



Review of the Consumer Challenge Panel

Report to the Australian Energy Regulator

Supporting Analysis

January 2020
kpmg.com.au

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Limitations

The responsibility for determining the adequacy or otherwise of our terms of reference is that of the AER.

The services provided under our engagement letter ('Services') have not been undertaken in accordance with any auditing, review or assurance standards. Any reference to 'audit' and 'review', throughout this report, is not intended to convey that the Services have been conducted in accordance with any auditing, review or assurance standards. Further, as our scope of work does not constitute an audit or review in accordance with any auditing, review or assurance standards, our work will not necessarily disclose all matters that may be of interest to the AER or reveal errors and irregularities, if any, in the underlying information.

In preparing this report, we have had access to information provided by the AER, and publicly available information. We have relied upon the truth, accuracy and completeness of any information used by us in connection with the Services without independently verifying it. The publicly available information used in this report is current as of 11 December 2019. We do not take any responsibility for updating this information if it becomes out of date.

This report provides a summary of KPMG's findings during the course of the work undertaken for the AER under the terms of the engagement letter.

Any findings or recommendations contained within this report are based upon our reasonable professional judgement based on the information that is available from the sources indicated. Should the project elements, external factors and assumptions change then the findings and recommendations contained in this report may no longer be appropriate. Accordingly, we do not confirm, underwrite or guarantee that the outcomes referred to in this report will be achieved.

We do not make any statement as to whether any forecasts or projections will be achieved, or whether the assumptions and data underlying any such prospective financial information are accurate, complete or reasonable. We will not warrant or guarantee the achievement of any such forecasts or projections. There will usually be differences between forecast or projected and actual results, because events and circumstances frequently do not occur as expected or predicted, and those differences may be material.

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This document sets out the analysis supporting the findings within the Summary Paper. The supporting analysis provides more detail on:

1. the **context** that supports our review, including an overview of the role and objectives of the CCP, the role of the consumer in price setting, existing precedent for consumer challenge and the impact of the changing operating and regulatory environment on the role of the CCP;
2. **issues** with the current CCP, learned through our multi-layered stakeholder engagement program, assessment of CCP impacts and outputs and research on other Australian and international examples of customer challenge bodies;
3. assessment on whether the CCP has **effectively delivered on its objectives**; and
4. the **ongoing need for a CCP**.

Appendix A: Introduction

A.1 Background

In 2012, the AER recognised the limitations of consumer engagement in network processes which could lead to an imbalance in the range of views reflected in network price determinations. As part of the Better Regulation program, the AER sought funding from the Australian Government so that it could establish the CCP to provide input on consumer perspectives during the determination process. At the same time, the Standing Council on Energy and Resources (SCER) started the process of establishing a strong national advocate for consumer interests (now Energy Consumers Australia (ECA)).

The CCP was established to provide input and challenge the AER on key consumer issues during a network determination, to improve the AER's decision. The CCP facilitates the consideration of the consumer perspective to achieve a balanced consideration of all views by the AER. CCP members are allocated to both "reset sub-panels" (to provide advice in relation to regulatory proposals) and "lateral sub-panels" (regulatory issues across multiple businesses). The objectives of the CCP are to;

- Advise whether the network business' proposals are in the long term interests of consumers;
- Advise on the effectiveness of network businesses' engagement activities with their consumers and how this is reflected in the development of regulatory proposals.

There have been two CCP panels appointed since formation:

- The first CCP panel was appointed in 2013 (CCP I), with a review conducted in 2016 by NOUS. The review found that the objectives of the CCP are clear and are still relevant. It also recommended; providing greater clarity about the role of CCP and improving the efficiency and effectiveness of the program. The AER implemented these recommendations, by issuing the CCP Governance Handbook which replaced the framework for advice.
- The second CCP panel was appointed for 2016-19 (CCP II), and has been extended to 2020.

Given the passage of time since the initial decision to establish the CCP in 2012, the AER considers there is merit for the review to also consider the significant changes in the external and regulatory environment in which the AER and CCP operates.

These changes to the regulatory environment mean that the role and purpose of the CCP needs to be examined. Such changes include:

- The removal of limited merits review, and hence removing the anticipated role of the CCP in inputting into tribunal decision making;
- The establishment of ECA and how their terms of reference differs to that of the CCP;
- Substantial increase in the consumer engagement by networks in the pre-lodgement phase when compared to the previous round of resets. In particular, in 2017 ECA and ENA jointly established a

new consumer engagement award aimed to recognise industry leading consumer engagement projects;

- Correspondingly, the AER has invested resources and time to both review businesses' engagement and also engage more with customers itself over this period;
- AER is trialling a negotiated settlement model in conjunction with Energy Networks Association and ECA.

A.2 Scope

The AER has engaged KPMG to make findings and recommendations to the AER on:

- the extent to which the existing arrangements deliver on its objectives, and
- how the existing arrangements might be strengthened, where necessary.

In delivering on this scope, the AER sought for KPMG to consider:

- **Changes to the regulatory environment.** This will include changes:
 - within the AER;
 - external environment (including, but not limited to, the establishment of Energy Consumers Australia); and
 - The transformation of the energy sector, including (but not limited to) the integration of distributed energy resources and distributed system operations

that have occurred since the decision to establish the CCP by SCER in 2012. In particular, how these changes influenced the role of CCP II and might change the role of CCP III.

- **The role of the CCP II in influencing regulatory proposals** - the relative cost and impact of the different approaches that the CCP has taken to providing input into AER processes, including its involvement in:
 - the process leading up to the lodgement of the regulatory proposal with the AER (including the different ways it has performed its role, such as with the NSW/ACT remittal and capex decisions)
 - activities post-lodgement of the regulatory proposal with the AER (i.e. post-draft decision and the revised proposal); and
 - lateral panels (CCP panels formed to consider an issue that has an impact across multiple regulated businesses, such as on opex productivity).
- The extent to which the current role and objectives of the CCP are **fit for purpose**;
- the **balance of skills** needed by the CCP to effectively and appropriately carry out its functions, including the right balance between technical industry and/or regulatory knowledge and expertise in consumer policy and insight;

- How the role of the CCP can **complement other consumer engagement activities** (i.e. alongside processes where network businesses engage with consumers and other stakeholders in the development of their regulatory proposals);
- Existing **regulatory precedent** regarding how other by economic regulators gain effective consumer input into regulatory determinations;
- The shift to increased data requirements on networks through the RINs plus the **changing technical nature of determinations** (i.e. benchmarking, cost-risk modelling);
- The effectiveness of **governance arrangements** for CCP II, with particular consideration to:
 - the process for the allocation and re-distribution of the budget, sitting fees, travel payment policy: and
 - the relationship of the CCP with the AER Board, AER staff and other stakeholders.

A.3 Approach

The CCP has played an important role over a number of years. Through this role they have had numerous interactions with:

- the AER;
- network businesses; and
- Consumer/community representatives/advocates.

As well as members of the CCP, each of these stakeholders has relevant experience regarding the role the CCP has played, the value they bring and how they can be best used in the future to advance the interests of consumers.

To understand and leverage this experience, we designed a two phased review focusing on collating as much information on the historical and current operations of the CCP, and then seeking views on how these arrangements could be improved (where appropriate). The following details each of these phases.

Phase 1

During Phase 1, our team facilitated the following workshops with these stakeholders:

- 11 July 2019 – workshop with the AER Board
- 16 July 2019 – workshop with the AER staff, including General Managers, the Networks team, the CCP team and those who were responsible for managing reset and lateral sub-panels
- 23 July 2019 – presentation to the Customer Consultative Group (CCG)
- 29 July 2019 – workshop with current CCP members
- 13 August 2019 – workshop with industry stakeholders (Victorian and South Australian network businesses)
- 19 August 2019 – workshop with industry stakeholders (New South Wales, Queensland, Australian Capital Territory and the Northern Territory)

- 20 August 2019 – workshop with consumer/community representatives

For each of these workshops, we adopted a consistent framework for discussion, focusing on stakeholder experiences under four key areas:

- Roles and objectives
- Governance;
- Membership; and
- Outputs,

with differing questions depending on the target audience. The full range of questions tested are detailed in appendices E and I.

Throughout this phase, our primary purpose was to collect the experiences of different stakeholders, and aggregate these into key themes. The key themes collated during these workshops is detailed in Appendix E.

This Phase was primarily used to answer the first of our two scope questions - *Do the existing arrangements deliver on its objectives?*

Phase 2

The purpose of Phase 2 was to be future focused, and leverage the learnings from Phase 1 to seek to identify opportunities to improve the current arrangements. As such, this Phase was focused on supporting our second scope questions - *How can the existing arrangements be strengthened (where necessary)?*

To do this, we developed both a qualitative and quantitative stakeholder engagement process, which included:

- Further workshops with:
 - AER staff;
 - Current and former CCP members;
- One-on-one interviews with a number of key stakeholders, including:
 - Former CCP members – Jo De Silva, Andrew Nance
 - Current CCP members – David Prins, Mark Grenning
 - Australian Energy Market Commission – Anthony Bell
 - ECA – Rosemary Sinclair
 - ENA – Garth Crawford
 - Customer Forum (AusNet New Reg trial) – Helen Bartley, John Mumford)
 - St Vincent de Paul Society – Gavin Dufty
- A survey sent to all relevant stakeholders, related to three key purposes:
 - To show the change in attitudes since the Nous review;
 - To understand the levels of support for various working hypotheses; and
 - To understand the different needs and attitudes of stakeholder groups including AER Staff, network businesses, community groups/advocates.

The outcomes from these engagement activities is detailed in Appendix E and Appendix I, which contains the detailed survey responses.

Through these engagement activities, we maintained our framework from Phase 1, but focused on key areas of interest:

- Roles and objectives – roles, responsibilities and objectives;
- Governance – oversight, cost, conflicts and evaluation;
- Membership – appointment, behaviour and skills; and
- Output – form, value and quality.

Within each of these key focus areas, we explored a number of issues.

Objectives

- Are the objectives still fit-for-purpose and how can they be refined to be more meaningful and drive the best outcome for consumers?
- Is there any conflict between the current objectives, and how can this be avoided going forward?
- How should the CCP differentiate between technical challenge (objective 1) and consumer challenge (objective 2)?
- What problem should the CCP solve going forward?

Roles

- What are the different roles that the CCP has played, and which of these roles are appropriate to continue into the future?
- What proportion of CCP II's time has been spent on the stated objectives against time spent on other matters (including negotiating, advocating and capacity building)?
- What level of influence has/should the AER had/have on the agenda of the CCP during its completion of each sub-panel?
- What level of flexibility should the CCP have to pursue differing outcomes to those prescribed under its objectives and those detailed in the SOW?
- Does the Request for Advice provide adequate guidance on the purpose and role of each sub-panel, and how could it be improved?
- What level of participation has the CCP had during a NSP's consumer engagement, and how can it be optimised going forward?
- Is there a future role for the CCP in educating and informing other consumer bodies to allow them to more effectively engage with NSPs?
- How proactive should the CCP be in working with NSPs to propose/agree outcomes for submission to the AER?
- Does the establishment of the ECA, the uplift in consumer engagement and outcomes of the New Reg process (etc.) imply a lesser ongoing role for the CCP on the effectiveness of consumer engagement?
- Are sub-panel arrangements flexible enough to allow for reduced effort where it is accepted the NSP's engagement is good practice, and if not, how can this be improved? For example, should the same role and effort be replicated on every sub-panel?

- As the regulatory and advocacy landscape changes, is there an ongoing role for a CCP? If so, what?

Oversight

- Does the Governance Handbook provide appropriate advice on the oversight, support and operations of the CCP, and if not, how can it be improved?
- Do current oversight and support arrangements (including Schedules of Work, systems, contract management etc.) allow for the effective operations of the CCP, and how can they be improved?
- What level of independence from the AER should the CCP have to allow it to effectively carry out its functions?
- Should operational management of the CCP be overseen with an AER staff member with appropriate contract management expertise?
- To what extent should the work of the CCP be guided exclusively by AER staff, or collaboratively by staff, board and CCP themselves?
- Is the CCP being effectively managed and guided by skilled and empowered AER staff?

Cost

- Is the process for budget allocation, payments (including expenses), variation and invoicing appropriate, and what level of involvement should the CCP/AER Board have in these processes?
- Should the AER determine budgets with a multi-year view to ensure a consistent approach can be applied across the entirety of the sub-panel's operations?
- Why has direct funding of the CCP significantly exceeded budgeted allowances, and what arrangements can be put in place to limit CCP spending to allocated budgets (where appropriate)?
- Are there appropriate processes in place to support budget variation requests, and if not, what changes are necessary to ensure rigour over variations?
- Is the remuneration/rate card effective in attracting, motivating and retaining CCP members of suitable calibre?

Conflicts

- How conflicts of interest are managed/avoided and are stakeholders comfortable that CCP members are free from conflicts?
- Could arrangements be put in place to allow CCP members to work for NSPs where they don't form part of a sub-panel?

Evaluation

- Are evaluations completed consistently and how should their findings be used to improve future sub-panels?

