



17 November 2014

Competition Policy Review Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

RESPONSE TO THE COMPETITION POLICY REVIEW DRAFT REPORT

Dear Panel Members

The Australian Pipeline Industry Association (APIA) welcomes the opportunity to comment on the Draft Report from the Competition Policy Review Panel. APIA is the peak body representing Australia's gas transmission industry. APIA's members build, own and operate the gas transmission infrastructure connecting the disparate gas supply basins and demand centres of Australia, offering a wide range of services to gas producers, retailers and users.

The Draft Report is wide ranging and comprehensive in its consideration of matters relating to competition. In the submission, APIA will provide comment on those recommendations of most interest to Australia's gas transmission industry and the markets the industry serves.

Draft Recommendation 38 — National Access Regime

APIA supports the Panel's views on the declaration criteria in Draft Recommendation 38.

With regard to the categories of infrastructure to which Part IIIA might be applied in the future, APIA believes the categories should be as broad as possible. Effective use of the declaration criteria should ensure declaration only occurs where it is in the public interest.

The potential application of the declaration criteria to any category of infrastructure should encourage better access outcomes in some infrastructure markets. As to the costs and benefits arising from access regulation, this is a matter that is specifically considered during each declaration application.

To ensure potential application covers the broadest range of infrastructure, particularly in the resource sector, it is appropriate to contemplate the removal of the production process exemption from Part IIIA. The production process exemption is in place to ensure that those production processes where the costs of coordination outweigh the benefits of access cannot be declared. Effective application of the coverage criteria themselves will prevent such an outcome.

As it is, the application of the production process exemption in any particular case is likely to be determined through a lengthy legal process. This prospect alone may be a deterrent to declaration



applications. If parties are deterred from making declaration applications, the ability of the National Access Regime to improve competition may be limited.

Draft Recommendation 39 — Establishment of the Australian Council for Competition Policy

Draft Recommendation 40 — Role of the Australian Council for Competition Policy

Draft Recommendation 41 — Market studies power

Draft Recommendation 42 — Market studies requests

A national competition body with an expanded role and enhanced powers from the existing National Competition Council (NCC) is a recommendation worth considering further. APIA notes that much of the expanded role considered by the Panel for the Australian Council for Competition Policy (ACCP) was part of the original role of the NCC, which has diminished over time to its current limited role of making recommendations on declaration and coverage applications for access regulation, as well as form of regulation decisions under the gas access regime. Rather than create a new body, the expansion (or re-instatement) of the NCC's role should be considered as an option to enhance competition policy oversight, research and reform.

Draft Recommendation 46 — Access and pricing regulator functions

APIA does not support the Panel's recommendation for a single national access and pricing regulator.

APIA does not agree with the Panel's view that there is no potential for conflict in having a single regulator consider matters of both access and pricing.

APIA considers that the task of assessing and determining whether a particular asset should be subject to regulation, should be separate from the task of undertaking that regulation and setting prices. The initial rationale for maintaining this separation remains; the function of assessing markets and competition is substantially different to that of setting access prices, and there is a risk that a pricing regulator will have conflicts of interests when looking at whether access regulation should apply.

APIA believes the specific governance arrangements for access and pricing regulation of the energy networks industry, which include a functional separation between coverage and light regulation assessments and access regulation, have been relatively successful. There is room for improvement and APIA supports the Council of Australian Governments Energy Council's Review of Governance Arrangements in Energy Markets which is currently being scoped.



Other issues

Gas Market Competition

APIA supports the Panel's view on the desirability for a review of competition in gas markets as set out on page 127 of the Draft Report.

The Panel notes the findings of the Eastern Australian Domestic Gas Market Study that competition is largely working, but that there may need to be further monitoring of the market as it is currently in a transitional phase. The Panel supports a further, more detailed review of competition in the gas sector as proposed in the Study.

As noted in APIA's submission to the Issues Paper, there are a number of long standing competition issues that have been noted over the last 15 years that have not been adequately addressed:

- Access to upstream gas infrastructure;
- The continuing practice of joint marketing in the wholesale gas market; and
- Barriers to competition arising from petroleum tenement management.

APIA is happy to discuss these issues in further detail with the Panel. Please contact Steve Davies, APIA's Policy Manager, on (02) 6273 0577 or at sdavies@apia.asn.au.

Yours sincerely

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