

## Summary of Meeting

### Consumer Reference Group (CRG) Meeting No. 5

**27 June 2013**

*Held via video conference between AER offices in Adelaide, Melbourne, Canberra, Sydney, Brisbane, Hobart*

Attendees:

CRG members (including representatives) – Katrina Lee, Graham Mawer, Ro Evans, Bruce Mountain, David Headberry, Damian Sullivan, Carolyn Hodge, Belinda Sandilands, Tennant Reed, Sue Fraser, Bev Hughson, Heather l’Anson, Luke Berry, Jonathan Pavetto, Robert Mallett

AER staff members—Andrew Reeves, Warwick Anderson, Tanja Warre, Kurt Stevens, Nathan Zhivov, Blair Burkitt, Scott Sandles, Adam Petersen, John Skinner, Shalini Prasad, Robyn Lowien, Dale Johansen, Elisabeth Vagg

Apologies: Deanna Foong, John Hin, Alexandra Geddes, Matt Helme, Helen Scott, Janine Rayner, Mark Henley, Carly Allen, Dr Si Wei Goo

On 27 June 2013, the AER held the fifth meeting of the CRG. The meeting was chaired by AER Chairman, Andrew Reeves, and was attended by AER staff members and CRG members who represent various consumer groups.

This summary broadly covers the key topics and themes that were discussed. The outline follows that of the agenda.

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#### **1 Welcome and update (Andrew Reeves)**

Andrew Reeves provided an update on the progress of the Better Regulation program.

- We are on track to release the draft guidelines for expenditure forecast assessment, expenditure incentives, shared assets and confidentiality by 9 August 2013.
- The NSP guideline will be published in the week commencing 1 July 2013,
- Due to the complexity of the rate of return work stream the draft guideline is expected in mid to late August 2013.

Andrew talked through our decision-making process. The Board makes its decisions in consultation with staff based on research, analysis and the comments and submissions from stakeholders. The draft guidelines to be released under the Better regulation program are treated largely the same. Importantly, AER Board members have attended the Better regulation workshops to hear the positions of stakeholders first hand. Similarly, Andrew has attended all CRG meetings.

Andrew informed CRG members that our settled positions in the draft guidelines would not be released prior to scheduled release date.

## **2 NSP consumer engagement**

Andrew noted we have observed an increased willingness on behalf of DNSPs to engage with consumers. Andrew thanked everyone for all their input in the guideline in particular for their time, effort and contributions made.

A CRG member noted they had recently been consulted by two DNSPs for deeper consultation, and their attitude is positive so far.

Since the last meeting held in Melbourne, staff have met with NSPs. The main issue raised by NSPs is that they are used to working in a compliance regime and have been asking for examples of a 'successful' engagement strategy. We have emphasised to the businesses that it is their responsibility to work out who their customers are, and determine how to best engage with them. We have seen some NSPs starting to disseminate robust consumer engagement strategies.

The NSP consumer engagement guideline has been compiled using CRG members' input gathered during meetings and from submissions. The explanatory statement also details how we have used input from CRG members.

Engagement is an ongoing process. Accordingly, the guideline is not limited to discussing consumer engagement in the context of preparing expenditure and revenue proposals.

The guideline has four key components and is underpinned by a framework of best practice principles. The key themes used include the best practice principles, building consumers capacity to participate, access to confidential information, encouraging choice and step measure engagement.

A CRG member commented that the level of risk of non-engagement by NSPs would decrease over time, as the level of skills in engagement increase. Andrew noted that the first round of resets will be the important to start with.

### 3 Confidentiality

AER staff provided an overview of submissions received on the confidentiality work stream and set out the next steps in the process. Key considerations in the guideline include:

- all stakeholders are entitled to know the issues in question. NSPs are required under legislation to provide information to consumers.
- NSPs have the onus of complying with the guidelines and to provide public versions of documents.
- which information should be disclosed and which should be protected.
- the appropriate categories of confidentiality.
- whether a 'one size fits all' approach would be appropriate or more of a case-by-case assessment.
- we cannot place less weight on confidential information on regulatory proposals, but we can on submissions.

CRG members commented that consumers do not want every piece of information available. They want to make sure they have substantive information (quality over quantity).

We are proposing a process whereby, prior to the lodgement of a proposal we expect the NSP to use the template provided to list the documents that they are claiming as confidential. This list of documents should give sufficient information to ensure consumers have an awareness of what the documents is. From the list consumers will be able to consider whether or not the information claimed as confidential would be useful. Where a claim of confidentiality is made, the NSP should be able to provide reasons including addressing the benefit/detriment test.

CRG members noted that timeliness is an important issue. In the event the AER's process takes months, the information could lose some relevance defeating the purpose of disclosure.

