

## The latest academic thinking – From the Journals

Who has time to scan the journals to find relevant papers, let alone to read all that material? In this section we do some of the hard work for you.

Specifically, we have identified recent articles in the economics literature, summarised the key messages, and sought to put the paper in the broader context, so that you can decide whether or not to read the paper in more detail yourself.

The focus here is on papers from different areas of economics which may be of relevance to readers of Network. This includes regulatory economics, competition economics, digital platforms, law and economics, energy economics, benchmarking, and empirical techniques.

Inclusion in this list does not imply endorsement of the conclusions. Where appropriate we will offer our own critique. Readers are encouraged to read the original papers to form their own view.

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### Competition Policy

We start with an article by the former Chair of the ACCC. In **Sims (2022)**, Rod Sims identifies ten lessons or reflections from his time as a competition agency head.

The first reflection relates to the goal of competition law. Sims endorses Lina Khan's (**Khan, 2017**) critique of the consumer welfare standard, and expresses a preference for the view that the primary goal of competition law is to "protect the competition process". This is, in part, due to the reduced evidentiary burden – that is, the reduced need to forecast the inherently uncertain future impact on consumers in the market.

Sims expresses surprise that corporate strategy considerations (such as Porter's Five Forces model) are largely absent in competition policy discussions. He recognises that businesspeople deliberately do not mention such strategies in discussions with the ACCC, and are careful to put nothing in writing in internal documents. But he expresses surprise that these strategies, which seem natural and common sense to businesspeople, are viewed by the courts as speculative.

Sims observes that the concern to avoid prosecuting pro-competitive behaviour has in practice led to a bias towards under-enforcement. He notes that the harm to the economy from allowing anti-competitive behaviour to go unpunished in practice exceeds the potential harm from prosecuting pro-competitive conduct, suggesting that competition agencies should be more willing to challenge concerning practices.

The fourth reflection relates to merger controls. At present all mergers are considered on a case-by-case basis. Sims argues that there should be a presumption in the law that some market structures (say, less than four players) are conducive to the exercise of market power and therefore should be able to be blocked without undue analysis. According to Sims, this would greatly increase the ability to block anti-competitive mergers, while only slightly increasing the chance of preventing pro-competitive mergers.

Sims would also like to see greater ability to control "creeping acquisitions" (that is, acquisitions of firms which are too small individually to not amount to a substantial lessening of competition) or the ability to prevent acquisitions of a nascent competitor before the competitive threat is realised. Sims questions the historic view that most vertical mergers are benign, arguing that in the case of a firm with substantial market power, all mergers that entrench, increase, or extend that market power should be prohibited.

According to Sims, much of the academic thinking on competition economics comes from economists who are paid to show why a particular action or practice is benign. The economic analysis can be very detailed and highly specific to the facts of a particular case. Sims notes that this approach risks missing the bigger picture and the anti-competitive harm that can result.

Sims' sixth reflection is the importance of focusing on

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getting the “right” outcome in a case. Due to the vagaries of the courts, competition agencies cannot guarantee that courts will always get the right answer. But there remains a responsibility on the competition agencies to seek the right answer whether that results in winning or losing.

The seventh reflection is on the role of data as a source of market power. Google and Facebook collect large amounts of data about the individual and monetize that data by selling targeted advertising. Their access to data gives these platforms considerably advantages over their rivals. Sims notes that data issues must play a central role in competition analysis in the future.

Sims notes that competition law enforcement, which is slow and uncertain, is unlikely to deal with the range of issues that arise in the context of digital platforms, and new sector-specific regulatory rules are likely to be required.

Sims asks why competition practitioners tend to look down on consumer law? After all, he notes, the ultimate objective of the two laws (the welfare of consumers) is similar and the harms to consumers from a breach of consumer law can be even more severe than a breach of competition law. Sims argues that other countries should follow Australia’s lead in equalising the penalty regimes between the two systems.

The final reflection concerns competition advocacy. Who, Sims argues, is to be the voice of pro-competition reforms in the economy if not the competition agency? “If governments want successful market economies, they should empower their competition agencies to be explicit competition champions”.

Sims’ reflections are a valuable set of insights for the competition law and policy community.

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Since the Chicago-school revolution of the 1980s, competition authorities have tended to take a permissive view towards vertical mergers and arrangements. However, in recent years there has been some recognition that this laissez-faire attitude has gone too far. Although the US competition agencies have long maintained guidelines on their treatment of horizontal mergers, for many years there have been no equivalent guidelines in place for vertical mergers. Such guidelines are currently under development and are the subject of a special issue of the Antitrust Bulletin.

The first paper in this special issue, Salop (2022) consists entirely of a proposed new set of guidelines on vertical mergers. This is not a conventional economic paper; rather it is nothing more or less than a

set of proposed draft guidelines, with a short introduction. Nevertheless, the piece makes for interesting reading, from one of the longstanding experts in the field.

Salop begins by clarifying that vertical mergers and mergers of firms providing complementary products or services are essentially the same thing. Salop distinguishes (i) the “relevant market” (the market in which the anti-competitive harm may arise) and (ii) the related, complementary, product or service. If a firm has a dominant position in the provision of the related product or service, it may be able to control competition in the relevant market.

For example, a merger of a retailer and an upstream manufacturer may affect competition upstream or downstream. If the retailer has a dominant position, the merger risks making it difficult for rival manufacturers to reach retail customers. Salop refers to this as customer foreclosure. If the manufacturer supplies an essential input to many retailers, the merger risks foreclosing competition in the retail sector. Salop refers to this as input foreclosure. Salop notes that the same effects can happen even if the two firms do not directly trade with each other, in the case where they are producing complementary goods or services.

Foreclosure can also occur without a merger, through vertical arrangements or contracts. However, a merger may increase the ability and incentive of the merging parties to engage in foreclosure.

The harm from foreclosure depends on how quickly and easily the other firms can find alternative sources of supply, or alternative outlets. Salop notes that even if the upstream manufacturer is not a pure monopolist, the vertical merger or vertical arrangement may concentrate the upstream market, having an indirect effect of raising prices to unintegrated rivals downstream, thereby softening competition downstream.

In some markets, prices are set through a bargaining process, in which each party can try to stall or hold out for a better price, at the risk of delaying agreement. One of the effects of vertical integration is that it may change the bargaining position of one of the parties – in effect providing a guaranteed outlet for its products and services. This may allow the integrated firm to more credibly threaten to delay or prolong negotiations, changing its relative bargaining position.

Salop notes other potential harms from vertical integration, such as the elimination of a potential competitor, or increased potential for misuse of competitively-sensitive information. Vertical mergers involving a price-regulated firm can also complicate the process of price regulation, making it hard for the regulator to observe an efficient price for an input.

Vertical mergers and arrangements may also give rise to a range of competitive benefits such as technical efficiencies, efficiencies of coordination of investment, and elimination of double marginalization.

