



Consumer Challenge Panel (CCP) Governance Handbook

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This CCP Governance Handbook sets out the AER's approach to the administration of the CCP work program. Through the CCP, the AER intends to facilitate the delivery of an independent consumer perspective on the AER's network economic regulatory work program.

1 Objective of the CCP

1.1. The CCP:

- advises the AER on whether the long term interests of consumers are being appropriately considered in regulatory proposals and the AER's decision making
- provides an assessment of networks' consumer engagement, including the extent to which proposals reflect consumer preferences.

2 Roles of the CCP

2.1 The roles of the CCP support the delivery of its objective and include:

- monitoring, assessing and where appropriate, informing how network service providers conduct their consumer engagement activities ('observe and inform')
- assessing the quality of network proposals, providing assurance on the effectiveness of engagement and advising whether consumer views have been appropriately reflected in network proposals ('assurance')
- providing advice on consumer perspectives on issues related to network determinations and to challenge the AER to ensure that consumer views have been accounted for in decisions to the fullest extent ('challenge')
- helping inform the AER's development of sector-wide positions through lateral reviews ('laterals')¹
- assisting in any other activity that supports the delivery of the CCP objective, as requested from time to time by the AER.

2.2 The CCP's involvement in network determinations will depend on the extent to which a network service provider's consumer engagement activities are well developed. Where CCP members are involved in a reset, CCP members will undertake an initial assessment at the 'observe and inform' stage to inform the AER of the effectiveness and quality of network consumer engagement activities and how they will be incorporated into the proposal. Depending on how a reset is progressing, the role of the CCP may change. Where a network service provider's consumer engagement activities are well developed for instance, the CCP will increasingly take on an assurance role.

2.3 Accordingly, it will not always be the case that a sub-panel will be established for a reset.

2.4 CCP member/s may also be commissioned to deliver a discrete project (a 'CCP project'). This may include producing advice on a specific matter or undertaking a targeted review. CCP members may also be requested to undertake functions currently provided by the

¹ KPMG, Review of the Consumer Challenge Panel, Summary Report for the Australian Energy Regulator, January 2020, p. 33.

Consumer Reference Group. Further, there may be instances where a 'lateral panel' is established to advise on a sector-wide regulatory issue.

- 2.5 The activities of CCP sub-panels will be set out in the Schedule of Work (SoW). Section 6 outlines the SoW.
- 2.6 Appendix B sets out an example of CCP involvement through a reset.
- 2.7 To assist the CCP in undertaking its roles in as set out in paragraph 3.1, CCP members will have access to AER staff as arranged by the CCP Secretariat and their Contact Director.² On occasion the CCP may also meet with the AER Board or Networks Committee.
- 2.8 The CCP will provide its advice through:
 - presentations to the AER Board and Networks Committee
 - written statements of advice
 - presentations to public forums in regulatory processes.
- 2.9 The AER is not obliged to act on the views expressed by CCP members, but will give due weight and consideration to the advice provided. The AER will provide a clear rationale for its decision and will provide feedback to CCP members as to how their views have been considered and addressed.
- 2.10 The AER will clearly indicate where CCP advice has been relied on in AER network determinations and access arrangements.
- 2.11 In delivering on their roles, we expect that the CCP members will be able to:
 - quickly acquire an understanding of the specific consumer issues in relation to the network determination for the sub-panel or laterals established
 - apply their background and expertise in acting as a neutral adviser to the AER
 - engage respectfully with consumers, stakeholders, the AER, and other CCP members.
- 2.12 To engage in respectful working relationships with relevant stakeholders, CCP members are required to uphold the APS Values (s.10 of the Public Service Act) and the Code of Conduct (s.13 of the Public Service Act).
- 2.13 Role expectations are further guided by the CCP Appointment Agreement, Request for Advice (RFA), Conflict of Interest Guideline and ACCC Confidentiality Declaration.

3 Activities of the CCP

- 3.1 The CCP forward work program will be published on the AER website. The CCP forward work program will be developed in consultation with the CCP and updated at least annually.
- 3.2 Recognising that it is subject to change, the CCP forward work plan will provide an indication of resets and lateral reviews to be allocated CCP sub-panels, as well as identifying some of the matters that different sub-panels will consider and the deliverables of the sub-panels.