Appointment

- How many people should be on future CCPs and how many should be on sub panels?
- Is there a big enough talent pool in the marketplace from which to draw future members?
- Has the selection process yielded the right individuals and skills mix for the CCP and for sub panels?

- Has diversity (age, gender etc.) been appropriately considered in the appointment phase?

Skills

- What skillsets are necessary to balance delivery on the objectives, but also to allow for effective engagement with the network businesses?

Behaviour

- Apart from technical expertise/qualifications, are there other factors that the AER need to consider to ensure the right behaviours from the CCP?

Form of advice

- Does the Advice Template provide for the most appropriate form of advice to maximise effectiveness in the AER's processes?
- Is the form of output provided by the CCP consistent with the purpose of the AER's use, and/or is it consistent with the role and objective expectations?

Quality of advice

- Are the statements and advice provided by the CCP of consistent quality across all sub-panels?

Value of advice

- Has CCP involvement enhanced the credibility of AER decisions?
- Has CCP involvement created value/avoided cost for consumers, and how can this be enhanced in the future?
- Has CCP involvement influenced the behaviour/culture of network businesses?
- Are there other issues which constrain the CCP's ability to create value? (e.g. consumers are a tiny component of the rules)?
- What are the differentiating features of a successful sub-panel vs a less successful sub-panel?

Use of information collected

Throughout both phases of engagement, we committed to stakeholder anonymity regarding feedback provided. As such, any themes or comments contained within this report are attributed to the following stakeholder groupings:

- AER;
- CCP;
- Industry stakeholders (which includes, for example, network businesses and Energy Networks Australia (ENA); and
- Consumer stakeholders (which includes, for example, Energy Consumers Australian, St Vincent de Paul Society, Consumer Action Law Centre, Uniting Care Queensland etc.)

Where we have used direct quotes, these were provided within the surveys and have been attributed to one of the above stakeholder groupings. Where our commentary/advice directly reflects individual stakeholder feedback, it is because the body of evidence available supports this, as opposed to individual views provided

Limitations

Our analysis heavily leverages on the feedback we have been provided by stakeholders through our engagement process. As such, we have not tested the validity nor accuracy of the information provided. As such, we have assumed all feedback provided is factual, and/or reasonably based.

The extent of KPMG assessment and findings is limited to the scope provided by the Australian Energy Regulator.

Appendix B: Arrangements for the Consumer Challenge Panel

B.1 Roles

The CCP assists the AER to make better regulatory determinations by providing input on issues of importance to consumers. Regulatory determinations are technical and complex processes which can make it difficult for ordinary consumers to participate. The expert members of the CCP bring consumer perspectives to the AER to better balance the range of views considered as part of our decisions.

The role of the CCP is to provide input and challenge the AER on key consumer issues during a network determination, to improve the AER's decisions. The CCP will facilitate the consideration of the consumer perspective to achieve a balanced consideration of all views by the AER.

During the completion of a sub-panel, CCP members are usually required to:

- consider materials provided to the AER throughout the regulatory determination processes, including network businesses' proposals, stakeholder submissions, as well as materials prepared by the AER (including confidential information);
- meet with network service providers to discuss their proposals (including services to be delivered, potential changes in price, customer engagement activities) and issues raised by consumer representatives and relevant stakeholder groups;
- embody a shared commitment to the development of advice to the AER on the key consumer issues identified;
- submit advice on time; and
- meet with AER staff to consider network businesses' proposals to provide consumer views and feedback on the AER's emerging thinking which may include written advice and reports when requested.
- In addition, CCP members may:
 - meet with consumer interest groups and other relevant stakeholder groups to assist CCP members in providing an effective consumer perspective to the AER's decision making. Members from the CCP may seek views on:
 - key consumer issues that should be considered as part of the regulatory determination and the network businesses' customer engagement activities; and

- whether the price and services the network business proposes to deliver for its customers are acceptable and valued, and whether the network businesses’ proposals are in the long term interests of consumers;
 - present at a public forum on the consumer interest issues that the businesses proposal raises; and
 - present to the AER Board the views and advice of the sub-panel.
- In providing for this role, the CCP is
 - not a decision-making forum, nor is its role to negotiate or advocate on behalf of consumers or industry. Its role is to act in an independent advisory capacity to help inform the AER’s decisions with regards to consumer interests. The CCP provides inputs and challenge which might not come through other means;
 - required to maintain an understanding of business, market and industry trends, and the consumer engagement that has been undertaken in relation to proposals;
 - required to understand the AER’s approach to assessing businesses’ proposals and to provide “wise counsel”, insights and ideas which can only come from a consumer perspective;
 - to critically assess whether the issues identified by the AER are important when considering the long-term interests of consumers and whether the approach by the AER to these key issues is in the long-term interests of consumers;
 - to have access to AER staff; and
 - to provide its advice through:
 - presentations to the AER Board
 - written statements of advice.

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 their decision and will provide feedback to CCP members as to how their views have been considered and addressed.

The AER provides the CCP with an Advice Template for it to complete and submit, in response to the Schedule of Work agreed, and to inform the relevant reset/lateral sub-panel requiring advice.

Within the completed Advice Template, the AER requires:

- A summary of issues that advice has been provided on;
- Advice regarding how the sub-panel focus meets the two overarching objectives established for the CCP.

Roles the CCP has played

In order to deliver on its objectives, the CCP has fulfilled a number of roles which are not reflected within its current governance arrangements. These include:

- supporting an uplift in the capacity and capability of consumer representative bodies, to allow them to more effectively engage with network businesses;

- acting as the ‘consumer advocate of last resort’ where there is not appropriate and or available consumer representation, or these bodies seek for the CCP to play a more active role representing consumers;
- actively participating during engagement activities (i.e. focus groups) and advocating issues that it identifies as being important for the network business to consider and/or respond to;
- engaging with the network businesses in conducting its roles ; and
- facilitating the negotiation of parties to achieve a mutually agreed outcome in all parties’ interests (i.e. the New South Wales and ACT remittal process).

Formalising the CCP’s role

Members of the CCP are appointed to two different types of sub-panels, focusing on:

- Network price resets – which are structured to support each jurisdiction under review at that time; and
- Lateral issues – regulatory issues being considered across multiple jurisdictions. Some recent examples include rate of return, regulatory tax, tariff structure statement, profitability etc.

B.2 Governance

The following sub-section details the governance arrangements that are in place to support/oversee the CCP’s operations.

Governance Handbook

The purpose of the Governance Handbook is to clearly document roles, processes, interactions and templates guiding the operations of the CCP. It includes:

- The role of the CCP, including engagement with the AER and the form of advice to be provided;
- The process for forming and governing sub-panels, including the “Request for Advice” & process for appointing a sub-panel chair;
- A “Schedule of Work”, which details the issues and activities the sub-panel will focus on;
- An explanation of the process of engagement with external stakeholders and the AER at each major stage of the network determination process (being pre-lodgement, post-lodgement and post-revised submission);
- Provision of advice, including the form and timeliness of advice to be provided;
- Processes for evaluating the effectiveness of advice provided by the CCP;
- Templates for completion, including for advice to the AER, the Schedule of Work and invoicing; and
- Processes for CCP support and administration.

The objective of this CCP governance handbook is to increase the effectiveness of CCP advice. It aims to provide greater clarity and structure for interactions between the CCP, network services providers (NSPs), consumer groups and the AER.

The Governance Handbook is supported by a process map showing the stages of activity for both the AER and the CCP throughout the network determination process, to guide the CCP as to the interactions that are to occur at each stage of the network determination.

Although each regulatory process will differ in complexity, a general timeline has been included at the top of the process map to indicate what activities take place and guidance to the estimated allocation of CCP time during each stage (pre-lodgement (estimated 20% of CCP time), regulatory proposal to draft decision (estimated 50% of CCP time) and draft decision to final decision (estimated 30% of CCP time)).

Request for advice

The Request for Advice (RFA) creates a contract between the ACCC and the CCP member, by appointing CCP members to sub-panels to provide the AER advice on specific resets. It articulates the:

- sub-panel members;
- timeframes for work and advice;
- services that the CCP member will provide;
- consultation process;
- treatment of confidential information;
- AER contacts;
- Sub-panel budget (number of sitting days) for that member;
- Invoicing arrangements, including timing; and
- Booking of travel and accommodation arrangements.

Schedule of Work

The Schedule of Work (SOW) outlines the issues the sub-panel plans to address in its engagement and why it has chosen these issues. For each phase (i.e. pre-lodgement and post-lodgement), the template requires the CCP to document details of:

Pre-lodgement

- Network businesses it plans to engage with, intended dates for engagement and focus of engagement;
- Consumer groups its plans to engage with, intended dates for engagement and focus of engagement;
- Any other planned activities;

Post lodgement

- Detail of the consumer groups the CCP plan to engage, including intended dates of engagement and focus of engagement (i.e. description of issue, level of importance, type of work and indication of scope of work)
- The SOW is submitted to the AER for comment before finalisation.

Operational oversight & support

The AER has documented how it intends to interact with the CCP, through a Staff Manual. This manual provides guidance, in addition to the handbook, for staff in their interactions with the CCP. It allocates panel members to sub-panels, including allocations of sitting days for each sub-panel member. Coordination teams, along with sub-panels, are to be provided with monthly spending and balance statements from the sub-panel budget for tracking purposes. The manual also documents:

- The RFA, which allocates the CCP member to a sub-panel, setting out conditions and information regarding that sub-panel;
- The timeliness of necessary advice, and that payments will cease after this time;
- That a Coordination Director from the AER will act as liaison between the sub-panel and AER;
- Engagement between the CCP and Technical Advisory Group (TAG);
- The SOW as the key tool for providing and recording guidance to CCP on their proposed advice, which is focused on the phases of work being completed (i.e. pre-lodgement, regulatory proposal, draft decision and revised proposal);
- An evaluation of the CCP, to take place after the draft determination and final determination;
- What constitutes effective and useful advice;
- Ability to maintain flexibility to operate outside of the scope of the CCP Handbook;
- CCP access to be provided to the Information Request register;
- File sharing arrangements, including through Verizon and GovDex;
- Use of the CCP Advice Template for the provision of all advice; and
- Links to important documents to support the effective governance and operations of the CCP, network service providers (NSPs), consumer groups and the AER.

Budget setting and control

Budget allowance

Treasury provides the AER \$0.5 million annual direct funding for CCP activities with additional money allocated as required from AER.

72 per cent of total expenditure on the CCP was spent on electricity and gas price reviews, the highest cost sub-panels being the NSW distribution price reset and limited merits review process. Over the three years 2016-19, the AER has formalised a number of lateral sub-panels (i.e. Post Tax Revenue Model, rate of return, profitability, Regulatory Investment Test, Tariff Structure Statement and Tax). Of the total expenditure, 8-10% are expenses (travel and associated costs).

The CCP has also incurred costs related to CCP meetings & general advice such as the incentives project (2016/17), contingent projects & consumer interest (2017/18), COAG consumer resourcing (2017/18) and service classification issues (2018/19).

Budget allocation

CCP sub-panels are allocated a budget from which CCP members are paid. The budget is determined by the amount of work members are expected to complete and the size of the network determination or level of interest in the lateral issue for investigation. The budget includes an amount allocated for administrative and travel expenses.

All potential sub panels are allocated a portion of budget depending on the following factors:

- The AER's priorities for that year and the stage of the reset;
- The size of the reset (number of businesses involved and number of states involved);
- How the businesses have been performing in their existing resets, how they have engaged with the AER in the past and the willingness of the businesses to engage with the CCP in the reset; and
- Any other kinds of consumer engagements the businesses are completing (e.g. AusNet's Customer Forum).

This is discussed with CCP members.

Remuneration

CCP members are paid for their services at a daily rate of \$1,200.00 (GST inclusive) or \$200.00/hour (GST inclusive). This rate has remained the same since the inception of the CCP in 2012.

CCP members are paid at the same daily rate for their time spent preparing for CCP meetings. This includes time spent reading and analysing any materials provided including network businesses' proposals' writing advice, presentations and reports for the AER; and other preparatory activities.

The sub-panel chair is allocated more time in recognition of the additional work they perform.

Performance monitoring, reporting and evaluation

The AER has recently established quarterly reporting by all staff leads, used to provide the AER General Managers with a status report on:

- The allocation of sitting fees for each CCP member for current sub-panels, including remaining budget for the financial year;
- The status of existing sub-panels, including outcomes achieved;
- Total CCP sitting fees, annual allocation and remaining budget;
- CCP feedback forms.

At the conclusion of each sub-panel, panel members are required to complete feedback forms, which details:

- A summary of work completed by the sub-panel;
- The successes achieved by the sub-panel;

- What could be improved;
- The extent to which the sub-panel thinks their advice ‘hit the mark’; and
- Other comments relevant to the operation of that sub-panel.

AER staff are then asked to provide comments on this form, for completeness.

Conflict Management

Members of the CCP 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, perceived or actual conflicts of interest may arise.

A conflict of interest guideline assists members in managing this issue. The purpose of this document is to provide guidance to CCP members around dealing with conflicts of interest. The document:

- presents high level principles for identifying potential conflicts;
- provides guidance on managing conflicts of interest; and
- includes case studies to provide practical guidance on how the principles apply and should be managed.