One possible critique of this paper is that the proposed guidelines focus on vertical *mergers* to the exclusion of other vertical arrangements. Many of the same outcomes could be achieved with vertical arrangements. The proposed guidelines do not explain whether we might treat vertical arrangements differently. Salop's paper is unconventional, but it is an excellent summary of the current state of the art in controlling vertical mergers.

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Once a year Lawrence White, the editor of the Review of Industrial Organization, invites the chief economists of the DoJ, FTC, FCC, DGComp, and UK CMA to write an essay on the interesting antitrust and regulatory issues confronting their agencies over the past year.

In **Clark, Lien, Wilder (2021)**, economists from the US Department of Justice (DoJ) discuss two mergers involving nascent competition. The difficulty with controlling mergers involving nascent competitors is that nascent competitors (by definition) do not (yet) have a substantial competitive effect, so much of the competition analysis must speculate about what *may* happen in the future.

The DoJ discusses two cases: The first involves Visa's acquisition of a technology firm known as Plaid. Plaid is a financial aggregator which provides services to apps such as Venmo and Betterment. Plaid's links to hundreds of millions of consumer bank accounts put in an excellent position to challenge the dominance of companies such as Visa. The paper notes:

Plaid planned to leverage its access to consumers' banking information to offer online debit transactions in direct competition with Visa and other debit card networks. Plaid was uniquely positioned to "check every box" that is necessary for successful entry: from authorization—which ensures that consumers are allowed to use an account and have access to adequate funds—to the transfer of funds to the merchant. Importantly, Plaid aspired to alter the competitive landscape dramatically with its entry: Internal Plaid documents revealed that Plaid intended to offer merchants online debit transactions at roughly half of the price of a Visa online debit transaction.

In addition:

Visa's CEO noted that Plaid was "clearly, on their own or owned by a competitor going to create

some threat to our important US debit business", such that purchasing Plaid would be an "insurance policy to protect our debit biz in the US".

The challenge for the DoJ was separating the market for debit cards from the market for credit cards and other payment systems such as cash or cheques. The DoJ conducted an empirical analysis which showed that debit is a distinct relevant market. In the face of DoJ opposition, Visa subsequently abandoned its proposed acquisition of Plaid.

The second case discussed by the DoJ involves the acquisition of Farelogix by Sabre. Sabre operates a "Global Distribution System" (GDS) – that is, a two-sided platform which links airlines with travel agents. About 50 per cent of airline ticket bookings are made through the Sabre system. Farelogix offers an alternative technology that allows airlines to "direct connect" to travel agents. The take-up of Farelogix's new technology was historically slow, in part due to the fact that the contracts GDSs signed with airlines limited the ability and incentive of airlines to sell tickets through other platforms.

Subsequently Farelogix developed a new service, known as NDC, which allowed airlines to tailor the bundle of services they offer to customers (for example, meals, seats, baggage) – a service that was unavailable through Sabre, attractive to airlines, and which started to be taken up by other GDSs.

In late 2018 Sabre announced its intention to acquire Farelogix. This was opposed by the DoJ and the case went to trial in January 2020. The authors note:

The district court was apparently persuaded by much of the evidence that the government presented at trial. Evidence with regard to the effects of Farelogix entry and airline testimony on bargaining dynamics led the court to conclude that Farelogix "enables airlines to push for lower booking fees". Sabre documents and testimony led the court to conclude that "NDC poses a threat to Sabre's traditional business model." The court's opinion cites airline testimony that describes Farelogix as "the GDSs' leading competitor/agitator" and explains that Farelogix "keeps GDSs on their toes relative to innovating to keep up." And documents that describe deal planning led the court to determine that "mitigating the risk of GDS bypass" was among Sabre's motivations for the acquisition of Farelogix.

Despite these observations, the District Court ruled in favour of Sabre. Its reasoning was based on a sentence in a decision of the Supreme Court, that reads: "only other two-sided platforms can compete with a two-sided platform for transactions". Farelogix provides a service which allows airlines to connect di-



rectly with travel agencies. It does not have any travel agent customers itself. By this reasoning Farelogix is not a two-sided platform and therefore not a competitor to Sabre. But, this paper argues, this logic is flawed as Farelogix provides a service which facilitates trade between two sides of the market, regardless of whether or not it has a commercial relationship with only one side.

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In the CMA's own submission to this special issue, **Bon et al (2021)**, describe the CMA's approach to the same Sabre/Farelogix merger. The CMA focused on two theories of harm. The first concerned the supply of "distribution applications". In this market, Farelogix has a small share compared to the other GDSs, but was gaining traction and posed a direct threat to Sabre. The second concern focused on the supply of "merchandising applications". In this market Farelogix was a major player, with Sabre lagging far behind the two main players, Amadeus and Farelogix. The CMA was concerned that, without the acquisition Sabre would have developed its own "merchandising solution" to meet airlines' demand.

The CMA was concerned to show that, absent the merger, Sabre would have both the incentive and the ability to develop its own products. The industry trends surveyed by the CMA showed that Sabre had a strong incentive to catch up and upgrade its products to avoid missing merchandising growth and losing value in its distribution business. In addition, a range of Sabre's investment strategies and planning documents showed that, before the merger, Sabre had been investing heavily in services that would compete with Farelogix.

Partly due to the opposition of the CMA, the parties abandoned the merger in May 2020. Subsequently Sabre has rolled out a product described as "essentially a Farelogix replacement".

The authors cite the main lesson as follows: despite this being a dynamic industry, the agency was able to draw on company documents and information to make reasonable predictions about counterfactuals (that is, what was likely to happen with and without the merger).

The same paper also describes the CMA's investigation into the UK funeral market. This market study was prompted by concerns of a lack of competition, rising prices, and a lack of consumer, "shopping around".

The CMA found that, by traditional measures, there is a high degree of competition between funeral directors – 93 per cent of funeral directors have four or more rival funeral directors within a 15-minute drive.

In addition, the key facilities required to provide the service (ceremonial vehicles and refrigeration) can be hired, and there is no occupational licensing requirement to be a funeral director, so barriers to entry are low.

Nevertheless, competition is lacking in this service because consumers tend not to "shop around". Funeral services tend to be purchased infrequently, by inexperienced consumers, at a time of great personal distress. The CMA found that funeral directors did not normally publish their prices and were generally unwilling to provide pricing information until customers were well into the process. Interestingly, funeral directors tended to ensure that they were visible in the local community rather than responding to the offerings of competitors.

Similar patterns were found in the market for crematoria services. The CMA found that most consumers do not use the closest crematorium, but a crematorium that their family has used before. Interestingly, the CMA found that, in response to entry a local crematorium responded, not by cutting its prices, but by *raising* its prices.

