal warning to NBN Co** for discriminating between retail service providers (RSPs) for the supply of upgraded NBN infrastructure to business customers.

Australian Competition Tribunal (ACT)

Port of Newcastle Arbitration

On 30 October 2019 the ACT published its Determination on the Application by the Port of Newcastle Pty Ltd in relation to the Arbitration Determination by the ACCC in relation to an application by Glencore Coal Assets Australia Pty Ltd and the Port of Newcastle Operations Pty Ltd. The ACT Determination deleted clauses 2.1, 2.2 and 6.1 of the ACCC's Final Determination and replaced them with clauses that confined the scope of the Determination to Glencore and that the Navigation Service Charge payable by Glencore will be $1.0058 as of 1 January 2019.

Australian Energy Market Commission (AEMC)

AEMC Annual Report 2018-19 Released

On 9 December 2019 **the AEMC released its annual report** on electricity price trends out to 2022.

Transmission Access Reform Model – Summary of Submissions Published

On 21 November 2019 the AEMC published the **sixty submissions received** on the AEMC's proposals to overhaul wholesale pricing and transmission access aimed at lowering the costs and risks of getting new generation and battery storage into the grid.

Australian Energy Market Operator (AEMO)

Quarterly Energy Dynamics Report for Q3 2019 Published

On 12 November 2019 the AEMO published its **'Quarterly Energy Dynamics' report** to provide information on electricity and gas market dynamics, trends and outcomes during Q3 2019.

Australian Energy Regulator (AER)

Value of Customer Reliability Survey Results Released

On 18 December 2019 the AER **released its results** on its Value of Customer Reliability Survey.

Profitability Measures for Electricity and Gas Network Service Providers – Final Position Paper

On 16 December 2019 the AER **released its Final Position Paper** on profitability measures for Electricity and gas network service providers.

Rate of Return Annual Update 2019 Published

On 10 December 2019 **the AER released its first rate of return annual update**. The AER recently released a consultation paper seeking feedback on a proposed pathway to the next Rate of Return Instrument.

2020 Distribution Tariffs for Victorian and Albury Gas Customers Approved

On 29 November 2019 the AER approved the **2020 Victorian gas distribution tariffs** for Australian Gas Networks (Albury and Victoria), AusNet Services, and Multinet. The tariffs comply with the requirements of their respective AER-approved gas access arrangements for the period 2018-22.

Annual Benchmarking Report 2019 Released

On 29 November 2019 the AER released its **2018 Annual Benchmarking Report**.

Value of Customer Reliability Methodology – Final Decision

On 26 November 2019 **the AER released its final decision on methodology** for the Values of Customer Reliability to be adopted in Q1 2020.

Gas Transmission Tariffs for APA Group's Victorian Transmission Tariffs 2018-2022 – Approved

On 21 November 2019 **the AER approved the 2020 Victorian gas transmission tariffs** of APA Group's Victorian Transmission Services.

Network Tariffs for Victorian Electricity Distributors for 2020 Approved

On 11 November 2019 the AER announced its approval of **network tariffs for 2020** which will take effect from 1 January.

South Australia Public Lighting Dispute – Determination Issued

On 24 October 2019 the AER issued a determination on the long-running dispute over **the cost of street lighting in South Australia**.

National Competition Council

No reportable matters listed.

Australian Capital Territory

Independent Competition and Regulatory Commission (ICRC)

Incentive Mechanisms for Regulated Water and Sewerage Services – Issues Paper Released

On 4 December 2019 **the ICRC released an Issues Paper** on incentive mechanisms for water and sewerage services price regulation. Submissions are required by 28 February 2020.

New South Wales

Independent Pricing and Regulatory Tribunal (IPART)

Performance of Retail Energy Markets – Draft Annual Reports Released

On 3 October 2019 the IPART released its **Draft Annual Reports** on the performance of retail energy markets.

Northern Territory

Utilities Commission

Annual Compliance Report 2018-19 Published

On 21 November 2019 **the Utilities Commission published its Annual Compliance Report 2018-19**,

which includes a summary of reports received from licensees by 31 August 2019.

Electricity Retail Supply Code Varied

On 13 November 2019 **the Utilities Commission announced a variation** of the Electricity Retail Supply Code, to take effect from 1 December 2019.

Queensland

Queensland Competition Authority (QCA)

No reportable matters listed.

South Australia

Essential Services Commission of South Australia (ESCOSA)

SA Water's 2020-2024 Regulatory Plan – Public Consultation Commences

On 12 November 2019 **the ESCOSA published its plan for delivering water and sewerage services** from 1 July 2020 to 30 June 2024.

Charter of Consultation and Regulatory Practice – Final Decision

On 12 November 2019 **the ESCOSA published** the final decision of its Charter review.

Tasmania

Office of the Tasmanian Economic Regulator (OTTER)

No reportable matters listed.

Victoria

Essential Services Commission (ESC)

Assessing the Competitiveness and Efficiency of the Victorian Retail Energy Market – Framework and Approach Paper Released

On 17 December 2019 the ESC **released its Framework and Approach** Paper on assessing the competitiveness and efficiency of the Victorian Retail Energy Market.

Water Performance Report 2018-19 Released

On 10 December 2019 the ESC released its **annual water report**.

Victoria Default Price for Electricity in 2020 – Final Decision

On 25 November 2019 the ESC released its **final** decision on the default price for electricity in 2020.

Melbourne Water Prices 2021-2026 – Guidance Paper Released

On 14 November 2019 the ESC announced a new **water pricing framework**.

Performance of Victoria's Water Businesses Outcomes Report 2018-19 Released

On 7 November 2019 the ESC released its first report under a **new pricing framework** aimed at making water businesses more accountable to customers.

Western Australia

Economic Regulation Authority (ERA)

Revised Access Arrangement for the Mid-West and South-West Gas Distribution Systems – Final Decision

On 15 November 2019 **the ERA released its final decision** on revised access arrangement for the Mid-West and South-West Gas Distributions Systems.

Light Regulation Gas Pipelines – Financial Reporting Guidelines Published

On 31 October 2019 the ERA published financial reporting guidelines for **light regulation gas pipelines in Western Australia**.

New Zealand

Electricity Authority

Baseline Distribution Pricing 2019 – Summary Assessment Published

On 21 November 2019 the Electricity Authority published a **summary assessment of distribution pricing**.

New Zealand Commerce Commission (NZCC)

Measuring Broadband New Zealand Report Released

On 17 December 2019 the NZCC **released the Spring 2019** Measuring Broadband New Zealand Report, from independent testing partner, SamKnows.

Electricity Lines Companies Default Price-Quality Paths 2020-2025 – Final Decision

On 27 November 2019 **the NZCC released its final decision** on the default price-quality paths for 15 regulated electricity lines companies for 2020-2025.

New Regulatory Regime for Fibre Broadband Networks – Draft Decisions Published

On 19 November 2019 the NZCC released its draft decisions on the design of the **new regulatory regime for fibre broadband networks**.

Transpower's Proposed Price-Quality Path 2020 to 2025 – Final Decision

On 14 November 2019 the NZCC issued its final decision on Transpower's maximum revenue and minimum quality standards under its **individual price-quality path (IPP) for the period 2020-2025**.

Telecommunications Development Levy 2018-19 – Draft Determination

On 24 October 2019 **the NZCC released its draft determination** on Telecommunications Development Levy contributions for 2018-19.

Regulatory News

2020 ACCC and AER Regulatory Conference

The 2020 ACCC and AER Regulatory Conference will be held in Brisbane on Thursday 30 July and Friday 31 July 2020. Please check the **conference page** for updated information.

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).