The focus of this guideline is the specific types of conflicts of ‘outside employment’ or ‘outside engagement’. That is, where a CCP member is also engaged to act for a third party which may be in actual or perceived conflict with their work for the CCP. Conflicts of interest can occur in relation to financial, political and personal interests. CCP members address these in their standing declaration of conflicts of interest.

The AER has established principles regarding CCP conflicts of interest:

- Principle 1: Actual conflict—CCP members cannot be the ‘servant of two masters’.
- Principle 2: Management—where appropriate, conflicts of interest may be able to be managed.
- Principle 3: Transparency—potential conflicts of interest should be reported.
- Principle 4: Perceived conflict—CCP members need to disclose perceived conflicts of interest and develop a management strategy with the AER.
- Principle 5: Accountability—CCP members will be personally accountable for disclosing potential conflicts to the AER.

CCP members must notify the AER of all potential conflicts, which are listed on a public register. In some circumstances, a conflict may result in a member removing themselves from a project. The Conflict of Interest Register is updated on an ongoing basis, as required. It contains:

- A description of the conflict of interest;
- The duration of the conflict;
- The relevant sub-panels affected and whether the individual in question has a role on that sub-panel; and
- How the conflict is being managed.

The CCP guideline also notes that conflict of interest obligations continue for a ‘reasonable period’ after your contract with the ACCC/AER terminates. The interpretation of ‘reasonable period’ will vary depending on the nature of the sub-panel work that the actual or perceived conflict relates to. The guideline contains useful information to help CCP members interpret this.

B.3 Membership

Recruitment

In August 2016, the AER ran a public tender process, seeking expressions of interest from the public, for the second iteration of the CCP. It sought expressions of interest from individuals in relation to the following criteria:

- applicants with experience in one or more of the following areas:
 - consumer insight and engagement – experience of understanding diverse consumer priorities and needs, and engaging consumers in regulatory decision-making and/or service design and delivery
 - regulatory decision-making – for example by bringing consumer advocacy, legal, financial, economic, engineering, information communication technology, capital works governance or government skills
 - sectoral knowledge of energy and other utilities – for example working within a relevant business or providing consultancy to it.
- the ability to critically analyse and assess material by the AER and network business with the ability to bring strong consumer perspective to provide robust challenge to the AER and network businesses
- the ability to build collaborative relationships with a range of stakeholders and to use these interactions to achieve the objectives of the CCP
- appropriate resource capacity and availability to fulfil the proposed draft Appointment Agreement for the proposed term. Including the extent to which the applicant has reflected on their freedom from conflicts of interest, or the ability to identify, report and appropriately manage any perceived or actual conflicts of interest
- overall degree of compliance with the expression of interest and draft Appointment Agreement.

The AER also sought for applicants to nominate themselves as sub-panel Chairperson if they:

- have strong leadership and communication skills which have led to significant accomplishments (e.g. in business, government, academia and/or the not-for-profit sector).

The selection panel made recommendations to the AER Board, or applicants to be appointed to the CCP.

Appointment

All CCP members are appointed for a term of 3 years, with the possibility of yearly renewals over the following 2 year period.

The amount of work required for each reset and lateral sub-panel depends on the complexity of the business proposal/issue, the number of issues being discussed, the extent of the consumer engagement required, the number of businesses and the timeframes in which the process must be conducted.

Appointment of sub-panels

CCP members are appointed to sub-panels based on their sub-panel nominations, skills, expertise and conflicts of interest and available time, given commitments on existing sub-panels. Sub-panels consist of 3-4 members, depending on the amount of work involved with a network determination or lateral issue.

Applicants are able to nominate the sub-panels for which they wish to be considered. Applicants are required to consider the time commitments and relevant businesses when nominating sub-panels. Applicants are able to nominate for more than one sub-panel.

Applicants may also nominate themselves to be considered for the sub-panel chairperson. The chairperson is responsible for the submission of formal advice to the AER and to facilitate communication between sub-panels about the work that has been completed.

Skillsets/experience

There are currently 9 active members of the CCP.

Skillsets are broad, including:

- energy networks regulation;
- competition law;
- energy sector experience;
- corporate finance;
- private industry
- energy management;
- sustainability;
- senior leadership;
- consumer advocacy;
- market research;
- pricing; and
- engineering.

Appendix C: The role of the consumer in price setting

In an ideal world, customers would directly negotiate with all service providers, with regards to the products they want, the services attached to those products and the price they are willing to pay. To do this, they would have access to all information necessary to make an informed decision. Similarly, the service provider would customise that product or service to cater for individual demand. If a service provider could/would not provide what they were looking for, they could take their business elsewhere to satisfy their demands.

Successful companies in well-functioning markets, where consumers are empowered and have choice, must understand and respond to shifting consumer needs; otherwise they may go out of business.

This is not the case for the provision of utility (and other essential) services. Utility customers cannot choose their network service provider, nor can they voluntarily choose not to be a customer, given the essential nature of the services delivered. In light of these features, there is a risk that a network businesses will choose services and prices that reflect its own preferences, rather than those of end consumers.

It is also uneconomic to duplicate assets to cater for each and every individual need, and as such there is only a single service provider across a defined region, who provides a common level of service to all (noting there are some nuances). One of the ways we try to mimic the outcome of a competitive market is by requiring these companies to engage with a range of different stakeholders, and incentivising them to do it well.

This lack of competition drives the need for independent economic regulation. This role is to hold the network businesses to account, and ensure that customer needs are being met, and that prices only reflect the efficient costs of providing those services. Under the regulation of energy, this is captured in the National Electricity Objective and the National Gas Objective, which are to promote efficient investment in, and efficient operation of, energy services for the long term interests of consumers, with respect to the price, quality, safety, reliability and security of supply of energy services.

The purpose of any economic regulator is to get the best outcome for consumers. While a regulator may have consumers' best interests at heart, they are not informed with regards to what consumers want nor what they value. Similarly, and despite an unmatched understanding of their network of assets and related services, network businesses do not understand what these needs are, without asking consumers.

While they can all opine that consumers want a reliable service at an affordable price, this notion (and inherent trade-off) needs to be tested with consumers, as their needs are not static. Their needs are impacted by all of the things that are going on in their lives, and their experiences with the energy company and the products/services they receive. As such, engagement with consumers is important to understand their:

- experiences;
- values;
- current and future priorities and needs (reflecting the changing nature of demand and/or transformation in the market; and
- willingness to pay for services.

It is therefore critical that appropriate arrangements are in place that:

- ensure a representative sample of consumers are engaged to understand these experiences, values, priorities and needs; and
- that network businesses, where possible, reflect these learnings in their proposals to the AER.

Consumers are best placed to tell network businesses what they want. When provided with the right information, through the right channels, at the appropriate timing, consumers can directly inform networks on what outcomes they are seeking, their views on options to meet these outcomes and on whether bill impacts are reasonable.

This is reflected in a number of recent changes to regulatory price setting process. In May 2016, the Essential Services Commission Victoria (ESC) identified that the technical nature of traditional regulatory models disenfranchises customers and encourages businesses to spend too much time attending to the regulator and its regulatory processes. To respond to this, the ESC developed the “PREMO” model (Performance, Risk, Engagement, Management, Outcomes) to pivot the businesses’ attention squarely towards their customers. In doing so, the ESC stated that “there will be no successful regulatory outcomes for the businesses if they do not understand the concerns, priorities and preferences of their customers — and then take those matters into account in developing their pricing proposals”¹.

In March 2017, UK regulator Ofwat released a paper² that documented how engaging customers in creating the future improves customer support, customer satisfaction and customer trust. It may also lead to new ideas that help the sector progress more quickly. And having the support of customers tends to facilitate the support of politicians, the regulator, the media and other opinion formers.

Similarly, Ofwat described effective consumer participation³ being the active involvement of customers in the design, production, delivery, consumption, disposal and enjoyment of water, water services and the water environment in the home, at work and in the community. Substitute water for any utility service, and this description remains relevant.

In another paper released by Ofwat in June 2017⁴, they stated that consumer data is also critical to driving better customer service and satisfaction, improve efficiency and encourage smarter network management. This level of influence is critical to ensuring consumers are getting the best deal. Where a network business engages early, on issues of importance to customers, and puts forward its best offer to the regulator, the interventionist role of regulator is minimised. This is because the long term interests of consumers have been understood and addressed by the network in their proposals and subsequent prices.

¹ Essential Services Commission, *A new model for pricing services in Victoria’s water sector*, Position Paper, May 2016

² Ofwat, *tapped In – from passive customer to active participant*, March 2017

³ Ofwat, *Delivering water 2020: Our final methodology for the 2019 price review*, December 2017

⁴ Ofwat, *Unlocking the value in customer data: a report for water companies in England and Wales*, June 2017

To support trust in the price setting process, the regulator needs to remain independent. This means minimising engagement with the network business during the development of its pricing proposals, and not participating in discussions with consumers during engagement. If they did, they may unduly influence the outcomes of these discussions. What this means is that engagement should be carried out by service providers, with impacted end consumers.

C.1 The evolving role of energy consumers

Historically, energy consumers have had a somewhat limited role in the discussion and progression of issues of strategic importance (policy design, price setting, network design and operations, levels of service etc.). Where engagement had occurred, the late timing of the engagement did not allow consumers to materially influence outcomes, or the issues for engagement did not focus on those that were of value or importance to consumers. Engagement was commonly focused on issues of importance to the network business, and the consumer's level of influence was minimal. At other times, engagement was not perceived as genuine, and was completed to 'tick the box' on requirements under the National Electricity Rules. Lastly, consumers were often unaware whether their input had any impact on a service providers' decision making.

The highly technical and complex nature of the regulatory framework made it difficult for consumers and their representatives to actively engage in, and contribute to, the process. Also, many consumer representative organisations had limited funding and resources to do so.

In November 2010, the Consumer Advocacy Panel⁵ identified that there are a numbers of weaknesses regarding the role for consumer advocacy in the energy markets. These included:

- Lack of a national voice;
- Insufficient coordination;
- Insufficient research and data;
- Insufficient skills or access to the right technical expertise;
- Failure by decision-makers to consult adequately; and
- Lack of attention to the overall regulatory framework.

Further, in its proposal for a national energy consumer Advocacy Body (now known as the ECA), Dr John Tamblyn and John Ryan noted that there was a gap in terms of consumer voice in the national energy market⁶.

During the implementation of its Better Regulation reforms, the AER recognised that consumer engagement in energy network regulatory processes in Australia had been limited. Further, it recognised the importance of strong consumer engagement in underpinning its regulatory approach.

Leveraging the model established in the UK by Ofgem, and Ofwat (detailed in Appendix H), the AER established the CCP.

⁵ Consumer Advocacy Panel, *Making Energy Markets Work for Consumers – The Role of Consumer Advocacy*

⁶ Tamblyn and Ryan, *Proposal for a National Energy Consumer Advocacy Body – Final Report*, April 2013

As the AER cannot involve itself in network engagement activities, the CCP's role was to hold network businesses (and the AER) to account, and to act as a critical friend. These roles are described in Section B.3. Its purpose was (and still is) to ensure consumers were effectively engaged, and that regulatory proposals reflected the LTIC. The risk for network businesses of poor/ineffective engagement, was advice from the CCP to the AER that its proposal did not meet the long term interests of consumers, contravening the regulatory rules and potentially risking the outcome of its price determination.

Under both the National Electricity Rules (NER) and National Gas Rules (NGR), the AER must have regard to operating expenditure and capital expenditure factors in setting a network business's allowances. Under these rules, the AER must have regard to the extent to which an expenditure forecast includes expenditure to address the concerns of energy consumers as identified by the Network Service Provider in the course of its engagement with consumers⁷. There are also requirements under the Rules that a regulatory proposal or tariff structure statement must contain a description of how the Network Service Provider has engaged with electricity consumers in developing the regulatory proposal and has sought to address any relevant concerns identified as a result of that engagement⁸.