In response to this investigation the CMA proposed "sunlight" remedies, such as requiring funeral directors and crematorium operators to disclose price information. "For funeral directors, this includes an itemised list of frequently purchased products in a standardised format that must be displayed clearly at their premises and online."

The concluding part of this paper describes the CMA's updates to its merger assessment guidelines, including new guidelines regarding market definition, and a new approach to the concept of "dynamic competition".

The same edition of the Review of Industrial Organization also includes "year in review" reports from the FTC and the European Commission's DG Comp. The review by DG Comp – **Baltzopoulos et al (2021)** – goes into some detail explaining the Digital Markets Act, state aid in the airline industry, and a merger case involving manufacturers of hydraulic components.

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## Energy Markets

All over the world, electricity policymakers are grappling with the question of whether or how wholesale electricity markets need to change in response to the dramatic increase in investment in intermittent renewable energy sources. This has stimulated a number of articles looking at market design in a high-renewable future. One such paper is **Wolak (2021)**.

This paper opens with the following lines:

The basic features of an efficient short-term wholesale market design do not necessarily need to change to accommodate a significantly larger share of zero-marginal-cost, intermittent renewable energy from wind and solar resources. A large share of controllable zero-marginal-cost generation does not create any additional market design challenge relative to a market with a large share of controllable positive marginal cost generation. Regardless of the technology, generation unit owners must recover their fixed costs from sales of energy, ancillary services, and long-term resource adequacy products.

Wolak goes on to identify “four crucial features of efficient short-term market design”. The first of these is ensuring consistency between the pricing and dispatch process and the underlying physical constraints of the transmission network. This is achieved in the US through a process known as Locational Marginal Pricing.

The second feature Wolak points to is the existence of a day-ahead market, alongside the real-time market. The day-ahead market allows the centralised process to decide which units to start for the following day. The third factor is a local market-power mitigation mechanism. Wolak observes that:

... because these local market-power mitigation mechanisms are built into the market software of all US markets and automatically mitigate the offers of suppliers deemed to have a substantial ability to exercise unilateral market power, they are effective at preventing the exercise of significant local market power with little disruption to the operation of the short-term market.

The final factor that Wolak identifies is policies that foster active demand-side participation in the wholesale market.

The second half of Wolak’s paper deals with mechanisms to achieve “resource adequacy” in the presence of a high penetration of renewables. Wolak notes that price caps in wholesale markets, while mitigating market power, can reduce the revenue that suppliers earn in scarcity conditions, leading to a “missing money” problem:

The lower the offer cap, the greater the likelihood that the retailer will delay its electricity purchases to the short-term market. Delaying more purchases to the short-term market increases the likelihood of insufficient supply in the short-term market at or below the offer cap. Because retailers do not bear the full cost of failing to procure sufficient energy in the forward market to meet their future

demand, there is a missing market for long-term contracts for long enough delivery horizons into the future to allow new generation units to be financed and constructed to serve demand under all future conditions in the short-term market.

These problems might be addressed with a capacity mechanism (discussed further below). But Wolak notes that while defining capacity for traditional thermal generation is, in principle, straightforward, this task is more complicated for markets with a high penetration of renewables. “These facts imply that a capacity-based, long-term resource-adequacy mechanism is poorly suited to a zero-marginal-cost, intermittent renewable feature.”

The rest of the paper is devoted to describing the resource adequacy mechanism that Wolak proposes. Under his scheme, retailers would be required to hold contracts (standardised, fixed-price, forward contracts) that cover the expected future demand at forecast times of stress in the future. Wolak notes that there are benefits from this approach, including greater investor certainty (arising from the sale of these contracts), and the fact that it allows the price cap in the spot market to be raised, increasing the incentive for production in the short-term, increasing the incentive for investment in storage and load-shifting technologies, and encouraging participation of final demand in the wholesale market.

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In the current design of the National Electricity Market generators only receive revenue when they produce electrical energy. But policymakers are in the process of designing a scheme which would also reward generators for their available capacity (whether or not that capacity is actually used to produce energy). Such a scheme is known as a “capacity mechanism”.

There are different possible drivers or sources of “market failure” that might give rise to the need for a capacity mechanism. Possibilities include the presence of price caps (or a lack of tolerance for high prices), together with uncertainty over major developments in the market (such as major coal retirements), especially in the presence of risk aversion, market power, limited forward markets, and/or uncertainty about the timing and nature of government intervention.

A recent paper by **Fraunholz et al (2022)**, focuses on the impact of risk aversion on the incentives for investment in interconnected regional markets with long-term uncertainties and with and without a capacity mechanism. One of the objectives is to assess how the introduction of a capacity mechanism in one country or state might affect outcomes in neighbouring countries or states.

Fraunholz et al consider a model in which participants in the wholesale market are risk averse, and there is uncertainty, the need for transmission expansion investment, and cross-border flows of electricity.

The authors use agent-based simulation (that is, separate modelling of the decisions of each agent) to make predictions about the overall market outcomes. As they are interested in the externalities across regions, they assume two groups of countries – those that implement a capacity mechanism and those that do not.

The authors find that risk-aversion leads to slightly higher prices and higher levels of installed capacity in the energy-only market design. The introduction of a capacity mechanism increases reliability (that is, reduces involuntary load shedding) in the regions where it is implemented but, due to a cross-border effect, leads to reduced reliability in neighbouring regions. This is true in both the risk averse and risk neutral models. These results are in line with previous research which shows that implementing a capacity mechanism in one market can have a distortionary effect in a neighbouring market. The authors conclude that it is advisable:

... to consider a coordinated European [congestion mechanism] as an alternative to national attempts to secure resource adequacy. Such a coordinated market design is likely to stand better in line with the European Commission's goal of creating an internal electricity market in Europe.

Fraunholz et al use a sophisticated black-box model. It is difficult to know how much weight to put on the results, or to discern whether the results are specific to the assumptions of the model, or would occur in other contexts.

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The increasing penetration of intermittent wind and solar energy increases the uncertainty in the supply curve for electricity which increases volatility in the wholesale spot price, right?

Wrong, says a new paper by **Schöniger and Morawetz (2022)**. Instead, these authors point out that, when starting from a low penetration of wind and solar, increasing investment in solar and wind at first *reduces*, the volatility in the spot price but, at higher penetrations, the wholesale price volatility again increases, as might be expected.

Wholesale electricity spot prices are determined by demand and supply levels. The increased penetration of intermittent generation, such as wind and solar, tends to reduce electricity spot prices on average (known as the merit order effect). But what about the effect on price volatility?

[W]hile the literature is largely unanimous concerning the reducing effect of IRE generation on spot price levels, the question of spot price variance triggers different opinions. Some studies argue that price variance is dependent on the type and amount of IRE generation and can even reduce price variability. Others see a higher share of renewable energy as definitely linked to increased price variance.

