

ACCC & AER Regulatory Conference

New Frontiers in Regulation

26 & 27 July 2018

Brisbane Convention & Exhibition Centre

Day 1: Thursday 26 July 2018

8.30-8.55	Arrival, tea and coffee
8.55-9.10	Welcome by AER Chair, Paula Conboy
9.10-10.30 Plenary 1 Plaza Auditorium	International update, perspectives and implications for Australia What are the big issues in the world of infrastructure regulation? The three speakers in the opening plenary session will provide an update on the current issues relating to the economic regulation of infrastructure from a US, European and Canadian perspective. This will include a focus on the conference theme of New Frontiers in Regulation. Chair: Cristina Cifuentes , Commissioner, ACCC Speakers: Mar Beltran , Senior Director, Infrastructure Sector, S&P Global Ratings, Madrid David Brown , Assistant Professor, Department of Economics, University of Alberta Bill Kovacic , Global Competition Professor of Law and Policy, Professor of Law, and Director, Competition Law Center, George Washington University
10.30-11.00	Morning tea

<p>11.00–12.30</p> <p>Plenary 2</p> <p>Plaza Auditorium</p>	<p>Regulation of digital and intangible assets</p> <p>The regulation of physical assets such as wires and poles, rails, pipes and ports is very familiar. But in the future, enduring market power may emerge from other sources, such as from digital multi-sided platforms; the need for a “single source of truth”, such as a land registry; or from control over aggregation of large amounts of data:</p> <ul style="list-style-type: none"> • To what extent do firms already have market power with respect to some ‘intangible’ assets? • Are digital platforms significantly different in nature to other traditional multi-sided platforms, such as credit card payment systems and mobile telephony, so as to warrant a different approach to considerations of whether to regulate them • Are there foreseeable circumstances where ‘traditional’ natural monopoly regulation of digital platforms and intangible assets may be appropriate? • Do digital platforms introduce any new economic regulation issues, including challenges to application of regulatory best practice? <p>Chair: Roger Featherston, Commissioner, ACCC</p> <p>Speakers: Eliana Garcés, Principal, Washington, The Brattle Group</p> <p>Peter Harris, Chair, Productivity Commission</p> <p>Catherine de Fontenay, Associate Professor, Melbourne Business School</p>
<p>12.30–1.30</p>	<p>Lunch</p>

<p>1.30–3.00</p> <p>Breakout 1A</p> <p>Plaza Auditorium</p>	<p>Expanding the role of consumers in regulatory determinations</p> <p>Regulators look for ways to incorporate consumers in their decision making, and they also expect regulated businesses to engage with their customers. This has been the case for many years, with varying degrees of success.</p> <p>The AER, ENA and the ECA are jointly developing a new approach to energy network regulation in Australia, which aims to put consumers at the heart of the regulatory process. This new model seeks to encourage agreement between the regulated business and a “customer forum” in advance of lodgement of the regulatory proposal, drawing on the Scottish Water model and international experience with negotiated settlements. Importantly, the AER is heavily involved in the process to increase the likelihood the regulator can accept the outcomes. The new approach is currently being tested via a live trial with Victorian distribution network AusNet Services.</p> <p>Meanwhile under a different model, Yarra Valley Water was fast tracked by the Essential Service Commission for a regulatory proposal that reflected the outcomes of extensive customer engagement, including a “citizens’ jury” – new to economic regulation in Australia.</p> <p>This session will cover issues including:</p> <ul style="list-style-type: none"> • How do we get consumer preferences into regulatory determinations? Does the regulatory framework matter? • Who is best placed to represent customers? 'Real' consumers or expert consumer advocates? Can consumers speak with one voice? • Should consumer representatives be allowed to negotiate directly with the regulated business? What gives these representatives legitimacy, and what is the role of the regulator? • What are the 'state of the art' consumer engagement techniques? • Who should have primary responsibility for consumer engagement – the regulator or the business? <p>Chair: Jim Cox, Board Member, AER</p> <p>Speakers: Stephen Littlechild, Fellow, Judge Business School, University of Cambridge, and Emeritus Professor, University of Birmingham</p> <p>Iain Walker, Executive Director, newDemocracy Foundation</p> <p>Pat McCafferty, Managing Director, Yarra Valley Water</p> <p>Rosemary Sinclair, CEO, Energy Consumers Australia</p>
--	---

<p>1.30–3.00</p> <p>Breakout 1B</p> <p>P6 & P7</p>	<p>Economic regulation of PPP infrastructure</p> <p>There has been a history of Public Private Partnerships (PPPs) being used to fund, develop and service large infrastructure projects in Australia and internationally. Once the infrastructure resulting from the PPP is in use, what kind of economic regulation, if any, is appropriate? Drawing upon experiences both in Australia and internationally, this session will cover issues including:</p> <ul style="list-style-type: none"> • Lessons for governments in how to ensure value for money for the consumer when looking to pursue PPPs for complex infrastructure projects. • What economic regulation should be put in place to encourage efficient private investment in new infrastructure projects? • Whether PPPs can be considered a substitute for economic regulation? <p>Chair: To be confirmed</p> <p>Speakers: Mar Beltran, Senior Director, Infrastructure Sector, S&P Global Ratings, Madrid</p> <p>David Greig, Strategy Director, New Zealand Ministry of Transport</p> <p>(Third speaker to be confirmed)</p>
<p>3.00–3.30</p>	<p>Afternoon tea</p>

