



AER Consumer Reference Group Governance Handbook

Inflation review 2020 and Rate of return instrument 2022

June 2020

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1. Introduction

- 1.1 The AER has formed a Consumer Reference Group (CRG) to provide consumer perspectives into the 2020 Inflation Review and Rate of Return Instrument 2022, which are two important work programs we are undertaking. Given the significant impact these two issues have on prices consumers pay, it is important that we establish effective consumer consultation process so that consumers' perspectives are reflected in the decisions we make.
- 1.2 We are reviewing the treatment of inflation in our regulatory framework, including the method likely to result in the best estimates of expected inflation. This will allow us to consider possible changes to our approach. We aim to reach a final position by December 2020. If that final position recommends changes to our approach, we will implement those changes in 2021.
- 1.3 The Rate of Return Instrument sets out the approach by which we will estimate the rate of return, and comprises the return on debt and the return on equity, as well as the value of imputation credits. We publish a new rate of return instrument every four years. The next rate of return instrument is to be published in December 2022 and will bind all regulatory determinations in the subsequent four years. To determine the 2022 instrument we will undertake an extensive review including multiple rounds of stakeholder consultation. We expect the active phase of this review will commence in the middle of 2021.
- 1.4 The purpose of the AER's CRG Handbook is to outline governance arrangements. It aims to provide clarity and structure for interactions between the CRG, consumers, regulated business and us.

2. Role of the CRG

- 2.1 The CRG will help the AER implement an effective consumer consultation process for the Inflation review 2020 and making of the proposed rate of return instrument 2022.
- 2.2 The CRG, may carry out its activities, including giving advice or recommendations to the AER about its review of inflation or the rate of return instrument, in the way it considers appropriate. This may include consultation with consumers of electricity and gas, facilitating consumer engagement and making written submissions to the AER about its positions on the regulatory treatment of inflation and/or rate of return instrument and the processes undertaken to reach those positions.
- 2.3 We will publish on our website any written advice, recommendations or submissions given to it by the CRG.
- 2.4 The CRG is not a decision-making forum, nor is its role to negotiate on behalf of consumers or industry. Its role is to act in an advisory capacity to help inform the AER's decisions with regards to consumer interests. The CRG provides inputs and challenge which might not come through other means.
- 2.5 The CRG will provide its advice through:
 - presentations to the AER Board
 - written statements of advice
 - presentations to public forums in the review processes.

- 2.6 The CRG will also have the ability to influence AER positions through interaction with AER staff.
- 2.7 The AER is not obliged to act on the views expressed by CRG 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 CRG members as to how their views have been considered and addressed.

3. CRG Chair

- 3.1. The role of the CRG Chair is to:
- coordinate the CRG's work
 - work with CRG members to support one piece of coordinated and timely advice
 - facilitate collegiality within the CRG.
- 3.2 CRG Chair is not an administrative role.
- CRG Chair, in consultation with CRG members should come to its own agreed protocols as to how it coordinates its activities, including engagement with businesses, consumer groups, the AER and the AER Board, having regard to guidance provided in the CRG Governance Handbook. This extends to which CRG members lead engagement with an organisation. (I.e. it may be that different CRG members take the lead with different groups.)
 - The CRG Chair should not direct the work or working hours of CRG members.

4. APS Values and Code of conduct

- 4.1 As contractors to the AER, each CRG member must abide by the APS Values and Code of Conduct. See: <https://www.apsc.gov.au/code-conduct>.

5. Conflict of interest

- 5.1 Members of the CRG have been appointed because of their backgrounds and experience. In addition to their role with the CCP, members may also be active in the Australian energy industry and wider community. In performing multiple roles, conflicts of interest may arise.
- 5.2 A conflict of interest guideline (provided separately) assists members in managing this issue. CRG members must notify the AER of all potential conflicts, which are listed on a public register. The Conflict of Interest Register will be updated on an ongoing basis, as required.

6. Confidentiality and Freedom of Information

- 6.1 As the CRG sits within the AER, members are subject to the same confidentiality and FOI requirements as the AER. The AER has a duty to protect all confidential information provided by a third party. All CRG members sign confidentiality undertakings agreeing to treat all information provided by the AER as confidential and to only use the information for official CRG purposes.
- 6.2 The work of the CRG is also subject to the *Freedom of Information Act*. Work produced by CRG members may be released following an FOI request, unless the work falls within an exemption under the Act.
- 6.3 A Confidentiality and FOI guidance paper (provided separately) assists members in understanding their obligations in dealing with confidential information and the FOI regime.

7. Review deliverables and CRG time commitment

- 7.1 The below tables set out the indicative timing of each review's deliverables. AER staff will provide further detailed timelines as the reviews progress.

Inflation review 2020 – indicative timeline

Date	Stage of review
7 April 2020	Initiation notice published
25 May 2020	Discussion paper published
2 July 2020	AER Stakeholder forum
29 July 2020	Submissions on discussion paper close
Early August 2020	AER Technical workshop
Sept 2020	Draft position paper published
Mid-Oct 2020	AER Stakeholder forum
6 November 2020	Submissions on draft position paper close
December 2020	Final position paper
January/February 2021	Evaluation with CRG

Rate of return instrument 2022 – indicative timeline

Date	Stage of review
Early 2020	Position paper – high level
Starting 2020	Working papers
November 2020	2020 Annual updates
Active phase	

Date	Stage of review
May 2021	Consultation paper – detailed
June 2021	Stakeholder forum
October 2021	Position paper – detailed
November 2021	2021 Annual updates
December 2021	Information papers
February 2022	Concurrent evidence sessions
4 weeks after concurrent evidence sessions	Expert joint report
June 2022	Draft instrument
August 2022	Independent panel report
December 2022	Final instrument
Jan-April 2023	Evaluation

7.2 The indicative time commitment for CRG members is half a day per week. There may be short periods where the workload is higher. AER staff will work with the CRG to identify likely peak periods in advance.