² The role of the contact director is set out in part 8.

- 3.3 The AER will issue 'Requests for Advice' to CCP members allocating them to CCP sub-panels or projects.
- 3.4 The activities of CCP sub-panels and CCP projects will be governed by Schedules of Work (SoW). A SoW sets out the deliverables and scope required to deliver on a Request for Advice. CCP input will be important to determining the activities and timeframes for a SoW, and therefore CCP members will be provided with opportunities to contribute to the development of a SoW.
- 3.5 CCP sub-panel members may be allocated to multiple roles within a particular network determination process.
- 3.6 [Appendix D](#) sets out an indicative process map showing the stages of activity where a sub-panel is engaged to work on an example reset. This process map is not prescriptive but may be used to guide the CCP as to the interactions that may occur at each stage of a network determination.
- 3.7 Different network determinations will have different timeframes and legislative requirements, (e.g. time frames for gas resets are shorter than for electricity resets). The sub-panel Contact Director will provide guidance as to the actual timing and milestones for each phase of the network determination.
- 3.8 The timeframes for lateral reviews will depend on the review.
- 3.9 The due dates for deliverables will vary and CCP members will be informed of the relevant deadlines by the Contact Director. If submissions are late, the CCP's ability to influence the AER decision is compromised.

4 Sub-panels and requests for advice

- 4.1 CCP members may be allocated to sub-panels through a Request for Advice. Sub-panels will include 2-4 members who work together to provide advice to the AER on a network determination or lateral review.
- 4.2 A Request for Advice may also be issued to commission a CCP member or members to undertake a CCP project.
- 4.3 A Request for Advice will set out the deliverables and scope for a CCP sub-panel or CCP project.
- 4.4 Where a Request for Advice relates to the development of a regulatory proposal or proposals, the AER will require the CCP to provide an assurance assessment on the quality of the network service provider's consumer engagement activities. This will cover the:
- effectiveness and quality of the network service provider's engagement in preparing the proposal
 - incorporation of consumer views into the expenditure and pricing proposal.
- 4.5 The number of members in a sub-panel will be determined having regard to the size and complexity of matters to be considered. The number of members in a sub-panel may vary depending on the stage and progress of the reset.
- 4.6 Sub-panels are made up of members with a variety of skills, backgrounds and experience. Members' skills and experience are matched to resets.
- 4.7 Where a sub-panel is formed, a chairperson will be appointed. The chairperson's role is to:

- coordinate sub-panel member's work
- work with sub-panel members to support the delivery of timely advice
- facilitate communication between different sub-panels about the work that has been completed and outcomes from engaging with network service providers and consumer interest groups
- facilitate collegiality within the sub-panel and communication between sub-panels.

4.8 The sub-panel chairperson is an administrative role.

4.9 Sub-panels should come to their own agreed protocols as to how they coordinate their activities, including engagement with network service providers, consumer groups, AER staff and the AER Board, having regard to guidance provided in this Handbook.

4.10 The sub-panel chairperson should not direct the work or working hours of sub-panel members.

4.11 The sub-panel chairperson does not represent the sub-panel or act as its spokesperson.

5 All-CCP meetings and AER engagement

5.1 The AER encourages collaboration between CCP sub-panels. This will be achieved through:

- meetings of all members (All-CCP meetings)
- face-to-face and/or teleconference/online meetings between members
- sub-panel chairpersons
- communication channels between members
- avenues for confidential communication between sub-panel members
- platforms to share previous CCP advice and learnings.

5.2 CCP members will have a number of opportunities throughout the year to facilitate greater collaboration. These meetings will be arranged as necessary to allow opportunities for CCP members to discuss their experiences and insights with each other. It is also an opportunity for the CCP to provide input into the forward work program of the CCP, and discuss emerging issues facing consumers.

5.3 The meetings will be organised by the CCP Secretariat after liaising with members. These meetings will generally include some time with AER executives, staff and/or Board members, and some time with only CCP members present. CCP members will have the opportunity to provide input into the agendas for these meetings.

