

ACCC/AER Regulatory Conference 2013

Session 4: The PaOCA A Case Study in Consumer Engagement

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Thursday 25 July 2013

Legal roles in regulatory regimes

- Two basic legal functions for a consumer body in a regulatory regime
 - an input (advisor) role
 - a counterparty (adversary) role
- Not mutually exclusive (a spectrum)
 - a consumer body can play both roles
- But the roles require different architecture to produce successful outcomes

Input (advisor) role

- What does an input role mean?
 - speaking into the ear of the regulator
- When does it work for consumers?
 - the rules need to protect the consumer
- The role of the regulator in such a regime
 - do consumers need “proper representation”?
- Does business see this type of regime as an unfriendly environment for investment?

Counterparty (adversary) role

- What does a counterparty role involve?
 - consumer bodies sitting across the table from regulated businesses
 - a neutral decision maker listening to the case 'for' and 'against'
 - the ability to negotiate & agree positions the regulator could not otherwise impose
- What are the concerns in Australia?
 - too costly, won't be taken seriously, too hard

The PaOCA in the adversary role

- Sentiment behind the adversary role
 - “level the playing field” (public trust)
 - “someone at the table whose sole interest is to advance the interests of consumers”
- Not adversarial to the regulator but able to take a position not shared by the regulator
- Adequate in-house expertise & funding to be effective as a counterparty to utilities in rate cases and credible as a negotiator

The Australian architecture

- What role has our regime assumed for consumer bodies to date?
- Has this worked (public confidence)?
- What is our standard?
 - do we have an equivalent to the Pa “just and reasonable” standard?
 - do our rules seek to balance the interests of consumers and regulated businesses?
 - issues of affordability and universal service

Our new energy advocacy body

- Public sentiment and expectations behind the creation of this new body
- What role is our body equipped to play?
 - Input or counterparty or both?
 - Relationship to the regulator?
- Impact of other changes to our regime on the role / need for this body
- Lessons from the PaOCA case study

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