8. Request for advice and schedule of works

- 8.1. The fees may be capped for each particular stage of the reviews the CRG is advising on, with all CRG members notified of the fee cap. CRG members will not be entitled to payment of any further fees once the CRG reaches the cap set for the specific stage.
- 8.2. The AER may prepare a request for advice to the CRG for a particular stage.
- 8.3. Alternatively, the CRG may present a schedule of works that provides an outline of the CRG's approach, activities and likely time commitment. The AER may provide comments on the schedule of works but will not direct the work of the CRG. Where the AER disagrees with a component of the schedule of works, it will provide reasons. The CRG will then decide whether or not to revise the schedule of work given the feedback
- 8.4. If at any time during the reviews, the CRG wishes to amend a schedule of works, it should advise the AER with the reasons as to why. The AER will provide feedback on the proposed changes.

9. Engagement

- 9.1 The CRG may engage with external stakeholders including, for example, regulated businesses, consumer groups and internal stakeholders: the AER Board and Staff. The format, purpose and frequency of engagement will at the CRG's discretion.
- 9.2 CRG members will have access to AER staff and consultant(s) to assist the CRG in understanding the AER's reviews including process, content and our current approaches. The CRG will also have access

to the AER Board, including two meetings per annum to discuss the CRG's progress and views with the AER Board.

- 9.3 CRG has access to a consultant. The consultant is funded by Energy Consumers Australia.
- 9.4 CRG Chair or members may make public comment on the reviews if they wish to do so, subject to any confidentiality requirements. However, 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 CRG or on behalf of the AER.
- 9.5 Members of the CRG 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. CRG members making public comments should notify the AER to assist the AER in keeping abreast of public communications.

10. Provision of CRG Advice

- 10.1 The CRG should seek to provide advice operating within the scope of the AER's remit. This will assist the CRG in providing advice that is relevant and material to the AER.
- 10.2 CRG members are not to provide advice which is only of personal interest or advice which does not relate to the inflation or rate of return reviews. If CRG members are unsure about whether a particular subject area is within the scope of the AER's role this should be discussed with AER staff.
- 10.3 CRG advice is considered useful and therefore more persuasive where conclusions are supported by the available data or other evidence.
- 10.4 Where possible, the advice submitted should be the considered joint view of the CRG.
- 10.5 All CRG members' considerations are to be taken into account when formulating the advice.
- 10.6 Where individual CRG members have different views, not shared by the CRG as a whole, should also be reflected in the advice.
- 10.7 The focus of CRG advice will be through presentations to the AER Board, AER hosted forums and workshops and written statements of advice.

11. Timeliness

- 11.1 Submissions must be submitted by the date publicly specified by the AER for stakeholder submissions. If submissions are late, the CRG's ability to influence the AER's decisions is compromised.

12. Treatment of CRG advice in AER inflation and rate of return reviews

- 12.1 The AER will openly and transparently indicate in its independent review decisions, presentations and other supporting material where CRG advice has been relied on or conversely, reasons for not adopting the CRG's advice.

13. Evaluation

- 13.1 The AER will provide feedback to the CRG in two stages: after the draft position on the inflation review 2020 and then once the final decision of that review is released.
- 13.2 The purpose is to assess the effectiveness of the advice provided by the CRG. Feedback provided will

assist the CRG in continuing its work on the rate of return instrument 2022. In assessing CRG advice, the AER will have regard to the Schedule of Work and CRG's engagement activities.

13.3 This will assist the CRG and the AER in working collaboratively together and providing constructive feedback to the CRG on the strengths of their advice and where improvements could be made.

13.4 A comprehensive evaluation of the AER and CRG's engagement will be conducted from January to April 2023.

14. Template Documents

14.1 The AER has created a number of template documents for CRG 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. Templates (provided separately) for:

- Invoices
- Advice to the AER
- Schedule of works.

15. CRG support and administration

15.1 The AER Inflation Review 2020 team is responsible for providing support to the CRG for the foreseeable future. This includes:

- developing the governance framework for the operation of the CRG.
- dealing with broader operational issues relating to:
 - media
 - conflict of interest
 - confidentiality.
- Providing general administrative support to CRG members
- Preparing and distributing material required for CRG meetings, presentations and other inputs into the AER's inflation and rate of return reviews
- Organising payment for services to CRG members. **Invoices are to be submitted on a monthly basis to Annette Taylor at [REDACTED] and copied to Robyn Pickering.**

15.2 Members should liaise with Robyn Pickering in the first instance if they need clarification or support as part of their CRG member activities.

- Contact details: (T) [REDACTED]
(E) [REDACTED]

15.3 CRG members may use AER facilities for CRG related activities. AER facilities can be booked, subject to availability, through Robyn Pickering. Bookings will be made with consideration of the appropriate ACCC/AER COVID-19 response provisions around social-distancing etc. in place at the time of the booking request.