



Australian  
Competition &  
Consumer  
Commission

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Dear Mr Jones

**Eastern Energy Buyers Group applications for authorisation A91594 – A91595 –  
Interested party consultation**

I refer to the above listed applications for authorisation lodged with the Australian Competition and Consumer Commission (the ACCC) on 4 August 2017.

As you are aware, the ACCC has conducted a public consultation process in relation to the applications for authorisation. No public submissions were received.

The ACCC received one submission that was excluded from the public register at the request of the party providing the submission. This submission raised concerns about the proposed arrangements.

The purpose of this letter is to provide you with a summary of the concerns raised in this submission (see **Attachment A**) and an opportunity to respond to these concerns.

Please note, the fact that the ACCC is passing on these concerns does not necessarily mean that it agrees with them. Nor has the ACCC formed a final view about the proposed arrangements.

If EEBG wishes to provide a further submission in relation to the issues set out in Attachment A, please do so by **28 September 2017**.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Kaitlin Hanrahan on 03 9290 1917 or [adjudication@accc.gov.au](mailto:adjudication@accc.gov.au).

Yours sincerely

Gavin Jones  
Director  
Adjudication

## ATTACHMENT A

Concerns have been raised that EEBG has not demonstrated that there is a failure in the energy sector that the proposed joint energy purchasing group is likely to address. In particular, the submission received argues that:

- The retail market for retail and industrial users is highly competitive based on one-to-two year contracts and minimal margin.
- The formation of EEBG will have no bearing on the availability of natural gas, which is identified as one of the key issues in EEBG's submission. Furthermore, it can be argued that access to the upstream gas market is related more to a buyers' sophistication than the size or volume procured.
- The formation of EEBG may have no bearing on the underlying market dynamics that have led to increased electricity prices. Buyers have been able to enter into long-term contracts at any time in the past.
- EEBG has failed to make an economic case for its formation; the claim of financial jeopardy remains unsubstantiated and the buyers group as a remedy is not evidenced.

Concerns have also been raised that authorisation of the purchasing group may lead to unintended consequences on competition. In particular that:

- As the EEBG has a (potentially) large electricity load this will make it challenging for any retailer that is not vertically integrated to compete to manage EEBG's load.
- Because the EEBG may consists of energy users operating in a variety of industries, it will be challenging for any retailer that is not already of a significant size to manage the load variability between users. This will place smaller retailers at a disadvantage.
- The fact that EEBG is seeking supply for both gas and electricity will limit the market participants that can meet both commodity loads of such size.
- As EEBG operates across multiple jurisdictions, this will make it challenging for any retailer that does not have operations across jurisdictions to supply EEBG. As Victoria is a highly competitive market, the formation of EEBG will give an advantage to tier 1 retailers in Victoria, to the detriment of smaller retailers who may be seeking to establish and maintain strong Victorian operations prior to expanding into other states.
- Where tier 1 retailers are able to further consolidate their position, this will undermine the positions of smaller retailers. This will have flow-on effects in the household retail sector.