AER staff agreed that timeliness is an issue. We are still considering other options to achieve similar outcomes in a more timely fashion. Ideally, the total number of documents claimed to be confidential will narrow down using the pre-lodgement progress. We will be relying on consumers to review the list of documents and discuss with NSPs about disclosure.

CRG members also noted a concern around the issue of third party confidentiality agreements. Consumers would like the AER guidelines to ensure NSPs do not intentionally draft their contracts to make tighter clauses on disclosure.

NSPs have requested other categories of confidential information. We are considering additional categories of confidential information but are concerned that this may be too many categories, or the categories may be too broad.

## **4 Rate of return**

AER staff presented issues and updates regarding the rate of return work stream. Most issues have been discussed at the workshops which have been held recently.

### **a) Cost of debt**

Within this workshop there was a general preference for the trailing average approach or hybrid approach as opposed to the on the day approach.

However there may be issues around the transition from one approach to another. In particular, in NSW where the last reset was significantly impacted by the GFC, Andrew noted that there may be limited benefits to consumers.

### **b) Cost of equity**

The models do have limitations which does prevent too much weight being placed on them. We have considered simpler models such as the sharpe model and dividend growth model along with more complex models such as the Fama French, consumption and CAPM models in reference to complicity, consistency, transparency and complexity.

The cost of equity has been a process of elimination where we have started out with a broad view and have narrowed down our approach by assessing it against the criteria in the consultation paper.

### **c) Benchmark firm**

We are considering whether to adopt a single benchmark between electricity and gas businesses with similar firm size, rate of return and level of risk. We are waiting on the final advice from Frontier Economics before proceeding with this issue. We are expecting to release the Frontier Report around the same time as the release of the guideline.

CRG members then made the following comments:

- Considerable work from AER staff has gone into developing the guidelines and there is still considerable work to do.
- The AER needs to look at the nature of the guideline
- Consumers still have concerns with the AER adopting the trailing average approach instead of the on the day approach.
- The AER should look at a range of decisions as investors like long term steady investments with good returns.

- The AER's research into the risks faced by NSPs should include a consideration of how NSPs present themselves to investors. Further, looking at how the business compares its individual investment risks to the market as a whole would be a good platform to analyse their risks on their cost of equity and benchmarking.

Andrew commented that it would be beneficial to get a hold of investor information to analyse what the businesses long term investment and financing objectives are.

## **5 Power of choice**

AER staff noted that we are awaiting the SCER rule changes relation to a number of 'Power of Choice' recommendations. The key reforms include the introduction of efficient and flexible network tariffs for consumers in the NEM and improving incentives for distributors to engage in demand side participation.

The purpose of this is not to second guess investments; it is for recognition of credible alternatives, to increase transparency and to increase development. The AER released its draft RIT-D, application guidelines and accompanying explanatory statement on 5 June 2013. We conducted pre-draft workshops in May and further workshops in Sydney and Melbourne on 26 and 27 June 2013. The final RIT-D will be released by 31 August.

CRG members made the following comments:

- Consumers are concerned about the way that information related to a RiT-T process is communicated to consumers
- Consumers would like to have the opportunity to be a part of the dispute process
- The AER website does not provide much detail on projects which are currently subject to the RiT-T process

Andrew noted we are working on obtaining more information from the business up front.

## **6 Shared assets**

AER staff noted there have been a limited number of discussions so far on this work stream. However, attention to this work stream has increased with several bilateral discussions.

A key issue is the unregulated revenues streams and determining which streams are relevant to a shared asset mechanism. Submissions received have covered differing approaches including how to account for NSPs incremental costs, which may be appropriate for services using shared assets to different extents.

The AER is leaning towards a high level method which is aimed at avoiding administrative costs by sharing a percentage of unregulated revenues earned from shared assets with customers. The AER is still working through this issue.

## **7 Moving forward**

AER staff discussed the format of next face-to-face CRG meeting in Sydney on 22 August. This will be run similar to the CRG meeting held at Melbourne Airport. The meeting will be an opportunity to discuss the AER's draft guidelines, in particular, what it will mean for consumers and for consumers to provide feedback. At the meeting we would like to workshop most of the 'Better Regulation' work streams, with the exception of rate of return, which will be considered at an additional CRG meeting on 12 September.

## **8 Consumer challenge panel and NSP guideline**

The AER is establishing a consumer challenge panel (CCP) as part of our Better Regulation reform program to assist us to incorporate consumers' interests in our decisions. The intention is to gather members who will get together and provide their perspective as a consumer on NSPs' proposals and level of engagement. The objective of the CCP is to assist the AER make better regulatory determinations by CCP members advising us on issues that are important to consumers.

## **9 Concluding remarks**

Andrew thanked everyone for your their time and participation noting how much we have all learned from this process.