Intuitively, the effect of intermittent generation on price volatility depends on the correlation between the intermittent generation and demand. If the intermittent generation production happened to coincide with times of peak demand, it could moderate price spikes at such times.

Drawing on an analysis covering nine EU countries, encompassing 78 per cent of the wind generation and 79 per cent of the solar generation in the current EU's electricity market, the authors show that in seven out of nine countries analysed, low and high "residual load levels" lead to higher price variance than moderate levels.

This implies that an increasing penetration of intermittent generation does not necessarily increase price variance but can even lower it. The minimum price variance is found to occur with a renewable share between ten per cent and 40 per cent.

The authors express concern that, during the period when price volatility is lower, there may not be sufficient market-based incentive to invest in power system flexibility such as storage facilities, flexible power plants, and demand response which are needed when the penetration of renewable generation increases.

They also argue that in contrast to fixed feed-in tariffs, renewable generation should be exposed to the spot market, to give investors incentives to shift their production to times of higher demand or lower intermittent production, to reduce the tendency to increase volatility in the wholesale spot price.

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The conventional wisdom is that introducing forward markets tends to reduce the incentive to exercise market power in the corresponding spot market. This applies, in particular, in the wholesale electricity market, where the tendency for generators to sell a proportion of their output in the forward market reduces the incentive to exercise market power in the spot market.

**Mercadal (2022)** looks at market power in the day-ahead wholesale electricity market in the Midwest ISO (MISO) market in the US. He observes that a forward premium (between the day-ahead and the



real-time market) persisted for years despite the presence of financial traders, due to high transactions costs in arbitrating between the day-ahead and spot markets.

However, a regulatory change in 2011 significantly reduced transactions costs of arbitrage between the day-ahead and spot market. This reduced the forward premium, and also enhanced competition (that is, reduced generator's withholding) in the day-ahead market.

Interestingly, the enhanced competition in the day-ahead market occurred months before the regulatory change was implemented, suggesting that generators are not playing a simple one-shot (Nash equilibrium) game, but must be playing a more dynamic game which takes into account the potential threat of future competition. Mercadal carries out an empirical analysis, concluding:

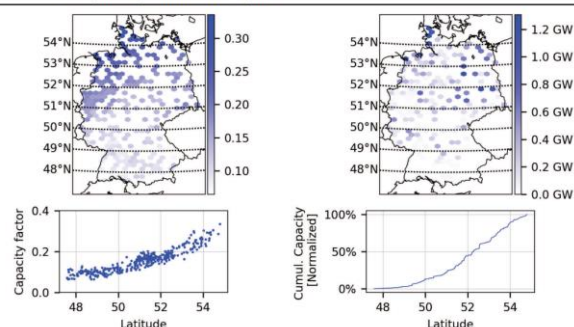
Evidence suggests that firms were in a cooperative equilibrium that broke as soon as firms learned about increased competition in the future. My findings highlight the importance of considering potential dynamic incentives in empirical analysis. In this case assuming static Nash would have led to the conclusion that financial traders have no effect on market competitiveness. In fact, as I show, they restricted generators' market power and resulted in increased consumer welfare.

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The energy transition requires substantial new investment in renewable generation, including wind generation. Much of that investment will be in remote locations and will require augmentation to the transmission network. In order to achieve the overall least-cost efficient power system, the optimal location for that wind generation must balance the higher wind speeds in remoter locations against the higher transmission costs.

This problem is faced in Germany. The best locations for wind generation are in the north (near the North Sea), but the load is predominantly located in the industrial south and west. As a result of a uniform network pricing policy, much of the new wind investment is occurring in the north, leading to increasing congestion on the transmission network (leading, in turn, to wind curtailment and "redispatch" costs). This can be seen in the following chart, which shows the relationship between wind capacity factor and latitude across Germany:

Figure 1: Regional capacity factors of wind power plants (left) and spatial distribution of wind power plants in 2019 (right)



To offset this effect the German government has introduced some geographic variation in the network tariffs for wind generators, with higher tariffs in the north and lower in the south. But, in theory, the best approach is the adoption of locational marginal pricing (also known as nodal pricing).

A new paper by **Schmidt and Zinke (2022)** compares the outcomes for wind investment and operation under nodal and uniform pricing regimes. They develop a model of the German transmission grid with 380 nodes and consider the impact of different pricing regimes on wind and transmission investment decisions.

The key results of the paper are as follows:

- Co-optimization of wind and transmission investment increases the amount of wind energy fed into the grid (even though the wind generators choose locations which have lower wind yield, this is offset by the reduced need for wind curtailment).
- The uniform price policy leads to yearly welfare losses amounting to 1.5 per cent of variable supply costs in 2030 due to inefficient wind power expansion.
- Switching to a nodal-pricing regime would lead to lower prices in the north and slightly higher prices in the south:

Consumers in Northern Germany, representing about 25 per cent of German demand, would benefit from up to 30 per cent lower nodal electricity prices compared to uniform prices in 2030. In contrast, electricity prices in Western and Southern Germany would increase by about five per cent under nodal prices. As a result, electricity consumers in the load centers in Western and South-Western Germany would bear higher costs, while electricity generators in Northern Germany would face declining revenue and vice versa.

## Digital Platforms

It is widely recognised that online platforms have substantial control over the ecosystems they create

and therefore substantial influence on the nature and quality of competition on those platforms. This is noted in the famous report by Crémer et al (2019):

Platforms impose rules and institutions that reach beyond the pure matching service and shape the functioning of the marketplace and, potentially, the relationship between the various platform sides, for example, by regulating access to and exclusion from the platform, by regulating the way in which sellers can present their offers, the data and APIs they can access, setting up grading systems, regulating access to information that is generated on the platform, imposing minimum standards [...] Such rule setting and “market design” determine the way in which competition takes place [on a platform].

But this raises a key question: Do platforms, left to themselves, have an incentive to design governance rules which ensure fair and effective competition? Do platforms have an incentive to design rules which maximise welfare for the entire ecosystem, or overall total welfare?

This is the question tackled by **Teh (2022)**. Teh starts by analysing the case in which the platform only charges a per transaction fee – such as the 30 per cent mark-up on sales which is common on app stores. In this case the author shows that the platform’s profit can be interpreted as a weighted sum of seller profit and transaction volume, and so its governance design aims to balance these two components.

When the marginal cost of sellers is small relative to the elasticity of buyer demand (as is the case for sellers of digital products and services), the platform’s profit approximates seller profit. Therefore, the platform benefits from a governance design that relaxes seller competition and sustains a high markup for sellers. This might be achieved by, for example, carefully selecting how many sellers to allow in each product category.

However, as sellers’ marginal cost increases (as is the case for sellers of physical products and services), the platform’s profit begins to diverge from seller profit, given that it does not internalize sellers’ marginal cost. Once the marginal cost is sufficiently high, the platform’s incentive is reversed, and it now prefers to set a governance design that maximizes transaction volume. In this case the platform may want to present sellers in a way that emphasises the price dimension, intensifying price competition between sellers, even if that limits the range of sellers, reducing the overall value to users.