Since the establishment of the CCP, there has been an evolution in the role of consumers in price setting:

- In 2013, the AER released a Consumer Engagement Guideline for Network Service Providers⁹, which was aimed at guiding service providers in returning consumer interests to the centre of Australia's energy sector;
- Energy Consumers Australia (ECA) was established in 2015, providing a coordinated, federally funded consumer voice for all matters relating to the National Energy Market. We provide more information in Section D.2;
- Reform in domestic and international regulatory arrangements to incentivise and require better consumer engagement (refer Section C.2);
- In a 2017 presentation by outgoing AER Chair Paula Conboy¹⁰ (commonly known as the 'AER 2.0 speech'), Ms. Conboy stated that (the AER) "need to equip consumers to participate effectively, and protect those who are unable to safeguard their own interests". Further, that it is "continually encouraging consumer engagement in the reset process and use our Customer Consultative Group and Consumer Challenge Panel as additional consumer voices".
- A better understanding of and transition towards better practice consumer engagement, where networks are engaging earlier, on matters of importance to consumers and through engagement methods that allow for both qualitative and quantitative research with an appropriate representation of consumers;
- Better practice engagement techniques (i.e. deliberative forums, citizen juries etc.) have allowed consumers to have a stronger level of influence over the decisions a network business is making with regards to future investment, operations, services and prices;

⁷ NER 6.5.6(e)(5A), NER 6.5.7(e)(5A), NER 6A.6.6(e)(5A), NER 6A.6.7(e)(5A)

⁸ NER 6.8.2(c1)(2), NER 6.8.2(c1a), 6A.10.1(g)(2)

⁹ <https://www.aer.gov.au/networks/pipelines/guidelines-schemes-models-reviews/consumer-engagement-guideline-for-network-service-providers>

¹⁰ <https://www.aer.gov.au/news/working-together-to-restore-confidence-in-energy-regulation>

- An uplift in the capacity of consumer representative groups to effectively engage with network businesses during their price setting process;
- A number of network businesses are transforming to become more consumer centric, which is driving changes to how organisations are structured, their strategic objectives, the products and services they provide, and how they operate and invest in their assets;
- The New Reg trial, where the AER, ECA and ENA have launched a joint initiative to explore ways to improve sector engagement, and identify opportunities for regulatory innovation. Under this process the most significant departure from traditional practice is that a Customer Forum negotiates aspects of the regulatory proposal in advance of lodgement with the AER. AusNet Services is conducting the trial of the New Reg Process in the development of its regulatory proposal for the 2021-26 period; and
- The AER has published a draft Small Scale incentive Scheme for Customer Service, which would reward electricity distribution network service providers for improving their customer service, or penalise them if service deteriorates.

In a May 2016 policy paper¹¹, Ofwat noted that engagement is not a one-off exercise restricted to a specific time period in the run-up to a price review. It is a continuous process of learning and responding. Engagement in this context does not necessarily mean proactive contact or dedicated and targeted research projects. A robust, balanced and proportionate evidence base will take account of operational data, and businesses can consider how best to derive insights from business-as-usual interactions with customers. Continuous and ongoing engagement means being open to gaining customer views and feedback across channels, interactions and platforms, and can be driven by customers rather than necessarily being solicited by businesses.

To some extent, the nature of the topic will dictate the type of engagement. There are issues on which it is appropriate, necessary and efficient to engage consumers more extensively, more proactively or in a more targeted way. Others will lend themselves more to gaining insights from operational data and ongoing communications. Continuous engagement will also lend itself to a better understanding of changing customer priorities and expectations and what drives such changes.

What this all demonstrates is an increasing need and sophistication in the role of consumers. Further, that such approaches require significant time and investment to achieve. While a number of these changes have been implemented in the energy sector, there is still a long way to go before:

- these changes are entrenched sector wide and become business as usual;
- consumers are adequately informed and represented in decision making processes; and
- energy sector stakeholders (network businesses and the AER) accept the outcomes of engagement and the views of consumers as valid and appropriate.

¹¹ Ofwat, *Ofwat's customer engagement policy statement and expectations for PR19*,

C.2 How do regulators ensure appropriate consumer influence?

Regulated markets all over the world differ in how they ensure the voice of the customer is reflected and that customers have an appropriate level of influence on the price setting process. Some focus on the appropriateness of expenditure to ensure the lowest cost to serve, and others on incentivising businesses to engage its customers and to agree performance measures and targets that support delivery of their outcome needs.

The following section seeks to provide a high level summation of the role of the consumer, precedent regarding how these arrangements ensure consumer challenge, and the different roles that are undertaken to get the best outcome for consumers. This section is premised on a number of case studies presented in Appendix H.

These roles can vary anywhere between pushing network businesses to engage with the purpose of revealing customer preferences, to providing challenge to the assumptions underpinning their business decisions (appropriateness of renewals budgets, productivity commitments assumed within the operating expenditure forecast etc.). Similarly, this role differs across the development and review of the regulatory submission. We have sought to identify these differences where possible.

Under all of the jurisdictional arrangements we reviewed, direct consumer engagement and the presence of a challenge panel are considered not to be substitutable. In fact, they went hand in hand – engagement is about listening and capturing consumer views; and challenge is focussed on holding parties to account, acting as a critical friend and ensuring that consumer views have been adequately informed both in the submission and the subsequent regulatory determinations. When combined, consumer outcomes are enhanced.

Leveraging this precedent, the following characteristics of effective consumer involvement have emerged, which have informed our findings and recommendations on the performance and role of the CCP.

- Good practice regulatory frameworks are looking to ensure consumer views are unbiased, listened to and responded to, through a multi-faceted framework of direct consumer engagement and councils/challenge groups that hold the network business to account.
- There is not a reliance on one particular form of consumer engagement and multiple ways to gather consumer perspectives are employed. Under certain situations this is effectively complemented by consumer advocates.
- Combining direct consumer engagement and independent consumer challenge during the development of the regulatory pricing submission supports that consumer views are incorporated and responded to. This helps to ensure that there is an effective feedback loop to the original engagement.
- The economic regulator cannot and should not play the role of challenge as it could undermine the credibility and robustness of the decision making process. Regulators should remain at arm's length during the development of the regulatory submission, otherwise it may unduly influence

behaviour and there would be concerns regarding regulatory capture and the ability to evaluate the submission in an impartial manner (consistent with legislative functions). It would be hard for the regulator to be extensively involved in these processes early as it could lead to a perception of them driving the network businesses' processes and/or endorsing elements of its proposals.

- Challenge groups do not substitute for the independent price setting role of the economic regulator, nor should the regulator be required to accept a challenge group's findings. The economic regulator has ultimate responsibility for setting prices based on all evidence provided, and must do so under the frameworks by which they review and determine prices.
- The standard of consumer engagement is constantly evolving and improving, and effective consumer challenge can help promote a culture of continued learning and adaptation.
- Challenge groups play an important 'assurance' role regarding the quality of engagement, and how well the network business has reflected engagement learnings within its regulatory submission.
- Conducting a regulatory determination process in the absence of consumer involvement and challenge would limit the ability to achieve the long term interests of consumers.

A distinction between these precedents is whether the role of consumer challenge is established through formal legislation in addition to the regulator's functions (e.g., USA) or created by the regulator as part of how it exercises its functions (e.g. UK, Australia). This distinction has implications for the governance arrangements, budget and the perception of independence from the regulator.

Another emerging distinction is the potential difference in how publicly owned versus privately owned businesses respond to consumer engagement and challenge given difference in management incentives and corporate strategies.

C.3 What role should consumers have?

Leveraging the discussion above, consumers should have an active role in agreeing (with a network business):

- the outcomes it is seeking for it to deliver;
- the performance levels required to deliver these outcomes;
- options for delivering these outcomes, including the impacts of those options on consumers (i.e. through bills); and
- the tariff structures that it faces and the related prices they receive.

To do this, network businesses need to effectively engage with consumers, and be able to demonstrate to the AER that it has:

- Engaged on matters of genuine interest to consumers;
- Engaged on material decisions to be made;
- Ensured that engagement has taken place prior to decisions being made;
- Employs the appropriate IAP2 participation level for the topic under consideration;

- Considers the needs of a broad section of customer cohorts, for example large users, commercial users, vulnerable customer, culturally/linguistically diverse, ATSI, disabled and other consumers;
- Is accessible to all consumers regardless of distance, literacy and other factors;
- Does not take advantage of strategic, framing, loss aversion or other known cognitive biases; and
- Provides consumers with sufficient time and information to properly consider matters put before them.

Consumers should have influence over all the elements that are negotiable (i.e. network businesses regularly make investment/operational decisions necessary to meet regulatory obligations and/or licence conditions). They should be provided with information that allows them to engage effectively, and through mediums that are fit-for-purpose and allows for appropriate representation of the consumer base.

In a policy statement released by Ofwat in 2016¹², it acknowledged that understanding and responding to different customers' changing needs and requirements over time is not an easy task and requires significant commitment by the companies. Keeping up with increasing customer expectations about quality of service and the way in which services are delivered (for example, using social media) can also be challenging. But where this is successful, customers will really benefit by getting the service they want at a price that is fair and legitimate.

In an environment where consumers are not effectively engaged, a network business may not consider network activities that are particularly relevant to specific regions, or sub-sets of stakeholders. This may mean regulatory proposals that do not reflect a local context, priorities, expectations and needs. This is particularly important in an increasingly decentralised energy network.

C.4 Is there currently a gap?

Noting requirements under the rules to demonstrate how consumer views have been reflected in proposals, and 2013 AER guidance on consumer engagement, there is no explicit requirement on how to engage, who to engage and what to engage on. Further and as discussed, it is not appropriate for the AER, or any regulator, to prescribe the manner in which network businesses should engage with consumers.

Each network business should design its own engagement strategy according to its own context, as there is no 'one-size-fits-all' approach that could be adopted.

While requirements for engagement can be directed and/or incentivised through the regulatory regime, these same incentives/rules cannot force networks to engage appropriately. Regimes need to be flexible to cater for different levels of engagement with consumers, and to adapt such in circumstances where consumers are not being effectively engaged, there are arrangements that supplement this gap.

There is therefore an important role for a group, to work with the network businesses to ensure effective engagement of consumers. This role could be championed by a number of existing stakeholders, however this would create a number of challenges:

¹² Ofwat, *Ofwat's customer engagement policy statement and expectations for PR19*

- The **AER** – it is important for the transparency and appropriateness of price setting processes, that the AER remain independent of a network businesses regulatory proposal development process. If they do not, there is the potential for them to be captured by the business, or for them to unduly influence stakeholders involved in the process. Similarly, there would be no group providing challenge to their decisions and participants' views would likely converge with those required to satisfy the AER. As noted by Trisha McAuley in her 2016 paper¹³, it is the role of consumer advocacy to be partisan whereas regulators will have to balance a range of different interests and evaluate the costs against the benefits of any regulatory decision. The approach to consumer engagement needs to be, and seen to be, truly independent of the regulator. She also goes on to note that the regulator needs to build the capacity of, and provide support to, the consumer representative body. But it must do so without compromising the independence of the consumer engagement and input. McAuley also states that the consumer engagement group needs to work in partnership with the regulator and the industry, but it cannot and should not get too close. It has a role to offset regulatory capture and therefore it is critical that it too does not become captured. Regulators therefore need to be clear and honest that consumer interest representatives have not been 'captured' by the regulator themselves or the regulated business/industry;
- The **ECA** or other consumer representative groups – While the capacity and understanding of these organisations to effectively engage with network businesses has become more sophisticated, there are still challenges regarding availability, resourcing and funding. None of these groups has appropriate representation across all jurisdictions, and the demands on their time is increasing significantly.
- A network business's '**Customer Consultative Committee**' (CCC) – each business commonly establishes a CCC (or some derivation of this) to challenge and influence the planning and implementation of a network business's customer engagement program, to help interpret research findings, to inform and influence business decisions and improve communication. These businesses seek the participation of interested stakeholders from the market, set the agenda and fund participants for their time. There would be a concern that a CCC may not be willing to challenge the body they are responsible to, and that the network business would seek to drive their agenda. Although the same concern could be levied at the CCP.

Until the market gets to a level of maturity where effective consumer engagement is business as usual, and consumer trust has been established and demonstrated, there is likely a need for arrangements to be in place that hold the network businesses to account regarding engagement with consumers. This needs to be completed by a trusted party that:

- Can observe and participate in engagement activities;
- Is seen as independently acting in the interests of consumers;
- Understands what good practice looks like;
- Is willing to challenge the network businesses (and the AER); and
- Can act in the role required to get the best outcome for consumers.

¹³ T McAuley, *Consumer engagement in regulation – What does good practice look like?*, February 2016

Without an organisation taking responsibility for this role, there is a real risk that the best outcome for consumers may not be achieved. As detailed by Cosmo Graham in his 2016 paper¹⁴, to provide independent challenge to positions and approaches taken by regulators and companies, they will need access to information, in a timely manner, and resources to help them analyse the information.

C.5 When is the right time to challenge?

As noted, network businesses are starting to engage far earlier in the price setting process, through a number of different mediums. This means that engagement strategies are being developed, in some circumstances, years in advance of when regulatory proposals are being submitted. Also consumer engagement is a continuous process, as is the regulatory cycle

These strategies commonly require a multi-stage process for (or some derivation of):

- Understanding customer values and needs;
- Deep diving on issues of importance;
- Discussing options (i.e. service/cost trade-offs);
- Deliberating on/negotiating outcomes; and
- Defining and recommending solutions.

This provides an opportunity to consider when is the right time for a Challenge Panel to be involved, to drive the best outcome for consumers. There are four roles that a CCP should undertake during a price review, being:

- To monitor, assess and where appropriate, inform network businesses' consumer engagement activities ('observe and inform');
- To assess network proposals and provide assurance on the effectiveness of engagement and whether consumer views have been appropriately reflected ('assurance');
- To provide advice on consumer perspectives on issues related to the network determination and to challenge the AER to ensure that consumer views have been fully accounted for in decisions ('challenge').
- To help inform the AER's development of positions through lateral reviews ('laterals').

Currently, the CCP participates in engagement activities, both in a passive (observatory) role and active (participatory) role (refer to Section B.3). This allows them to have confidence when advising the AER, on whether engagement activities have been genuine and effective, and whether consumer views are being reflected in the network business's proposals.