5.4 All-CCP meetings and inter sub-panel discussions may occasionally present conflict of interest issues to CCP members. CCP members that identify a conflict of interest must flag this ahead of time when an agenda is circulated.

5.5 In the context of a particular meeting, this will be managed by recusal from relevant CCP members. Any documents subject to conflict of interest will only be circulated to unaffected CCP members.

- 5.6 CCP members may use AER tele/video-conferencing facilities for their CCP related activities (including but not limited to sub-panel only meetings, meetings with AER staff, regulated businesses or consumer groups). CCP member should contact the CCP Secretariat to obtain approval to use and book such facilities.

6 Schedule of Work

- 6.1 The Schedule of Work (SoW) sets out the issues a sub-panel will focus on, and the activities they will undertake, in order to deliver on a Request for Advice. The SoW must be developed in consultation with the relevant AER Contact Director, prior to sub-panel work commencing. The SoW may be updated from time to time as necessary.

7 Provision of CCP Advice

- 7.1 CCP advice may be delivered through:

- presentations to the AER board or the Networks Committee
- written statements of advice (based on the Advice to the AER Template).

Paragraphs 7.2 – 7.9 cover how the CCP should provide its advice.

- 7.2 CCP members should seek to provide advice that is within the jurisdiction of the AER in the context of network regulation. This will assist the CCP in providing advice that is relevant and material to the AER.

- 7.3 Where CCP advice relates to possible rule changes, this should be highlighted within the relevant section of the written advice, with attention drawn to it in a separate text box, or in the appendix. This is so it can be escalated and consolidated appropriately within the AER.

- 7.4 CCP members are not to provide advice which is only of personal interest or advice which does not relate to the determination being made by the AER. If CCP members are unsure about whether a particular subject area is within the scope of the AER's role this should be discussed with their Contact Director.

- 7.5 CCP advice is considered useful and therefore more persuasive where conclusions are supported by the available data or other evidence.

- 7.6 Sub-panel members will work with the sub-panel chair to provide one piece of advice for each regulatory proposal.

- 7.7 Where possible, the advice submitted should be the considered joint view of the sub-panel.

- 7.8 All sub-panel members' considerations are to be taken into account when formulating the advice.

- 7.9 Where individual sub-panel members have different views, not shared by the sub-panel as a whole, these should be reflected in the 'Other Views' section of the advice template.

8 Governance and Administration of the CCP

The following AER staff will support CCP members to deliver a successful CCP Work Program:

- Contact Director: a Contact Director will be appointed as the main point of contact for operational matters for each CCP sub-panel or CCP project. This director will usually

be the AER director responsible for the project. The Contact Director will also provide monthly progress reports to the CCP Secretariat on the progress of CCP work.

- The CCP Secretariat: is comprised of staff within the Consumer Engagement & Insights team and will be led by the Principal Director of Consumers. The CCP Secretariat administers and supports the work of the CCP and its sub-panels. It will:
 - support the governance and operation of the CCP
 - develop the CCP forward work program
 - determine budget allocations
 - deal with broader operational issues relating to:
 - media
 - conflicts of interest
 - confidentiality
 - provide general administrative support to CCP members
 - assist with booking meetings through AER teleconferencing/online facilities, including Microsoft Teams
 - prepare and distribute material required for CCP meetings and input into AER determinations
 - organise payment for services to CCP members
 - report to the AER Networks Committee as the overarching body for management of the CCP.

Members should liaise with the CCP Secretariat if they need clarification or support as part of their CCP member activities. The contact details of the CCP Secretariat will be provided to members in their Requests for Advice. General enquires can be sent to: Consumerchallengepanel@er.gov.au

9 Feedback to the CCP

- 9.1 The Contact Director will provide feedback to their CCP sub-panels or projects after the completion of significant deliverables as set out in a SoW.
- 9.2 In assessing CCP advice, the Contact Director will have regard to the SoW and sub-panel's engagement activities. Timeliness of advice will also be considered for evaluation purposes.
- 9.3 The Contact Director may wish to consult with the AER more broadly to ascertain the usefulness of CCP advice.
- 9.4 The purpose of the feedback process is to assess and improve the effectiveness of the advice provided by the CCP.