The author goes on to consider different fee structures such as “participation fees” (for example, listing

fees) or two-part tariffs (which incorporate both participation fees and per-transaction fees). With pure participation fees, the platform profit becomes proportional to the total industry profit (the sum of the platform and seller’s profit). The platform therefore has an incentive to reduce seller competition to maximize this joint profit. As noted above, this could be achieved by limiting the number of sellers in each product category. A similar intuition applies when the platform charges sellers two-part tariffs (that is, when both transaction-based fees and participation fees are feasible).

As Teh notes, the results in the paper have two main implications:

First, they highlight the fact that welfare results on platform models can be sensitive to different modelling assumptions on the fee instruments available. Therefore, it is important to be cautious when using theoretical results obtained under certain fee instruments to make predictions about real-world markets if, in practice, different fee instruments are used. Second, our framework echoes the recent regulatory discussion that emphasizes the need to understand how different business models or monetizing methods of digital platforms can lead to different antitrust implications.

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In an innovative new paper **Prat and Valletti (2022)** consider the implication of concentration in the online advertising market for competition between firms which rely on advertising to sell their products.

Prat and Valletti define attention brokers as firms that capture user’s attention, obtain information about the preferences of users, and offer advertising targeted to the preferences of each user. Google and Facebook are the pre-eminent examples. They have successfully captured a large and growing share of the total advertising market by offering a compelling mixture of both audiences (eyeballs) and information about the interests, desires, or needs of the individuals within the audience. This has allowed Google and Facebook to offer advertising to sellers of a product that is targeted to precisely those consumers interested in that product.

But Google and Facebook are not the only examples. Prat and Valletti point to the 2014 merger of the largest and second-largest online real-estate portals in the US. These collect information about user preferences about the property they seek and sell advertising to property vendors targeted to those users. Following the merger, the merged entity introduced a premium fee for being shown first in the search results. The question for the authors is what effect this concentration in the advertising market (an ‘attention



bottleneck' or 'attention gatekeeper') had on concentration in the real-world market for real estate agents?

Prat and Valletti consider a model in which there is both competition in a retail market and in a corresponding advertising market. If new entrant retailers can find alternative routes to advertise to consumers, retail prices are held down by competition and advertising prices are low. But if an 'attention bottleneck' emerges in the advertising market, that firm may use its position to deliberately seek to reduce the level of competition in the associated retail market, increasing retail prices in order to create some rents that it can extract in the form of higher advertising prices.

In other words, concentration in the advertising market may lead to concentration in the real-world markets which rely on advertising to reach consumers. This is an important and valuable insight.

Prat and Valletti also note a consequence for market definition and market share measures. It is known that, as long as users differ from each other in their use of a product, or their willingness or ability to switch to substitutes, what matters for competition is the number of alternative suppliers for a particular user. Aggregate market share information does not provide a meaningful indicator of market power. Prat and Valletti extend this idea to advertising market:

"[T]he right measure of platform concentration is at the level of each individual user. In a world where platforms obtain personal information and can tailor ads to a user, what matters is the number of platforms retail product firms can use to reach a particular user. Thus, a meaningful concentration index for attention brokers cannot be built out of aggregate market share."

## Regulatory Policy

For most electricity networks, the regulated tariff they receive for carrying a unit of electricity is above the marginal cost of doing so. In the absence of other mechanisms, therefore, electricity networks would be expected to have an incentive to carry more electricity, and to oppose initiatives (such as energy efficiency policies, or rooftop solar policies) which tend to reduce electricity demand. To get around this, in Australia, electricity networks are typically regulated under a 'revenue cap' which fixes the total revenue a DNSP can earn, independent of its sales.

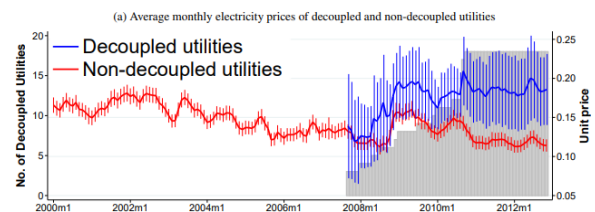
In the US, most electric utilities combine the generation, network, and retailing role. As in Australia there has been pressure, particularly by environmental groups, to "decouple" the revenue received by each utility from its sales so as to encourage utility support for energy efficiency measures. These "revenue decoupling mechanisms" operate in the same way as

the "revenue cap" in Australia. Revenue decoupling mechanisms have been introduced in many (if not most) US states.

A working paper by **Brucal and Tarui (2018)** reports that the introduction of revenue decoupling (that is, a "revenue cap" in the Australian parlance) results in electricity prices and revenues that are materially higher two years after revenue decoupling is implemented relative to non-decoupled electric utilities:

We find that decoupling tends to increase the electricity rates rather substantially over months upon implementation, that is, about nine per cent on average and about 19 per cent after two years.

The paper illustrates this effect in a graph (here the price path for the utilities after decoupling is shown in blue).



What might explain these striking results? There are several possibilities. One possibility is that demand for electricity is declining and the introduction of the revenue decoupling allows the utility to raise prices (instead of holding prices constant). This effect could be reinforced if end-customers respond to the higher prices with further investment in energy-efficiency measures, leading to further declines in demand. But these should be temporary effects, at the end of the regulatory period, prices are adjusted to reflect costs whether under a price cap or a revenue cap. There could also be incentive effectiveness - perhaps utilities under the revenue-decoupling mechanism have a reduced incentive to cut their costs. But these are only speculation; the paper does not have a clear explanation.

The paper by Brucal and Tarui has not yet been published in a peer-reviewed journal. This may suggest it has some fundamental problems. But at the least it poses a challenge and highlights the need for further investigation.

-/-

A related paper by **Kopin and Vanden Bergh (2022)** seeks to explain why public utility commissions implement revenue decoupling mechanisms. They find that public utility commissions are more likely to implement full revenue decoupling in states where the price rises are "politically sensitive" in the sense that

the existing prices are high relative to other states in the same region. They conclude:

We find some but limited support for commission responsiveness to avoided environmental costs. Instead, we find commission responsiveness to avoided political costs resulting from high prices of residential electricity compared to the regional average and high levels of partisan competition in the state legislature.

-/-

**Avenali et al (2022)** address the theory of pricing under capacity constraints - that is, services, such as roads, or hospital beds, or railway networks - which have a strict limit on the volume of services that can be provided at any one time.

There is a well-established theory for pricing under capacity constraints. The simplest version of the theory (known as "peak load pricing" theory) shows that the price should be equal to the marginal operating cost of the service at off-peak times, should be sufficient to ration demand at peak times (when the capacity constraint is binding) and the capacity should be chosen so that the average price above marginal operating cost at peak times is equal to the marginal capital cost (the cost of adding an additional unit of capacity).