They do not currently have a role in reviewing and advising over the development of the engagement strategies. One of the challenges they face is the timing at which they are involved in the engagement process, meaning that if they feel that engagement strategies could be improved, there are constraints around what the network business can do, as it cannot unwind its process or dismiss conversations already held.

¹⁴ C Graham, *Customer engagement in the regulation of network industries*

To get the best outcome for consumers, the CCP should review the network businesses engagement strategies, and advise, prior to implementation. Their continued role during implementation is also important to ensure that:

- networks are delivering on their strategies;
- activities allow for consumers to be heard and listened to; and
- the network business is considering and responding to the feedback provided.

This process for engagement and the outcomes developed are only meaningful if this feedback is reflected in the proposal lodged with the AER. The CCP is uniquely placed to advise both the network businesses and AER on these matters, due to its role during the development of the proposal. Without its advice, the AER cannot be sure that a network business's proposal does reflect the needs to its customers, nor whether its engagement activities were effective.

On this basis, the CCP should be involved early to influence the engagement strategies, and throughout the development/review of the proposal. This role may not be the same for each business, due to differing levels of effectiveness and consumer influence over the process.

Appendix D: Changes to the operating environment

In conducting our assessment of the CCP and preparing our findings, we have been conscious that the regulatory arrangements and operating environment that the AER and CCP operates under has changed significantly since the established of the CCP. We have considered how this could impact on the delivery of the objectives for CCP plus whether such changes influences where the CCP can best deliver value for customers.

The assessment of these changes have helped inform our consideration on the question of whether there is still an on-going need for the CCP which is discussed in the next section. For example, since the establishment of the CCP we have had the ECA established, which has a clear role and governance structure to represent the perspectives of consumers. Further there has been significant progress in the industry on customer engagement and incorporating customer preferences into regulatory proposals. Therefore it is prudent to consider how the CCP can best deliver value given these changes to the external environment.

The changes relate to three board themes:

1. the economic regulatory framework for networks
2. the increased role and recognition of customer engagement and advocacy
3. Transformation of the energy sector through increase renewables and distribution energy resources impacting on the role and operation of networks

We have then considered how this evolution has and will impact on the role of the CCP going forward.

D.1 The economic regulatory framework

As explained earlier, the CCP was established as part of AER's Better Regulation program. This program included a range of measures to improve the approach to the regulation of network's revenue and pricing. This reform program built on the AEMC 2012 Rule Change and improved the incentives, transparency and decision making framework for network determinations.

Since then there has been further material reforms to how the AER regulates networks and conducts the five yearly regulatory determination process. Such reforms in turn influences the scope and nature of issues that the CCP considers during a network determination process. These changes include:

- On November 2014, the AEMC made a new rule to require network businesses to set prices that reflect the efficient cost of providing network services to individual consumers. This will allow consumers to make more informed decisions about their use of electricity. This changed the

framework for determining network tariff design for the five year control period and placed more emphasis on engaging with customers on tariff changes.

- In October 2017, the Commonwealth Government passed legislation that removed the ability of energy networks to appeal AER pricing decisions.¹⁵ Since 2008, network businesses succeeded in 31 appeals, which put upwards pressure on network costs. The abolition of limited merits review is expected to put downwards pressure on network costs over time, however as it was only recently abolished, it is too early to determine the extent of this effect. It is envisaged that this could change the dynamic of the discussions between the AER and the regulated businesses plus alter the materials and analysis which business submit to the AER during the process.
- In late 2018, the Council of Australian Governments (through the COAG Energy Council) achieved legislative amendments to replace the non-binding AER Rate of Return Guidelines with a binding legislative instrument. This instrument sets out how the estimation of the rate of return will be automatically applied in each regulatory determination without any additional exercise of discretion. This removes the extensive discussions and analysis on estimating rate of return which was a common feature of network determination process.
- In May 2017 the AEMC published a final rule that enables more competition in the provision of transmission connections, while maintaining clear accountability for the safety, security and reliability of the transmission network. The rule also places new obligations on transmission businesses to adopt a more consistent, transparent and coordinated approach when planning their networks.

D.2 Increasing role of consumer engagement and advocacy

Over the same period there has been increased recognition of the value from engaging with customers and incorporating their views into network proposals. This has been driven by a number of developments including evolving business attitudes by networks, customer sentiment, regulatory obligations, plus increasing funding for customer advocacy.

The establishment of the Energy Consumer Australia (ECA) in 2015 as an independent national body has helped place customer advocacy at the centre of energy policy reform. The role of the ECA is to provide a co-ordinated, evidence based customer perspective to National Energy Market (NEM) matters of strategic importance or material consequence for energy consumers.

The ECA is an independent body established through an initiative of the COAG Energy Council to provide residential and small business consumers with a strong and influential voice in national energy matters. The ECA has been an active participant in network determinations providing analysis and concerns in the interest of customers.

Since its establishment, the ECA along with other consumer groups, have increased their activities and involvement in network determinations. The ECA now seeks to provide the AER with technical submissions during each price review and in doing so, often engages technical consultants to do this.

¹⁵ For more information see: www.environment.gov.au/minister/frydenberg/media-releases/mr20171016.html.

This trend is also reflective of the increasing role of the consumer in energy policy decisions as described above.

In its 2013 Inquiry Report¹⁶ the Productivity Commission noted that the:

Consumer Challenge Panel could act as an effective voice for consumers in the short run, until the establishment of the national advocacy body. However, given their strongly overlapping roles, the risk of confused representation by the same consumer constituencies, and the desirability that the AER be seen as a neutral player, there are compelling grounds for the Panel to be absorbed into a single, independent statutory consumer body in the medium term.

Evidence gathered through this engagement has not identified a material overlap in responsibilities between the ECA and CCP. Instead stakeholders generally thought that the CCP role complemented the ECA remit and raised the potential for better coordination to ensure the optimal outcome for consumers.

During this period, network business have made substantial progress in their own customer engagement programs during the development of their regulatory proposals. This has been aided by guidance issued by the AER.

In August 2017 the AER, Energy Networks Australia (ENA) and ECA announced a joint initiative to explore ways to improve sector engagement and identify opportunities for regulatory innovation. The goal of this initiative is to ensure that customers' preferences drive energy network businesses proposals and regulatory outcomes.

The project has included the development of a model for a different approach to revenue resets which is being trialled by AusNet Services. This is a process of 'learning by doing' and alongside it the project team is conducting a live engagement process of consultation to refine the proposed approach from the lessons of the trial and further contributions from stakeholders. This includes releasing project monitoring and insights reports at significant milestones.

D.3 Energy transformation impacting on network services

The electricity market continues to transform to a lower emissions power sector, with an increasing quantity of wind and solar generation capacity entering the market. The transition from large centralised synchronous generators to smaller decentralised non-synchronous generation resources creates a broad range of issues related to reliability, system security, participant bidding and contracting behaviour, and the economics of the electricity system.

There are also expected to be more customer-connected distributed energy resources like rooftop solar and storage, a more active market for demand response, and the growth of electric vehicles as a potential source of increased demand and behind-the-motor storage. While these broad directions are

¹⁶ Productivity Commission, Electricity Network Regulatory Frameworks, Report No. 62, 2013. Canberra.

generally accepted, there are varying views as to the timing of such developments and the specific impacts they will have on the energy market and consumers.

The recent history of the electricity market has been dominated by a number of policy debates on how to manage this transformation. These include the costs associated with investments in new network capacity and higher levels of reliability; the implications of the rapid take-up of rooftop solar panels by households; how to understand and respond to the unanticipated fall in average demand from the grid due to energy efficiency measures and the decline of manufacturing; and efforts, with mixed results, to move to a cleaner generation mix.

In the past 10 years, demand levels have on average been constant or at low growth. AEMO forecasts that consumption in the NEM is to remain relatively flat, declining by 1.6 per cent over the ten year period to 2026/27.¹⁷ While there is an increasing number of electrical appliances being used by households this is projected to be offset by the use of more energy-efficient appliances and household energy generation from rooftop PV.

These developments are changing how networks are being utilised, their expenditure drivers and the nature of the services which networks are being asked to deliver. Therefore there are challenges and opportunities for networks under this energy transformation and these issues are being reflected in the regulatory proposals and the AER determination considerations.

Due to the scale and pace of change taking place across the energy system, there is an increasing need for better consumer engagement. How consumers interact with network businesses, and who will need to interact with networks will also change. For example, there are a number of households that have invested in onsite solar panels, generating electricity to support individual use, but also for selling back into the grid. We are starting to see new business models developing, through regulatory change and the rollout of smart meters, while a future of increasing penetration of battery storage may provide flexible and inexpensive storage to smooth out daily peaks demands. As consumer needs change, options to address these needs will grow, including more alternatives to traditional network investment solutions (such as DER).

Understanding these changes and the implications they bring for network businesses and consumers requires much deeper engagement than we have seen previously. These business need better insight on the changes taking place around them, and more challenge to their assumptions on how best to respond. This will mean an enhanced role for consumers through engagement going forward and a greater need to ensure that customer preferences are clearly identified, evaluated and incorporated into regulatory decisions.

D.4 How might this impact the role of the CCP now and into the future?

Based on the three broad changes discussed above, this section explores the implications for the role of the CCP and whether this needs to be adapted given these changes.

¹⁷ For the neutral demand scenario described in the 2018 Electricity statement of opportunities

Since the establishment of the CCP we have had the ECA established, which has a clear role and governance structure to represent the perspectives of consumers.

- i. The ECA already provides the AER with technical submissions on each resets (it engages technical consultants to do this). Is there a need for the ECA and CCP to duplicate this function?
- ii. The ECA already has processes in place to engage with consumers that the AER / CCP doesn't have. Would the function of assessing whether a proposal genuinely reflected the consumer perspective better sit within the ECA (given that the AER does not have established processes to provide this linkage)?

Changes to the economic regulatory framework for networks including the removal of limited merits reviews

These changes identified in Section D.1 have potentially helped to better utilise the growing importance of the consumers' role in energy regulatory decisions as discussed above. By changing the dynamic and nature of determinations, they have provided more space, momentum and flexibility for both network businesses and the regulator to recognise and build on consumer views in price resets. Previously, a lot of time and energy was committed to the possibility of merits review by the network businesses and regulators. Now they can re-prioritise this energy and resources to focusing on consumer engagement.

This could contribute to a reduced need for CCP involvement in the price review process. The businesses and the AER could engage under a better framework to understand and deliver on consumer interests. The New Reg initiative could also change the dynamic of resets and the need for the CCP.

Overall, while changes to the regulatory framework have removed some of the complexity, and potentially some issues that consumer representatives and bodies like the CCP have historically gotten involved in (such as rate of return), the need for assurance on the effectiveness of engagement strategies and integration of feedback into the proposal has not diminished. As consumer engagement strategies become more sophisticated and provide consumers with greater influence over the proposals contained within the regulatory submission (e.g. negotiated settlement under New Reg), the role of the CCP pre-lodgement diminishes, leaving it to focus purely on post-lodgement challenge of the written proposal and AER decision. Further, the strength of this role will reflect the availability and capacity for the ECA to provide appropriate challenge to both the network business and the AER. A more active ECA may diminish the post-lodgement role of the CCP

Until this point in time, the CCP's role remains valuable.

Increased role and recognition for customer engagement and advocacy, including the establishment of Energy Consumers Australia

The involvement of the ECA and other consumer groups in network price resets creates the possibility of duplication with the CCP activities. As an example, the ECA regularly provides submissions on most of the price resets and issues-specific investigations. There is also a risk of inconsistent and conflicting views on how consumer interests are best served and hence potential confusion in the sector and amongst consumers. This would be counter-productive and undermine the representation of consumers in the AER processes. However generally stakeholders felt that both the ECA and CCP had played different but complementary roles, both of which provided value for consumers.

There is an important distinction between consumer advocacy and consumer challenge, and hence the different frameworks and objectives under which these activities are performed. Challenge requires a more considered and neutral assessment of all the issues, ensuring the rigour of the process and raising concerns and/or analysis to better ensure that consumer interests are being considered. Conversely advocacy reflects an active desire to influence outcomes for particular interests.

One of the benefits of the CCP's existence is its ability to act as a conduit between the AER and network businesses, aligning with the AER's strategic intent of acting more collaboratively with the network businesses (without compromising their independent price setting role). This is a function that cannot and should not be played by the ECA.

Noting this, the role of the CCP should be flexible to reflect the availability, resourcing and intended role of the ECA, to avoid any future duplication of activities. Further, as the ECA's advocacy capability in energy network pricing matures, their ability to influence network businesses will be enhanced, diminishing the extent of tasks where the CCP can provide value.

For example, were the ECA to identify their intention of actively challenging network businesses during a price review, the role of the CCP may be less active, focusing on their ability to provide assurance pre-lodgement. Post-lodgement, an active ECA may be better placed to challenge both the AER and network businesses. In these circumstances, the CCP may also provide support to the ECA (for example the provision of information, guidance on the regulatory framework etc.) to carry out this role. Likewise, involvement of the ECA in the network's engagement processes and the preparation of their regulatory proposal would lessen the need for the CCP to conduct an assurance assessment on the regulatory proposal.