<p>3.30–5.00 Breakout 2A Plaza Auditorium</p>	<p>What implications do the interplay of provider of “last resort” obligations and changing technology have for best-practice regulation?</p> <p>Traditionally, government-owned monopolies pursued social policy objectives through the pricing of key infrastructure services. This included ensuring guaranteed telecommunications, mail and electricity services to consumers in regional and remote areas at prices consistent with those set in major population centres. As government-owned infrastructure was privatised, a number of “provider of last resort” requirements were set for regulated utilities – such as universal and community service obligations for telecommunications and mail. This often involved cross-subsidisation of high cost-to-serve consumers by those that were lower cost-to-serve. Technological advancements have, however, challenged the financial viability of some these arrangements by providing alternative services in low cost-to-serve parts of the country. While the impact of mobile infrastructure services and electronic mail on carrier of last resort obligations continues to be heavily debated in the communications and postal space, similar issues may arise in other industries. In this session, panel members will discuss:</p> <ul style="list-style-type: none"> • The extent to which the emergence of new competitive technologies undermines the financial viability of regulated firms facing provider of last resort obligations • To what extent is the experience of universal service obligations in telecommunications and post of relevance to other industries (such as electricity in the context of the growth of renewable energy sources such as wind and solar energy) • What implications does this have for competition regulation; and the appropriate pricing of services provided by utilities facing provider of last resort obligations? <p>Chair: Nerida O’Loughlin, Chair, ACMA</p> <p>Speakers: David Brown, Assistant Professor, Department of Economics, University of Alberta</p> <p>Eliana Garcés, Principal, The Brattle Group, Washington</p> <p>Gerard Brody, CEO, Consumer Action Law Centre</p>
--	---

<p>3.30–5.00</p> <p>Breakout 2B</p> <p>P6 & P7</p>	<p>The role of regulators in contributing to regulatory public policy</p> <p>There are many reasons why regulatory independence from policy might matter. Some have argued that the lack of regulatory independence can lead to time-inconsistent regulatory decisions, undermining firms' investment incentives. Others point to the need to insulate regulators from inappropriate political interference, particularly when there is government ownership of a regulated utility. Yet regulators often undertake important policy functions, including conducting market studies, and the OECD considers that regulators should have specific and explicit advisory roles on government policy. This session will provide perspective and practical examples on such questions as:</p> <ul style="list-style-type: none"> • Whether and how regulators should be engaged with policy. What can go wrong if they are not involved? • What are the advantages, disadvantages and risks associated with different modes of engagement? • What degree of independence from executive government is necessary or desirable? • What factors point to the need for higher or lesser levels of independence? • What has been the international experience and experience in Australia? <p>Chair: Delia Rickard, Deputy Chair, ACCC</p> <p>Speakers: Bill Kovacic, Global Competition Professor of Law and Policy, Professor of Law, and Director, Competition Law Center, George Washington University</p> <p>Alan Kirkland, CEO, Choice</p> <p>(Third speaker to be confirmed)</p>
<p>6.30–7:00</p> <p>7:00–10.30</p>	<p>Pre-dinner drinks</p> <p>Conference dinner - Plaza Terrace Room</p>

Day 2: Friday 27 July 2018

8.30	Arrival, tea and coffee
9.00–10.30 Plenary 3 Plaza Auditorium	<p>After merits review – collaboration or expanded judicial review?</p> <p>This session will note the scaling back of merits review of regulatory decisions in Australia and seek to discuss how this might change the behaviour of the regulator and regulated parties:</p> <ul style="list-style-type: none"> • more collaborative relationships? (As overturning the regulator’s decision is less likely, regulated parties have a greater incentive to seek to influence, rather than overturn the regulator); • more regulatory risk-taking? (As overturning the regulator’s decision is less likely, the regulator may have greater confidence in its ability to implement its views as to the correct policy outcome) • greater attempts to expand judicial review (as judicial review is the only remaining appeal option, will there be attempts to expand its scope to cover what merits review used to cover (especially where the regulatory regime is detailed and prescriptive such as in energy)? <p>Chair: Paula Conboy, Chair, AER</p> <p>Speakers: Luigi Carbone, Judge of the Supreme Administrative Court of Italy, and former Commissioner at the Italian Regulatory Authority for Electricity, Gas and Water</p> <p>Ruth Higgins SC, Barrister, Banco Chambers</p> <p>Leanne Hanna, Senior Legal Counsel, Simply Energy</p>
10.30–11.00	Morning tea
11.00-12.30 Plenary 4 Plaza Auditorium	<p>New Frontiers in Regulation - extended Q&A</p> <p>This session brings together questions and comments submitted via Slido throughout the conference, and asks our speakers to provide just that little bit extra. Just like the ABC’s Q&A - only better as there will be no politicians on the panel.</p> <p>Moderator: Michelle Groves, CEO, AER</p> <p>Panellists: Conference speakers (will depend on submitted questions that are voted most popular)</p>
12:30 –1.30	Lunch