This paper extends that theory slightly by allowing for the possibility that the operating costs might increase as the capacity limit is approached. For example, there might be congestion effects on road or rail networks - perhaps in the form of delays - which start to have an impact before the absolute capacity limit is binding.

Under this assumption the authors show that optimal level of capacity must take into account both the cost of adding an additional unit of capacity (the marginal capital cost) and the effect of that additional unit of capacity on lowering the marginal operating costs. In general, this leads to a higher optimal level of capacity.

In other words, in a context in which it becomes more costly to operate a service when capacity is short, the optimal level of capacity is higher than where this is not the case.

The authors also consider the possibility that the service provider must earn positive economic profits and is only allowed to charge simple linear prices (that is, no two-part tariffs). Their proposed pricing scheme involves Ramsey-like mark-ups over marginal cost.

The formulation in the paper does not explicitly take into account a distinction between peak and off-peak periods. In the absence of such a distinction there is

no way to distinguish the question of the choice of output and the choice of capacity - both are chosen at the same time. It is only when we admit that demand changes more quickly than capacity that the two issues can be meaningfully analysed. Still, the main results don't seem to depend on this omission.

## Telecommunications Policy

Roughly ten years ago one of the most important debates in broadband policy in the US was over "net neutrality".

Should an Internet Service Provider (ISP) be allowed to differentiate between the traffic over its network? Should an ISP be allowed, for example, to charge more for traffic from Netflix, or to offer a lower quality of service to such traffic? Some ISPs argued that they should be able to do so, as different services require different network capability (such as low latency), and differentiation allows them to make efficient use of scarce network capacity. The Internet Protocol has the capability to identify different types of traffic, but this facility has never been used. In contrast to these arguments, advocates of Net Neutrality were strongly opposed to allowing ISPs to discriminate, arguing that ISPs must treat all packets the same, regardless of the content.

In a recent piece, **Glass (2020)**, argues that the Net Neutrality debate is outdated. In effect, Glass' argument is not that the concerns in the net neutrality debate have gone away, but that the same concerns arise at many different levels of the online supply chain, so the net neutrality debate, in essence has become an element of the broader debate about the regulation of the online space.

Specifically, net neutrality advocates were concerned that many ISPs were large companies in a bottleneck or gatekeeper position with respect to access to the Internet. Allowing these companies to discriminate risked undermining incentives for investment and innovation in the range of burgeoning services that were being developed over the Internet. Today the primary concerns are that large companies have obtained a bottleneck or gatekeeper position with respect to certain online services (for example, general search, online advertising, or even online retailing). These companies could, in principle, significantly threaten the viability of the associated businesses that rely on these services. In effect, the net neutrality debates of the 2010s have evolved into the debates over non-discriminatory treatment of complementors.

Glass' piece is a useful summary of the history of broadband policy and a reminder that regulatory issues, once "solved" at one level of the supply chain, can re-emerge at other levels.

## Rail Policy

In the US, the 1980 Staggers Act requires the Surface Transportation Board (STB) to protect captive shippers (that is, users of freight transportation who have no choice but to use the rail sector) from excessive prices. Currently, the STB uses a two-step process in which it first, determines whether a particular railroad is dominant in the provision of a given service, and second, determines whether the rate charged is “excessive”. But this process is expensive, has only been invoked a few times since the creation of the STB, and only by the largest shippers. A key question is whether there is an alternative, low-cost mechanism for protecting railroad customers – especially small shippers – from excessive prices.

Part of the reason why this is tricky is that railroads provide many thousands of different services (differentiated by, say, origin-destination, type of freight, time of day, and speed of the service) and the marginal cost or incremental cost of providing each service is very low. Even if the regulator had perfect knowledge of the cost function for the railroad (which is impossible) there would still be the problem of allocating costs to the services in question to determine reasonable regulated rates. And this doesn’t really answer the question what it means for a rate to be “excessive”.

In a recent paper **Wilson and Wolak (2022)** propose an alternative approach. Their approach relies on price benchmarking to assess whether a railroad is dominant in the provision of a given service, and final offer arbitration to determine whether the tariff charged is excessive.

Specifically, Wilson and Wolak propose an approach which draws on a database of hundreds of thousands of rail rates for different services. They use this data to estimate a distribution of competitive rates (prices) for a typical service based on factors such as the distance, shipment size (in railroad cars), the number of alternative railways, and a few other factors. The idea is that a price which exceeds a benchmark, based on this estimated distribution would be deemed “unreasonable” and indicate that the railroad is exercising market power.

To determine the benchmark they propose an approach which minimises the sum of the risks of false positives and false negatives, settling on a threshold between 1st and 5th percentile. A railroad is then said to be dominant for a particular shipment if it charges a price which exceeds say, the 99th percentile of the estimated distribution of a reasonable price.

This paper by Wilson and Wolak is lengthy and carefully argued. The methodology applied is sophisticated. But, in the opinion of this reviewer, the proposal is

on the wrong track. Under the proposed approach a new railroad might be established, perhaps with advance agreement and approval by large customers, and a formal commitment to keep its prices stable for ten years, and yet that railroad, if its prices were high enough, could be deemed to be dominant. Similarly, since railroad cost factors are largely ignored, under the proposed approach, a railroad providing a valued service under extreme weather or terrain conditions could be deemed to be dominant.

In the opinion of this reviewer, the key problem with this paper is that, in seeking to protect captive shippers it focuses on the level of the tariffs. The point overlooked by Wilson and Wolak is that the harm to captive shippers comes not from the level of the tariffs, but from a change in their tariffs that is not related to a change in the underlying costs.

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## Editorial Note

Do you have a short paper that would be of interest to the readership of Network? This could be thinking on topical policy issues, reflections on recent policy decisions, a discussion of new academic ideas, or a report on research your team has carried out.

This is an opportunity for both senior, experienced staff and for more junior and less experienced staff who would like to build their profile.

The topic should be within the broad field of regulatory and competition policy. The articles should be relatively short: 1000-2000 words is ideal. If you have an idea that you would like to check out with the editors feel free to get in contact with us. We look forward to hearing from you.

In addition, if you have an announcement that would be of interest to the readership of Network, such as announcements about upcoming training courses, or key vacancies, openings or opportunities, please let us know and we'll include the announcement in future editions

## Regulatory Decisions in Australia and New Zealand

### Australia

#### Australian Competition and Consumer Commission (ACCC)

##### Bulk Grain Ports Regulation – Report

On 8 September 2022 the ACCC released its report into bulk grain export supply chains.

##### Digital Platform Services Inquiry 2020-2025 – Issues Paper

On 16 August 2022, the ACCC published an issues paper seeking views on the operation of social media services in Australia, to be the focus of the Digital Platform Services Inquiry's sixth interim report anticipated 30 September. Submissions were due by 9 September 2022.