There are also circumstances where the ECA may not have local resourcing or funding, or their objectives change, shifting their priorities to other issues. Access to confidential information provided by networks during the submission may also be a constraint. Under these circumstances, the CCP's role may be more active, to ensure end consumers are engaged appropriately and importantly, that the network has adequately incorporated the views into its expenditure plans.

What this all means is that the role of the CCP should complement the role of the ECA. There is unlikely to be a one-size-fits-all dual role, but a coordinated approach would avoid duplication, and result in the optimal outcome for consumers. Further, the direction provided to the CCP on its involvement during any determination should have regard to the approach of the ECA. Generally stakeholders considered that the CCP currently complements the ECA and there is no inefficient duplication.

Energy transformation changing the role and operation of network businesses

This trend is resulting in different expenditure and operational needs for networks to consider and for the AER to evaluate and regulate. There is increased uncertainty on how energy networks will be utilised in the future and what services are needed to meet consumer requirements. Further network tariff reform will continue and play an important role in fostering more load flexibility on the demand side.

Understanding these changes and the implications they bring for network businesses and consumers requires much deeper engagement than we have seen previously. Due to the relatively immature nature of distributed energy resource (DER) solutions, it is critical for networks to engage consumers to understand penetration and likely consumption decisions. Understanding how customer will react and respond to different tariff structures will also be important. Similarly, it is important that the

evolving nature of the market is adequately reflected in network businesses' regulatory outcomes, to provide appropriate flexibility for these changes.

These businesses need better insight on the changes taking place around them, and greater challenge to their assumptions on how best to respond. This will mean an enhanced role for consumers through engagement going forward and therefore a potential increasing role for the CCP to continue to challenge the network business to ensure it is adapting to the changing environment and reflecting consumer needs.

Overall these changes make it more important for a consumer challenge perspective on network proposals and the AER decisions. Having a consumer lens on the technical issues will help to ensure that outcomes align with consumer interests. However under such market transformation this is an extremely difficult task and the effectiveness of the CCP in this will depend on the skill-set and experience of its members.

These changes can be demonstrated in the increasing call by the AER for the CCP to become more involved in lateral reviews, where the AER considers an issue that has an impact across multiple regulated businesses.

D.5 Summary

On balance, we consider that these changes in the external environment does not totally remove the need for the CCP. Instead they reinforce the need for the CCP role and involvement in the determination process to be adaptive and for the members skill-set to be changed. There are a number of reasons for this which are explored further in the next section. In summary, the main reasons for our position is that:

- Being able to challenge how the networks have interpreted and incorporated consumer views into their expenditure forecasts and plans is crucial especially as the network operating environment changes over time. While it could be possible for the ECA or even the AER to provide this challenge, having the CCP provides a highly skilled and specific focus to this task should only complement ECA and AER thinking. Therefore having the CCP provide its views and assurance once the regulatory proposal has been submitted will be important.
- The lack of consumer engagement and accessing consumer voices should no longer be a concern. However the CCP was never meant to be act as a permanent substitute for consumer preferences. Therefore even with the increased consumer engagement and advocacy, the CCP still has a role to play in ensuring that consumer views are adequately reflected in the submission and decisions plus that the outcomes will deliver on consumer views. It is not necessary for the CCP to be the source of gathering consumer views to do this role effectively. Instead having experienced and technically skill members to assess these issues and provide advice should deliver value for consumers.
- There are also circumstances where the ECA may not have local resourcing or funding, or their objectives change, shifting their priorities to other issues. Hence there are administrative and funding advantages to the AER to maintaining the CCP within its organisation. The majority of stakeholders saw the ECA and CCP as effectively complementing each other and not creating duplication.

A key consideration supporting this finding on the continued value of the CCP given these external changes is that changes will be made to the performance management and governance arrangements to the CCP. As identified in our stakeholder consultations and assessment there is a need to provide more direction and monitoring to optimise the role of the CCP. In the absence of any changes there is increased risk of duplication with consumer advocates plus the CCP outcomes may not be as beneficial.

Appendix E: Stakeholder engagement feedback

As discussed in the Introduction, we engaged four different stakeholder groups: the AER, current and former CCP members, industry stakeholders and consumer representatives. This engagement was completed through a series of workshops, one-on-one interviews and an online survey. This appendix begins with a summary of feedback on the themes of roles, objectives, governance and membership which is also the structure of Appendix B. It then moves on to investigate the key findings from our engagement with each of the four stakeholder groups.

The survey, and responses provided, are documented in Appendix I. Some of the statements made in this appendix come from notes taken during the interviews and workshops; other assertions are supported by the responses to the online survey. Where statistics from the survey are provided, such as *“More than half of responding staff (53 per cent) nominated one of the two original roles of CCP as being the most valuable. A further 19 per cent nominated the lateral sub panels”* the reader will be able to find the actual survey output histogram or table in Appendix I, which is structured in the same way as this appendix.

E.1 Summary of feedback

E.1.1 Key messages

- Engagement was comprehensive. Qualitative and quantitative techniques were used.
- CCP II has been more effective than CCP I. Average agreement with the notion that the CCP helps the AER make better regulatory determinations has increased from 5.4 to 7.1 out of ten, a dramatic improvement.¹⁸
- CCP has improved, however that is where agreement among stakeholders ends. On other issues either there is relative unanimity within each group, but the groups did not agree with one another, or else there was no agreement even within each group.
- CCP is not uniquely capable of performing any of its current or potential roles
- The only role which CCP is the most competent group at performing is in being the consumer advocate where there is a lack of consumer representation and advocacy groups (i.e. advocate of last resort).

¹⁸ There are various caveats that we could apply to this increase, such as the increased sample size, the makeup of the sample and the survey context. However, such is the size of the increase that we feel confident in our observation that a genuine improvement has been made regardless of methodological considerations.

- All of CCP’s current and potential roles create great value and are becoming more rather than less important.
- There was no clear agreement on what role/s CCP should take in future, either within or between stakeholder groups.
- Stakeholders appreciate the lack of agreement on the future of the CCP. This review was generally welcomed. There was also appreciation that once the future role/objectives of CCP were defined, a range of other changes would logically flow in areas such as membership, governance and outputs

E.1.2 Roles and objectives

This was an area with a distinct lack of internal agreement within each stakeholder group. Though the original two aims of CCP received the most support, there were significant numbers (a majority in most cases) of respondents in each of the four groups who nominated something else. Even among the nine CCP responses there were seven different answers to the question “if the CCP could only perform one task, what would it be?” For this reason we can say with confidence that there is no universally popular future role/strategy for the CCP. We point the reader to the relevant section in the discussion of feedback from each group since so much diversity was apparent.

Survey question “If the CCP could only perform one of the tasks described, which should it be?”
 n=101

Category	Percentage agreement
Advising the AER on whether the network businesses’ proposals are in the long term interests of consumers.	29
Advising the AER on the effectiveness of network businesses’ engagement activities with their customers and how this is reflected in the development of their proposals.	24
Engaging directly with network business before lodgement to improve the quality of proposal and presentation of consumer views.	9
Providing the AER with advice on lateral" issues which affect all network businesses."	18
Facilitating negotiation between network businesses and their consumers.	6
Increasing the technical literacy and capacity of consumer advocates.	6
Acting as the “consumer advocate of last resort” and negotiating directly where consumer advocacy in a jurisdiction is lacking/absent.	9

Further data on this question can be found in the analysis of each stakeholder group, below.

Degree of involvement and flexibility of approach

Our recommendations earlier in this document account for the various views received on the topic of whether the CCP should be an active participant in resets or a passive observer. CCP members generally erred towards a more interventionist role, AER responses were also skewed towards active involvement whereas network responses preferred a more passive role. When pressed on the topic in workshops and interviews, there was far more agreement. The issue for many arose from a “one size fits all” approach by the CCP regardless of the maturity of the network businesses. However, some network respondents did single out the topic of “overreach” by CCP, particularly when (in the opinion of the network) the CCP members should have held back due to lack of local knowledge.

Lateral sub panels

Feedback was varied both within and between groups on this topic. Some of the differences were due to different levels of exposure to lateral sub panels. However, in interviews most stakeholders agreed that a funding model where laterals effectively compete for budget with reset work was imperfect. The benefits of greater flexibility were noted by a number of stakeholders, particularly CCP members who had thought deeply about how to maximise the value of the Panel.

E.1.3 Governance of CCP

The difference between a challenger and a critic is often one of style. Most stakeholders had experienced constructive working styles from the CCP and a few reported that CCP members had been overly antagonistic or that they dominated the conversation at the expense of local consumers/advocates. Though a great majority had positive experiences, the lack of leadership and “tone from the top” at CCP has been addressed in our recommendations.

On governance, there was general agreement that improvements were necessary, many of which have been captured and built upon in our recommendations.

We have recommended a change in governance arrangements which includes a Steering Committee and a Chair. During the engagement most of the questions asked were open rather than closed, encouraging exploration of ideas and sharing of opinions. Therefore, the questions “should there be a Steering Committee?” and “should there be a chair?” were not explicitly asked. However, feedback pointed to challenges of culture, style, leadership and direction that are all addressed by our recommended future structure. CCP members were the only group that did not explicitly tell us that the group did not need a “first among equals” – nonetheless they did articulate some challenges that an acknowledged leader would address.

On the topic of a Steering Committee, a lot of feedback suggested that benefits would arise from a more collaborative approach to agenda setting, though once again the exploration was more aimed at investigating the strengths and shortcomings of the current system than designing future structures; therefore the lack of suggestions about a Steering Committee shouldn’t be taken as an indication that the idea will meet with resistance.

E.1.4 Membership

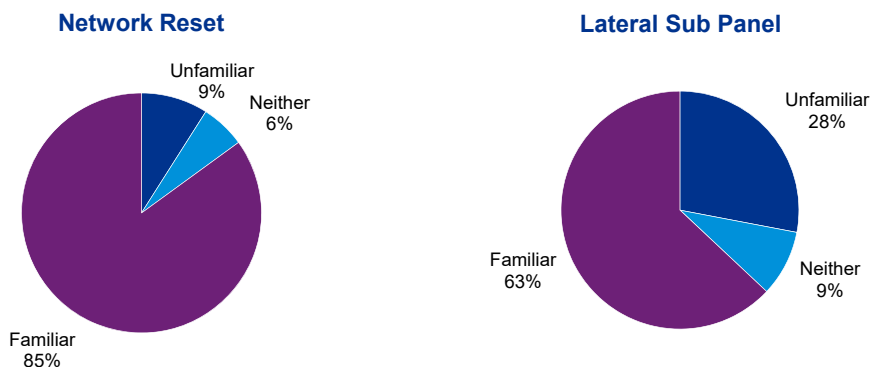
The topics of role and membership are interrelated. The requirements of CCP members can’t be articulated until the future role of the Panel is clarified. Feedback was similar from most groups on this topic, with a majority indicating that a balance of skills across sub panels and the CCP as a whole was desirable. Generally, network stakeholders wanted a more consumer oriented CCP, and consumer stakeholders wanted a more technical CCP.

This review has outlined a future role/objective for the CCP, and proposed membership competencies/seniority to match. The only negative feedback on the notion of two tiers of membership came from some current CCP members, who expressed the view that such a structure might erode the equality and peer support that they value.

Other than that reservation, a membership plan which is driven by and aligned with the need for budget restraint and flexibility of role is uncontroversial.

E.2 AER feedback

Fifteen AER staff attended a facilitated workshop during Phase Two of this review. Thirty-two AER staff responded to the online survey. Participating staff were from all levels of the organisation and a variety of Divisions. This meant that some AER survey respondents (nine per cent) were not familiar with the CCP’s work on a price reset. Still, more (28 per cent) were unfamiliar with the CCP’s lateral sub panel work. The charts and tables from which statistics referred to in this section are drawn can be found below and in the relevant part of Appendix I.



Roles and objectives

On the key question regarding the single most valuable function of the CCP, AER staff views were varied. Every one of the seven potential tasks attracted at least two out of the 32 survey respondents. More than half of responding staff (53 per cent) nominated one of the two original roles of CCP as being the most valuable. A further 19 per cent nominated the lateral sub panels.

A majority of AER staff saw each of the seven roles/tasks as likely to increase in importance in future. The two roles where there was the most agreement about increasing importance both scored an average of 5.5 out of seven on the seven point scale. The first was an original role, advising the AER on the effectiveness of network businesses’ consumer engagement activities and how this is reflected in the development of their proposals. However, 51 per cent of AER staff disagreed to some extent with the notion that CCP is the most able/competent group to perform this task; and only 19 per cent agreed to any extent that CCP is the only body which could perform the task. “...We still have a long way to go till we can have confidence that consumers are supported to engage, networks are engaging in a meaningful manner, and this engagement is impacting regulatory proposals and business practices. So I think we will still need the CCP for a while to come....”.

The second role most likely to increase in importance was increasing the technical literacy and capacity of consumer advocates. “The CCP value add is largely educating other consumer advocates of the AER assessment techniques...” Though appreciated, less than a quarter of AER staff agreed to any extent (5, 6 or 7 on the seven point scale) that CCP was the most able/competent group to fill the role.