Appendix A: Engagement

Throughout the course of undertaking duties set out in the Request for Advice, sub-panels will engage with external stakeholders: network service providers, consumers, consumer groups and the AER.

- The format, purpose and frequency of engagement will differ depending on the Request for Advice.
- Appendix B sets out an example process of engagement at each stage of an example network determination process for external stakeholders. It is important to note that the timeframes for each stage, and therefore the actual engagement that occurs, will vary according to the nature of the network determination. CCP sub-panel members should seek guidance from the Contact Director regarding the timing and circumstances for each determination and the recommended time allocated to each stage.
- CCP members may, at different stages, attend consultation forums / workshops hosted by network service providers. The objective of attendance by CCP members is to understand engagement processes, issues raised by consumers and to provide support for consumers to participate in the process. Where necessary, the CCP may contribute by facilitating links between network service providers and stakeholder interests, however the primary function of the CCP is to deliver the activities specified in the Requests for Advice.
- In certain cases, in order to improve outcomes for consumers and in consultation with the Contact Director, it may be helpful to provide network service providers with observations on its engagement processes. In these cases the following high level principles and procedures should be followed:
 - The CCP can only provide advice to the AER – while they may engage with and build relationships with network service providers, the CCP must not issue advice to them.
 - CCP members should always exercise judgement to ensure that nothing they may say to network service providers could be construed as advice to that business. Observations provided to network service providers on its consumer engagement should be framed in the context of the advice the sub-panel is to provide to the AER.
- Where outcomes could be improved by the early provision of sub-panel observations to network service providers, this must be done in consultation with the AER through the following five step process:
 1. The CCP sub-panel prepares a draft advice regarding the network service provider's engagement.
 2. Draft advice is submitted to the AER for discussion and to assess whether a discussion with the network service provider would be appropriate and useful. The Contact Director will facilitate any meetings between the sub-panel and the network service provider.
 3. If permitted by the AER, the sub-panel may meet with the network service provider to discuss the advice, and the AER may choose to attend.
 4. The sub-panel submits a final of the advice to the AER on the network service provider's engagement activities.
 5. The advice is published on the AER's website.

Media

CCP members may not make public comment on resets in media (including social media) without the prior written approval from the AER. If approval is provided, it must be made clear to media that all public comments are made on behalf of the individual and not on behalf of members of the CCP or on behalf of the AER.

Members of the CCP are not, by virtue of their appointment, or for any purpose, an employee or agent of the ACCC or AER, and must not represent themselves as such. CCP members making public comments should notify the AER via the CCP Secretariat to assist the AER in keeping abreast of public communications.

Appendix B: CCP sub-panel tasks in an example reset

As discussed in Section 3, the level of CCP engagement with external stakeholders will vary depending on factors such as the quality of existing consumer engagement activities undertaken by network service providers and any potential for overlap with other consumer groups. This will be informed by the CCP's initial assessment of the standard of engagement.

Where an in-depth consideration of engagement is required, particularly during the pre-lodgement stage, we detail an example of expected levels of CCP engagement below.

Table 1: Engagement with external stakeholders in each stage of an example network determination

Stages of Process			
External Stakeholders	Pre-lodgement stage	After submission of regulatory proposal	After release of draft decision/submission of revised regulatory proposal
NSPs	<p>Timing</p> <ul style="list-style-type: none"> Will vary on the determination. In previous iterations, the standard timing has in some cases been 2 years before proposal submission <p>Purpose</p> <ul style="list-style-type: none"> To understand the network service provider's consumer engagement approach, how they are canvassing and weighing the differing preferences of its customers and issues the business is likely to raise in the proposal. Assess the extent to which the network service provider's consumer engagement will influence their network proposal. 	<p>Purpose</p> <ul style="list-style-type: none"> Deepen the sub-panel's understanding of the major issues raised within the proposal. Assess whether the information obtained through the network service provider's consumer engagement is reported and addressed in its proposal. Assess how well consumers have been served by the process. 	<p>Purpose</p> <ul style="list-style-type: none"> Focus on key points of difference between AER draft decision and revised proposal – determine which issues to focus on.