##### NBN Co Withdraws Special Access Undertaking Variation

On 1 August 2022 the ACCC released its Interim Gas Report forecasting potential supply issues.

##### Telstra and NBN Co to Amend Agreements – Draft Determination

On 14 July the ACCC released its Draft Determination proposing amendment of agreements entered into from 2011 to 2014, by Telstra and NBN Co and their related entities, which facilitated the rollout of the national broadband network. Submissions were required by 11 August 2022.

##### Interim Authorisation for Energy Industry Cooperation

On 1 July 2022 the ACCC granted interim authorisation for a range of measures allowing participants in the gas and electricity markets to collaborate during a critical time affecting energy supply and systems.

#### Australian Competition Tribunal (ACT)

No reportable matters listed.

#### Australian Energy Market Commission (AEMC)

##### Proposed Electricity Rule Change – Directions Paper

On 29 September 2022 the AEMC announced a proposed change to the National Electricity Rules to provide customers with additional protection from future major supply disruptions. Feedback is required by 13 October 2022.

##### Proposed Draft Rule for New Mechanism to Improve Power System Security – Consultation

On 21 September 2022 the AEMC announced it was seeking stakeholder feedback on the potential for establishing a new market for essential system services that are needed to support the power system as it transitions to net zero. Submissions on the recommended Draft Rules are required by 17 November 2022.

##### Transmission Planning and Investment Review – Draft Report

On 21 September 2022 the AEMC released its Draft Report as part of the third stage of its review of the National Energy Market's transmission network, and planning for future decarbonisation. Feedback is required by 3 November 2022.

##### Increased Privacy Protection of Energy Customers – Final Determination

On 15 September 2022 the AEMC released a Final Determination concerning new privacy measures to commence 1 May 2023, which will greater protect energy customers affected by family violence.

##### New Incentives to Maintain Power System Frequency

On 8 September 2022 the AEMC announced new financial incentive for market participants who help to control the power system frequency required to keep the grid stable and keep costs down for consumers.

##### Hydrogen and Renewable Gas Review – Final Report

On 8 September 2022 the AEMC released its Final Report into the development of a national hydrogen and renewable gas industry.

## Incorporating Distribution Connected Facilities in Victorian Gas Market – Final Rule

On 8 September 2022 the AEMC released a **Final Rule** to allow distribution connected facilities to participate in the Victorian declared wholesale gas market.

## Australian Energy Market Operator (AEMO)

### System Security Contract Awarded

On 27 September 2022 the AEMO announced the **tender process is completed** to procure non-network services in the Murray River Renewable Energy Zone.

### AEMO Pilot Testing Completed for ‘Connections Simulator’

On 21 September 2022 the AEMO announced **completion of its pilot test** for a ‘connections simulator’ enabling users to run studies against AEMO’s model for new generation and storage projects. The launch of the simulator is anticipated in 2022.

### AEMO Forecasts Electricity Reliability Concerns – Report

On 31 August 2022 the AEMO released its **2022 Electricity Statement of Opportunities report** forecasting needs in the National Electricity Market in the next decade.

### AEMO Publishes National Electricity Market Suspension Costs

On 18 August 2022 the AEMO published the **total amount of additional compensation claims** relating to the reliability interventions and suspension of the spot market in all regions of the National Electricity Market for the period from 12 to 23 June 2022.

### AEMO Victorian Planning with Transgrid – Draft Report

On 29 July 2022 the AEMO Victorian Planning, with Transgrid, announced the release of the **Project Assessment Draft Report** for Victoria-New South Wales Interconnector West transmission project. Submissions were due by 9 September 2022.

### AEMO Q2 2022 ‘Unparalleled’ – Quarterly Report

On 29 July 2022 the AEMO released its **June quarter report** of Australian energy markets.

### AEMO Response to High Gas Demand

On 21 July 2022 the AEMO reported **working with industry participants to manage storage levels at Victoria’s Iona gas storage facility**, and gas supply

for electricity generation in the National Electricity Market (NEM). On 19 July 2022 the AEMO issued an updated **‘threat to system security’ notification** due to ongoing depletion of gas storage levels at the Iona storage facility in Victoria.

## Australian Energy Regulator (AER)

### State of the Energy Market 2022 – Report Released

On 29 September 2022 the AER released its **annual energy market report**.

### Wholesale Markets – Quarterly Report

On 6 September 2022 the AER released its latest **Wholesale Markets Quarterly report**.

### Powercor’s Cost Pass Through – Determination

On 29 August 2022 the AER **published its determination** on Powercor’s cost pass through application associated with a new regulatory obligation to replace or reinforce 34,650 wood poles between 1 January 2022 to 31 December 2026.

### Public Interest Advocacy Centre – Notification

On 25 August 2022 the AER **announced receipt of a notification**, disputing conclusions made in Transgrid’s Project Assessment Conclusions Reports for regulatory investment tests for transmission.

### High Energy Prices in the National Electricity Market – Report Released

On 22 August 2022 the AER **published a report** into high energy prices exceeding \$5000 per megawatt hour, in the National Electricity Market, between 20 April and 15 May.

### Contestable Network Projects in New South Wales – Final Guideline

On 19 August 2022 the AER **released the final guideline** setting out how revenue determinations will be made for network operators competitively selected to carry out network projects under the NSW Electricity Infrastructure Roadmap.

### Capital Expenditure Sharing Scheme – Position Paper

On 11 August 2022 the AER released as part of its review of incentive schemes for regulated networks, **a position paper on the Capital Expenditure Sharing Scheme (CESS) for network service providers**. Submissions were required by 9 September 2022.



## Release of Energy Innovation Toolkit

On 11 August 2022 the AER announced the **Energy Innovation Toolkit** to assist energy businesses transitioning to more renewable energy generation and storage.

## Approved Risk Management Framework for NSW Roadmap

On 18 July 2022 the AER announced approval of a **risk management framework** for long-term energy service agreements in the New South Wales Electricity Infrastructure Roadmap.

## Electricity Network Performance for 2021 – Report Published

On 15 July 2022 the AER published its third annual **electricity network performance report**.

## Final Retail Exempt Selling Guideline Published

On 15 July 2022 the AER published its **final Retail Exempt Selling Guideline** (version 6), which includes a copy of newly established documents. Release of the draft Network Exemptions Guideline (version 7) has been deferred.

## New Laws to Monitor Wholesale Gas Market

On 1 July 2022 the AER announced **new laws** providing it with greater powers to monitor wholesale gas markets. A package of reforms to improve the transparency, competitiveness and long-term security of Australia's gas supply is also underway.

## National Competition Council (NCC)

No reportable matters listed.