“I also think that (while outside its formal role) the work of the CCP to help consumers understand and engage with regulatory and technical processes has been valuable...”

Though many AER staff appreciated CCP ‘upskilling’ of consumer advocates, they regularly expressed the assumption that once upskilled, these consumer advocates would fill the space currently

occupied by CCP. “...I think the CCP going outside its role on a sporadic basis to build the technical literacy and confidence of underfunded consumer representatives and advocates in some areas has been invaluable. But they then need to vacate this space and allow these reps and advocates to apply these skills and the knowledge of their consumers' experiences and preferences to engage with businesses...”

“The existence of ECA and the growth in well-informed consumer organisations in this area both mean that the need for the Panel is reduced. ...” However, in CCP and consumer feedback a constant theme was that despite the best of intentions, consumer groups are ill funded to participate fully. Due to this funding asymmetry, the assumed future obsolescence of the CCP may not be feasible.

The evolution of resets will change the requirements of the CCP

Like other stakeholder groups, AER staff appreciate that CCP's old roles may diminish over time. The “Move towards negotiated settlement model may mean the CCP is no longer needed....”

“The CCP has been a very successful initiative, but may be best viewed as a transitional mechanism to jump start consumer engagement in Australia.”

Nevertheless, none of the AER staff who responded to the survey disagreed with the statement “Even though network businesses are getting better at consumer engagement, in the future there will still be an important role for a group to provide assurance that the engagement was authentic and of appropriate depth”

Other preferences for what CCP should do in future were raised by AER staff. These included:

- helping AER understand consumer preferences for trade-offs;
- engaging with end users directly;
- when the business is mature a “tick box” CCP is all that the AER needs;
- CCP have to fit in with the rules, and the rules don't allow the AER much room to discriminate based on the quality of engagement;
- in problem resets AER needs much more action from CCP;
- there is value in the assurance function that CCP perform;
- CCP should provide opinion, not advocacy;
- CCPs role in addressing information asymmetry between consumers and networks is very important; and
- CCP should facilitate and influence on some occasions.

There were also comments about what CCP should not do:

- Little value is gained by the AER from CCP's technical expertise;
- If a network business has a consumer forum then CCP involvement in the reset is unnecessary;
- CCP does not need to be involved in resets where the business is mature; and
- Since CCP do not commission their own research they do not and should not speak on behalf of consumers.

Consumer advocate of last resort

AER staff generally agree that CCP should be available to fill the role of consumer advocate where no capacity exists in a jurisdiction.

Activity on lateral sub panels

“CCP’s engagement on lateral issues has been excellent. Although not technical experts, they provide different views on approaches to issues, question the AER’s and NSP’s positions and put forward reasonable and workable solutions to complex issues.”

“I don’t think every reset needs a CCP to interrogate the network business’ submission - isn’t that the role of the AER? I would think they could be better used to help work through lateral issues”.

“...the PTRM and Rate of Return subpanels that provided lateral advice to the AER was invaluable. The AER mostly agreed with the numbers and justifications put forward by the CCP in these subpanels...”

This praise is not unanimous. During the workshop the point was repeatedly made that CCP members are not technical experts; a comment which surprised other members of the workshop who added that CCP members are not overly “consumery” either. Both these comments demonstrate a different understanding to that of CCP members, who were abundantly clear that CCP bridges a gap rather than holding themselves out as having superior domain expertise.

Participant or observer?

The survey results from AER staff indicated a preference towards active participation by the CCP in resets. Fifty-seven per cent of respondents erred on the side of activity, twenty per cent on a balance, and the remaining 23 per cent preferred passive participation. This quantitative question belies the greater unanimity which was evident elsewhere. In general AER staff would like to see a flexible approach driven by the perceived maturity of the network businesses’ plans and performance, rather than a one size fits all approach. None of the survey respondents indicated a preference for giving the same level of attention to all resets.

Clarity of role

The strong preference for a move away from standardised activities on resets is not matched by a desire to provide CCP members with freedom. Three quarters of AER staff want the role of the CCP to be well defined (1-3 on the nine point scale) and only three per cent (one person) erred on the side of freedom (7 out of 9 on the nine point scale).

“...I would suggest fit for purpose arrangements could be put in place that will differ depending on the resets.”

“...Allocate CCP sub panel members per issue, so it aligns with the strategic priority of the AER.”

“... I am leaning towards the view that the involvement of the CCP should be driven by the context. If the network and its consumers are engaging authentically and constructively, there’s little need for challenge...”

“...CCP III can be more focused. For example, if there is no engagement in NT and no consumer voice then the CCP are essential there. The same goes for ‘problem’ resets where the early engagement of the CCP still has impact. However, if Victoria is moving towards a New Reg model with their own consumer forums then the CCP is not needed there/ or are only needed in a very

supervisory checklist/clipboard type of role (this means less days allocated as well, especially less days allocated before the proposal is due).”

In discussions, AER staff indicated a strong preference for the Statement of Works for sub panels to be clearer.

“...I think the CCP objectives need to be clear and all parties need to be aligned. I think there are significant CCP governance issues that need to be addressed for the CCP to be effective and accountable.”

Governance

Support for a move toward a differentiated approach to resets was matched by appetite to share (but not devolve) responsibility for setting CCP priorities with most AER staff agreeing to some extent that “CCP priorities should be set collaboratively by representatives from stakeholder groups, not exclusively by the AER” (5.1 average on the 1-7 agreement scale).

“...There should be a 'triage' of issues for resets and then a decision on whether there is a need for CCP involvement and the scope should be defined as to what issues they need to be involved with.”

An obvious party to this collaborative priority setting would be a CCP leader/first among equals. This was not canvassed in the survey but in the AER workshop no opposition to the idea was expressed.

Budgetary discipline was an often-mentioned bugbear of AER staff. It was generally agreed that collaborative priority setting and a CCP leader would both be likely to improve budgetary rigour. In discussions there was an underlying point that all CCP sub panels effectively compete with one another for budget.

“...I believe the CCP are better if they focused on problem resets or resets where there is no other consumer engagement and leave the NSPs that have more customer work (such as AusNet) aside. The days gained from this can be focused on laterals where they add the most value.”

It was also accepted that some CCP roles add more value and require more seniority than others.

Conflicts of interest

Many AER staff had little knowledge of at least one of the CCP's role on resets, role on laterals, or governance arrangements. As such it is not surprising that around one third of survey respondents did not express a view on whether “CCP members are free from conflicts of interest, or manage any real or perceived conflicts of interest appropriately”

Of the remaining two thirds, opinion was evenly divided. One third agreed to some extent with the statement (5, 6 or 7 on the seven point scale) and one third disagreed (1, 2 or 3 on the seven point scale).

“...a lot of the CCP members have other roles with potential conflict of interests. More recently, some of the CCP members have been paid by businesses for consulting work related to their regulated businesses....”

“...I am aware of situations where the CCP lobbied for work that could be in the LTIC but only if they and their friends would get paid to do it regardless of whether they would best contribute....”

Membership

Presently many CCP members are neither deeply technical nor deeply embedded in consumer engagement. AER staff would like to see an even balance between technical and consumer skills in future CCPs.

On the topic of behaviours, a workshop participant noted sometimes CCP members don't challenge for a reason, they challenge for its own sake. On the other hand, a survey respondent wrote "...Given it is the CCP's role to challenge the AER, it does not seem appropriate that the AER employs the CCP."

Challenge

There was little doubt among AER staff that the CCP has had an effect on the AER. Though the words "critical friend" have largely left the lexicon of stakeholders, CCP are acknowledged for bringing new thoughts to the table. They also noted negative effects.

"... [CCP] has advocated for reviews and changes in approaches that we have responded to. In addition, the CCP's questions provide another point of challenge to our thinking."

"Apparently, doing 'deals' with network businesses are what the CCP have introduced into the AER culture which might take years to unwind..."

"...[CCP] provide another lens/opinion in addition to the networks and the AER. While at times there has been difficulties with the CCP (from the AER's perspective)... I believe these issues have been more about the personalities/people on the CCP rather than the function itself. The function is really questioning what we do... and when that question gets asked our approaches, our methods, our outcomes are forced to get better..."

"Yes, it [CCP] has put consumer views more front and centre in AER decision making, which is positive...."

There are complaints about style coming from AER and CCP. Clearly, the best outcomes arise when challenges are made with empathy from the challenger and openness from the challenged: "...[CCP] need to understand that challenge should be in order to stand up for a principle and fight for what's right, not an excuse to be aggressive and rude and bully people..."

E.3 CCP

In phase 2 of the review a workshop was held with CCP members along with four one on one interviews (two with current members, two with former members).

Nine survey responses indicated membership of the CCP. These responses displayed considerable forethought and depth of understanding. All nine expressed great familiarity with the operations of CCP on resets and laterals; and with the governance of CCP. On average, respondents rated themselves 6.3 out of seven for engagement expertise, 5.8 for law/economics but only 3.4 for engineering/network design.

CCP members also rate the success of the group highly, giving average scores of over nine out of 10 for the Panel's assistance to the AER on making better regulatory decisions (compared to the AER's 6.2), successfully advising the AER on the effectiveness of the networks' engagement and on

advancing the interests of consumers (compared to consumer advocates' 8.0 and network business respondents on 5.5).

All survey results referred to in this section are detailed with charts and tables in Appendix I.

Roles and objectives

There is less unanimity on the subject of what single role is likely to be most important in CCP's future. Of the seven options on offer, the nine responses were split across five of them, with no option winning the support of more than three of the survey respondents.

The two existing tasks of advising the AER on whether proposals are in the LTIC; and the effectiveness of network engagement/evidence of engagement being in proposals gained the support of two and three existing members respectively.

Two further members reported that lateral sub panel work was the most important function of CCP.

CCP members have a deep and nuanced appreciation of how the regulatory landscape is changing. In particular, the increased capability/sophistication of many (but not all) networks means that CCP will be able to take a less active and less involved role in some resets. However, many CCP members also observe that although "...Networks are now more committed to CE ... for it to be effective requires consumer advocates to have the resources. They do not. The demands on their time are increasing not just from networks but also from the AEMC and AEMO and State Governments and energy organisations e.g. QCA..."

Put slightly differently, "Network businesses are generally maturing in the way they engage with their consumers. In many cases engagement is becoming more of a BAU activity than ever before, and the focus on engagement purely around a reset activity is likely to diminish. Consumer involvement with network businesses is likely to become more of an ongoing activity However, the capacity of consumer representatives to engage is not keeping pace with these requirements. With minor exceptions, funding for consumer representatives to engage with the industry is absent...."

"The CCP was set up as part of the AER's Better Regulation program, largely to go some way to address the resource asymmetry between networks and consumers. That asymmetry has got worse not better over the six years since the CCP was established...."

In the face of this increasing resource asymmetry, "...The CCP can assist consumer groups focus on key issues, understand broader practices (here and international) and assist in identifying emerging matters...."

Lateral sub panels

The task which the CCP respondents collectively thought adds greatest value is the provision of advice on lateral issues. "...there are more technical areas (both operational and economic) for which the CCP is particularly suited to provide response to networks and advise to the AER compared to consumer panels..."

"...The CCP's identification of and advocacy for various 'lateral' investigations, have resulted in material benefits for consumers..." and "...Advice on laterals has enabled and assisted the AER to make decisions in the long term interests of consumers...." and "...Work on laterals has helped develop consistent approaches on issues that pop up in most rate reviews so has reduced the need to debate on some matters in each rate review. This has benefited all stakeholders..." Laterals are

also the task which CCP members thought was rising the most in importance (6.7 average on the seven point scale).

“...Our contribution in laterals has been particularly welcomed. Engagement with staff has been very positive and productive e.g. CCP support for their position has proved to be an important factor in their decision making....”

CCP views on whether they are the most able/competent group to perform certain tasks gained mixed results, but the highest level of agreement (5.9 average on the seven point scale, with nobody indicating four or below) was reserved for CCP’s provision of advice on lateral issues.

CCP has evolved with the AER, and faster than their written remit

Lateral work, along with various other roles that CCP have undertaken in the recent past, is outside the current remit of the Panel. Members pointed out in workshops and interviews that the role of the Panel has evolved in line with Paula Conboy’s “AER 2.0” speech at the July 2017 ENA conference. CCP members reported that CCP has played a role in helping to move the AER from a highly adversarial approach to a more constructive working relationship with networks. “...The NSW / ACT remitted decisions negotiations saved consumers about \$6.4 billion, according to the AER’s own media release. This higher level engagement and negotiation also helped build trust between consumer groups and network businesses, where there had been very little trust and this in turn helped to generate further savings for consumers in the following regulatory decisions. The extra activities have also been able to demonstrate AER 2.0, as described by AER Chair, Paula Conboy, in practice, a very valuable process for reaffirming the intent of AER 2.0 and showing to AER staff, Network businesses and consumer groups that it could be done....”

Culture and unique value proposition

Regarding the culture of the CCP, members were unanimous in their appreciation of the collegiality and mutual respect that they enjoyed. Though the addition of sub panel chairs in CCP II was found to be useful, many members couldn’t see the point of appointing an overall CCP leader.