	<ul style="list-style-type: none"> In certain cases and in consultation with the AER, to provide early advice on the business' consumer engagement. 		
Consumers	<p>Purpose</p> <ul style="list-style-type: none"> To understand consumer issues and preferences. Assess business engagement from the consumer perspective. Identify key issues and areas of concern to be presented at the public forum. <p>Attendance and monitoring of pre-lodgement workshops</p> <ul style="list-style-type: none"> Observe and consider the usefulness of engagement and subsequent response by the network service provider. 	<p>Presentation at Public Forum – Purpose</p> <ul style="list-style-type: none"> CCP presents its view of the effectiveness of network service provider's customer engagement activities, the preferences of the network service provider's customers and whether these are reflected in the regulatory proposal. An assessment of whether the regulatory proposal is in the long term interests of consumers. Identifies issues for consideration in the AER decision making process. 	<p>Purpose</p> <ul style="list-style-type: none"> Assess whether consumer issues and concerns have been reflected in the revised regulatory proposal and AER draft decision.

Table 2 describes engagement with the AER for each stage of an example reset process. Interaction between CCP sub-panels and AER staff serve a number of functions:

- Sub-panels obtain information, context and feedback regarding the network determinations they are working on, including insight into the issues the AER would find the most value to have advice on.
- Sub-panels have an opportunity to provide effective challenge to the AER by identifying issues early in the process, increasing the effectiveness of CCP advice.
- Sub-panels provide advice for consideration in the AER's determination process.

Sub-panels can draw on the AER's technical expertise with TAG and technical work streams to better inform its advice.

Table 2: Engagement with AER at each stage of network determination

Internal Stakeholder - AER			
	Pre-lodgement stage	After submission of regulatory proposal	After release of draft decision/submission of revised regulatory proposal
AER	<ul style="list-style-type: none"> • Circumstances permitting, the CCP may be offered an opportunity to provide comments on the Framework and Approach document and draft proposals published by NSPs. • Ongoing contact, throughout the reset, between AER staff and sub-panel includes: • Contact Directors – responsible for coordination of network determinations • Technical Advisors Group (TAG) – AER engineering advisors • Technical Workstreams • The AER Board – decision making powers. <p>Purpose</p> <ul style="list-style-type: none"> • Provide some context, including timing and network service provider contact details. • Facilitate ongoing communication between the AER and the sub-panel. • TAG team and Technical advisors to provide technical assistance. • Sub-panel to provide the SoW (Stage 1) for pre-lodgement phase <p>Sub-panels must keep the AER informed on its engagement activities with network service providers and consumer groups, including the dates and timing of engagement.</p>	<p>SoW</p> <ul style="list-style-type: none"> • Sub-panel to provide Stage 2 of SoW, outlining the issues the sub-panel proposes to provide advice to the AER on. <p>Sub-panel meeting with AER staff</p> <ul style="list-style-type: none"> • Discuss the SoW, providing feedback as to the issues the AER would find most valuable to have advice on. <p>The CCP and the AER Board meet while the AER develops its draft decision</p> <p>Purpose</p> <ul style="list-style-type: none"> • CCP to present their advice and views to the Board while the Board is forming its view. <p>The CCP will present its views at the public forum and pre-determination conference.</p>	<p>Sub-panel meeting with AER Board – purpose</p> <ul style="list-style-type: none"> • Discuss the advice provided by the sub-panel and whether it has been reflected in the revised regulatory proposal and AER draft decision. <p>After the draft decision has been released</p> <ul style="list-style-type: none"> • The AER will provide verbal debrief to the CCP. • The AER will keep the CCP informed regarding outcomes arising from network determination processes.

Appendix C: Template documents

The AER has created a number of template documents for CCP members to use. Members should use the templates when drafting their advice to keep the formatting and style of the advice provided to the AER consistent.

- The following templates have been created and will be provided to members by the CCP Secretariat:
 - Advice to the AER
 - Schedule of Work
 - Invoicing

Appendix D: Process map