## Australian Capital Territory

## Independent Competition and Regulatory Commission (ICRC)

### Regulated Water and Sewerage Services Price Investigation – Submissions Received

On 5 July 2022 the ICRC published a **submission** received in response to the 1 March 2022 release of its issues paper outlining its approach to the 2023-28 water and sewerage services price investigation.

## New South Wales

## Independent Pricing and Regulatory Tribunal (IPART)

### Retail Energy Market 2021-22 – Draft Report

On 1 July 2022 the IPART announced **commencement of its Draft Report** on both the retail electricity and gas markets in New South Wales. Feedback is sought and the Draft Report will be published in September 2022.

### Competitive Neutrality Issues Paper – Review

On 28 June 2022, the IPART called for **public submissions** by 15 August on its review of competitive neutrality policies and processes in New South Wales, which applies to state compared to local government-owned businesses.

### WaterNSW's Rural Bulk Water Charges – Annual Review

On 22 April 2022 the IPART published an **overview of draft decisions for its Annual Review** of maximum prices that WaterNSW can charge for providing rural bulk water services from 1 July 2022 to 30 June 2023.

## Northern Territory

## Utilities Commission

No reportable matters listed.

## Queensland

## Queensland Competition Authority (QCA)

No reportable matters listed.

## South Australia

## Essential Services Commission of South Australia (ESCOSA)

### Ports Pricing and Access Review 2022 – Final Report

On 29 September 2022 the ESCOSA released its **Final Report** for the stage one review of South Australian ports access and pricing regime. Stage two will commence soon.

### Variation of Electricity Generation Licence

On 7 September 2022 the ESCOSA announced it has authorised **the takeover of operations of four gas turbine generators**, to increase the total gener-

ation capacity of Iberdola Australia Energy Markets Pty Ltd's electricity generation licence.

### Energy Retail Price Offers Comparison Report 2021-22

On 31 August 2022 the ESCOSA published its **report on electricity and gas retail offer prices** that were generally available to residential and small business customers from 30 June 2021 to 30 June 2022.

### Retailer Energy Productivity Scheme (REPS) Performance Compliance Outcomes

On 18 August 2022 the ESCOSA released information on **REPS compliance outcomes for 2021 and compliance assessments for 2022**. The recently-amended Retailer Energy Productivity Scheme Code will come into effect the beginning of January 2023.

### Regulatory Reporting Requirements for Small-scale Networks – Draft Decision

On 18 August 2022 **the ESCOSA published a Draft Decision** on the Small-scale energy networks consumer protection framework review. Feedback is required by 30 September 2022.

### Ports Pricing and Access Review 2022 – Submission Received

On 22 July 2022 **the ESCOSA announced receipt of one submission** by the 8 July deadline, in response to its draft report on stage one of the review of the South Australian ports access and pricing regime, published 30 May 2022. Stage one is to be finalised by October 2022.

### SA Water Regulatory Determination 2024 – Guidance Paper 3

On 14 July 2022 **the ESCOSA released its third Guidance Paper** regarding development of a Regulatory Business Plan, for the SA Water Regulatory Determination, for the regulatory period of 2024 to 2028.

## Tasmania

### Office of the Tasmanian Economic Regulator (OTTER)

No reportable matters listed.

## Victoria

### Essential Services Commission (ESC)

#### Victorian Energy Market – Quarterly Report

On 29 September 2022 **the ESC released its quarterly retail energy market report**.

#### ESC Scrutiny of Energy Business Origin Energy

On 23 August 2022 the ESC announced that Origin Energy Electricity Limited (Origin Energy) has paid over \$70,000 in penalties after allegedly breaching **rules that protect Victorians relying on electricity for life support or facing bill stress**.

#### ESC Scrutiny of Energy Business AGL

On the 11 August 2022 **the ESC announced it has accepted a court enforceable undertaking from AGL Sales Pty Ltd** following allegations it failed to comply with rules in place to protect customers facing bill stress, and disconnected customers wrongfully.

#### Renewable Gas Blending and Gas Heating Values – Consultation

In September 2022, working with AEMO, **the ESC progressed work on the blending of hydrogen** in the gas distribution system, by establishing zonal (rather than state-wide) heating values for gas, to coincide with the commissioning of the Hydrogen Park Murray Valley project.

## Western Australia

### Economic Regulation Authority (ERA)

#### 2022 Gas Rate of Return Instrument – Independent Panel Report Published

On 24 August 2022 the ERA published **the Independent Panel's Report on the ERA's 2022 Draft Gas Rate of Return Instrument**. The draft was published on 17 June 2022, and it is anticipated will be finalised in December 2022.

## Minimum STEM Price Review 2022 – Final Determination Published

On 23 August 2022 the ERA published its **final determination report** on the current minimum Short Term Energy Market (STEM) price, as required by the Wholesale Electricity Market Rules review criteria.

## Triennial Review of the Wholesale Electricity Market (WEM) 2022 – Discussion Paper

On 29 July 2022 the ERA released its discussion paper to review the WEM. **Feedback is required by 28 August 2022.**

## 2022 Rail Networks Weighted Average Cost of Capital (WACC) – Determination Published

On 4 August 2022 the ERA published its **rail WACC determination for 2022.**

## New Zealand

### New Zealand Commerce Commission (NZCC)

#### Airport Pricing Decisions and Allocation of Risks – Final Report

On 28 September 2022 the **NZCC released its Final Report** on recent pricing decisions and allocation of risks by Wellington Airport.

#### NZCC Files Proceedings Against Vector for Excessive Electricity Outages

On 2 September 2022 the **NZCC announced it has filed civil proceedings** in the Auckland High Court against electricity lines company Vector Limited.

#### Broadband Performance – NZCC Report Released

On 18 August 2022 the **NZCC released its latest Measuring Broadband New Zealand (MBNZ) report**, which highlights broadband performance for gamers and users of other high-bandwidth services.

#### NZCC Reviews Information Disclosure Requirements for Electricity Lines Companies – Draft Decisions Paper Released

On 3 August 2022 the **NZCC released its Draft Decisions Paper** on the additional information local electricity lines companies must disclose to the public, as part of a review of information disclosure requirements.

#### NZCC Outlines New Regulatory Regime for Fibre Providers – Papers Released

On 13 July 2022 the **NZCC released papers** outlining its approach to determining Chorus' initial price-quality regulatory asset base (PQ RAB) and price-quality path (PQ) under the new regulatory regime for fibre providers.

*Network* is a quarterly publication of the Australian Competition and Consumer Commission for the Utility Regulators Forum. For editorial enquiries please contact Darryl Biggar ([Darryl.Biggar@accc.gov.au](mailto:Darryl.Biggar@accc.gov.au)) and Yuelan Chen ([Yuelan.Chen@accc.gov.au](mailto:Yuelan.Chen@accc.gov.au)), and for mailing list enquiries please contact Genevieve Pound ([Genevieve.Pound@accc.gov.au](mailto:Genevieve.Pound@accc.gov.au)).