The collegial culture was just one of the reasons that CCP members put forward as to why the group could not be replaced by consultants hired on an as needs basis. Other reasons included:

- That consultants without the tenure of CCP members would not act fearlessly and would be more captured by the AER;
- Networks would be more likely to keep consultants at arm’s length;
- Consultants would not have the skills to facilitate and influence, they would be unable to provide informal encouragement;
- CCP members have seen every network and jurisdiction in Australia and have a better idea of evolving best practice; and
- CCP is better value for money.

Governance

Despite the value for money argument, most CCP members expressed dissatisfaction with pay rates and the fact that pay rates have not changed over the six year life of the Panel. “...Within the CCP, there are hundreds of years of industry and related experience, real-world insights, strong consumer

relationships and analytical capability that in many cases exceeds that of high-priced consultancy firms. Yet CCP members are paid one-third of a moderately priced consultant, and excluded from engagement with the consultants that the AER engages for specific advice. I feel that the CCP is an often underutilised and undervalued strategic partner of the AER - a missed opportunity in many ways....”

Just as importantly, most Panel members place a value on the predictability of work and would like more certainty.

Hand in hand with pay rates is the administrative arrangements with the AER. CCP members were unanimous in wanting improvements to administrative processes. “...The governance arrangements for some time were almost demeaning of the skills, background and experience of the CCP members...”

CCP members’ preference for flexibility and freedom extends to governance arrangements. CCP members have many years of experience and would prefer a collaborative approach to budget allocation.

Behaviours

CCP’s role as a critical friend, and the efficacy of its role in challenging also arose in conversations. One point that CCP made which did not arise in other engagement during this review was the notion that CCP has had great impact on the AER but that the impact has taken years to manifest itself in changes to attitudes. Examples of this are the AER’s position on Rate of Return and Opex Productivity.

All CCP members have noted the effect of the CCP on the AER, “The AER is now more likely to seek insights into the potential consumer impacts of their decisions - often by requesting input from the CCP. This is a positive change, and should continue. However, not all AER staff embrace the CCP and its perspectives. For those that do, it’s a great symbiotic working relationship.”

“CCP has had a positive effect on the AER, in part because we are all in (partly) uncharted waters and CCP’s somewhat arm’s length role helps both AER and CCP to explore appropriate responses to these changing circumstances....”

Flexibility

With changes to regulation and capability, CCP members think that flexibility and empowerment are key ingredients for the future. This includes how they are used, “...The AER should not feel constrained to use the CCP solely for network reset issues. A more innovative approach to utilising the skills available could deliver value in a number of areas....”

On the sliding scale between having a defined role and freedom, all CCP survey respondents indicated a preference more toward the “freedom” end of the spectrum. Seven out of nine also indicated a preference for active over passive involvement in reset processes. The question asking for a trade-off between early engagement and deep engagement did not meet with the same degree of unanimity, with CCP members fairly evenly divided in their views.

One matter that Panel members did agree on was the need to prioritise areas of concern rather than a one size fits all approach.

E.4 Industry stakeholders

Two workshops were held with representatives from network businesses in Phase 2 of the review. Industry peak body staff also attended. There was a follow up one on one interview and twenty-seven survey responses.

All but one survey respondent was familiar with CCP's activities on a reset (average of 6.5 out of seven on the seven point scale), whereas familiarity with lateral sub panels was lower (5.1 out of seven). More than three quarters of respondents (78 per cent) agreed to some extent that they were familiar with CCP's governance arrangements. The charts and tables showing these and all figures in this section can be found in Appendix I.

Industry stakeholders were far more likely to have expertise in consumer engagement or regulatory economics than in network design/engineering (74 per cent and 74 per cent compared to 25 per cent of respondents agreeing to some degree with the relevant statement).

Roles & Objectives

"Increased direct consumer consultation by the businesses means that the role of the CCP has largely been made redundant."

Network survey respondents concurred with AER staff on the topic of the single most important future role of the CCP. However, also like the AER staff, there was little agreement across the group. One in four respondents (26 per cent) preferred "Advising the AER on the effectiveness of network businesses' engagement activities with their customers and how this is reflected in the development of their proposals". The same proportion selected "Providing the AER with advice on lateral issues which affect all network businesses".

When faced with the seven potential future roles of the CCP, industry stakeholders agreed that all were becoming increasingly important (mean of greater than 4.0 on the seven point scale) though there were in some instances substantial amounts of disagreement. The role that the most respondents thought was increasing in importance was "Engaging directly with network businesses before lodgement to improve the quality of proposal and presentation of consumer views". This brings up the issue of timing, which is discussed further below.

No more than six out of the 27 network responses agreed that CCP was uniquely placed to perform any of the seven potential roles. The one that received the most support was acting as a consumer advocate of last resort, but even then the overall average agreement was just 3.0 out of seven.

A similarly clear lack of support for CCP's continued involvement was evident in responses to questions about whether CCP was the most able/competent group to perform any of the tasks. A clear majority of industry stakeholders disagreed on each of the seven tasks. Though lateral sub panels garnered the highest support, this may only have been due to the larger proportion of N/A answers (26 per cent "neither agree nor disagree").

"Network businesses, for the most part, have embraced consumer / stakeholder engagement and introduced cultural changes into their organisations as a result. Engagement has been embedded into the businesses with things like, consumer advisory panels, engagement plans and ongoing activities that include early engagement (forums, workshops) on regulatory matters as well as business as usual plans. More businesses do surveys to get consumer insights about a range of things. These

businesses are engaging on more than the regulatory proposals, so it is moved beyond consultation on regulatory resets. With increasing sophistication on consumer engagement, the CCP may have outlived its usefulness from a business' perspective."

"It is difficult to support any role for the CCP other than as an organisation ancillary to the AER which challenges the AER's assumptions with a pro consumer perspective. The changes in the regulatory environment mean that there are organisations, including the AER itself, which are better suited..."

One role that was widely (but not universally) appreciated was the role that CCP played on the NSW remittals. "...The CCP was able to effectively engage with all parties, challenging their natural starting positions, and acting in a role as mediator. While the circumstances are unlikely to be repeated it demonstrated a distinct difference in skill set compared to existing parties."

"...in the NSW remittals context their involvement likely assisted a timely final outcome, however there are significant governance, transparency and other issues raised by this ad hoc role being assumed or continued..."

As with all other stakeholder groups, there was broad support for the CCP continuing to play a role as the consumer advocate of last resort.

Timing

In discussions many network stakeholders noted that as engagement has become part of BAU operations, the formation of a CCP sub panel for a reset is inevitably late.

Overreach was a common complaint, often originating in lack of local CCP members

"CCP members should be locally based so as to represent consumers [who] will ultimately be the subject of the decision."

There was support in discussions for the idea that CCP overreaches in the extent to which they purport to know what consumers want. Some network stakeholders reported that it was unclear to them whether CCP members were representing consumer views or just their own opinions. When asked whether they agreed with the statement "The sub panel brought an appropriate mix of local knowledge and national best practice" fully half of respondents (50 per cent) disagreed, 23 per cent offered no opinion and the remainder agreed.

On the question of whether "Sub panel members had a deep appreciation for the values and priorities of the consumers that were to be affected by the network reset" the average response was 3.8, lower than the midpoint on the 1-7 scale.

"...There is significant risk that CCP views are the views of individuals, and not robustly tested back to a constituency which in this type of activity they are purporting to actually represent..."

Also in the survey, comments referenced "...selective and inconsistent use of data to justify their positions; a significant influencer on AER with little qualifications and accountability..." and asked how CCP can claim to speak for consumers when it does not do its own research: "...Some members say they represent consumers, but have no links to consumers. So how can they know the views of consumers on complex issues involved in regulation?..."

Network stakeholders levelled significant criticism on the CCP for lack of appreciation of local issues: "...CCP views did not always align with local consumer and/or advocates' views; in many engagement activities CCP dominated discussion and influenced engagement outcomes; no CCP member representation from our jurisdiction = lack of understanding of local views; selective and

inconsistent use of data to justify their positions; a significant influencer on AER with little qualifications and accountability...”

One network reported that half of all the issues brought up by CCP were not issues for any other party in the process.

“...no CCP member representation from our jurisdiction = lack of understanding of local views;...”. Stakeholders expressed the hope that CCP might take on the research that the network businesses are doing and appreciate the difference between consumers in different jurisdictions.

A final comment about overreach concerned CCP members assuming that lessons learned in the electricity industry should be applied to the gas market.

If CCP has a future, what kind of CCP do network stakeholders think will generate the most value?

Unlike consumer stakeholders, network survey respondents tended to err on the side of preferring CCP members having backgrounds in customer engagement (45 per cent compared to 23 per cent preferring technical backgrounds, with 31 per cent indicating an even balance) “...We would like to see more engagement experts within the CCP to better provide advice on engagement activities.”

Preferences for active or passive participation in resets by CCP were mixed with no clear pattern emerging. However, only 20 per cent of respondents would have wanted the CCP to be more active than they had been on the last network reset. This lack of clarity is perhaps explained by the strong support (82 per cent) for the idea of providing CCP resource as required by the maturity of the business/consumers rather than a one size fits all approach to resets.

“...the CCP will need to have a different role from reset to reset depending on the quality of the engagement that each business has undertaken.”

“Where a business has a demonstrated track record of effective engagement with customers and stakeholders, the formation of a CCP sub-panel for that reset is not required. In respect of CCP resources to a sub-panel, we consider it appropriate to have at least one panel member from each jurisdiction and at least one with relevant experience of either gas or electricity.”

“It depends on how mature the individual business is in terms of its engagement approach and customer focus... CCP may be more effectively used for special reviews only rather than revenue determination processes going forward.”

“...For businesses that are running comprehensive processes, then it may be useful to have the CCP as observers. Where there is limited engagement then perhaps the CPP could perform a 'last resort' role.”

Like the AER, they also strongly prefer a defined rather than freewheeling role for the CCP. (By a majority of two to one).

Style

Though most networks had a good experience with CCP on their most recent reset, five of the 27 survey respondents Slightly Disagreed or Disagreed with the statement “Sub panel members were respectful in style and constructive in tone”. The suggestion was made that the AER should think about its own reputation when deciding who to renew.

A number of workshop participants stated that a network's experience with CCP was highly dependent on which members were assigned to the sub-panel; and that CCP were a bunch of individuals rather than a coherent group with agreed values and behaviours.

Outputs

Despite the very many comments about the diminishing role and lack of uniqueness of the CCP; many network stakeholders went out of their way to praise the outputs of the CCP. Members were singled out by name as working very hard and providing great value and advice.

One network representative stated that CCP was one of the main reasons their proposal was accepted by the AER.

Another network reported that their relationship with the AER had previously been poor but was now greatly improved as a result of the mediation role played by CCP.

The point was also made by a few workshop participants that although the industry has come a long way it might slip back into old habits if somebody like the CCP doesn't have an oversight/assurance role.

E.5 Consumer stakeholders

Engagement during Phase Two of this review with consumer stakeholders consisted of a workshop, two in depth interviews and 33 responses to the online survey.

All but two (31 out of 33) of the consumer stakeholders slightly agreed or better with a statement about being familiar with the operations of the CCP on a network reset. This is substantially higher than the 21 who expressed familiarity with CCP work on laterals, and the 20 who were familiar with the governance arrangements of the CCP. Appendix I contains the charts and tables from which the statistics in this section are drawn.

Roles and objectives

In general almost half (16 out of 33) of consumer stakeholders regard the most important future role of the CCP as advising the AER on whether the network businesses' proposals are in the long term interests of consumers with 91 per cent of survey respondents agreeing that this task is becoming increasingly important.

"The CCP can add substantial value by helping to ensure that networks engage effectively and that the decisions they (networks) make are demonstrably based on consumer needs and expectations as defined by consumers."

However, consumer advocates are also aware of other groups that can perform various roles which could also be filled by the CCP. Consumer advocates were presented with the statement "CCP is the only body that can perform this task" in relation to seven future roles/objectives. Answers were on a 1-7 agreement scale, and for six of the seven roles the average score was between 2.9 and 3.5. Generally, this view was less positive than CCP members and more positive than networks or AER staff.

The only exception to this being the role of "consumer advocate of last resort", which by definition is non-substitutable, though it still only scored 4.6 on the 1-7 scale. "The primary issue is that there is no

little funding available for consumer advocacy that the CCP often falls into the role of providing the only formal response to the AER on an issue. If there was more funding available for more consumer advocacy than the CCP could revert to its original role being an adviser to the AER.”

In terms of their own skillset, the advocates averaged 6.4 out of seven for their expertise in consumer engagement/representation/advocacy, much higher than the 4.3 for law/regulatory economics, which was higher again than on engineering (3.5).

This relative lack of technical expertise may have been the source of consumer stakeholders’ greater appreciation of CCP’s technical skills. It was mentioned ten times in the stakeholder workshop and many more times during the in depth interviews and the survey. Though technical skills are greatly appreciated, 42 per cent of consumer advocates still wanted an even balance of technical and engagement backgrounds among CCP members. A further 18 per cent wanted a preponderance of engagement skills, and 40 per cent preferred a greater emphasis on the technical.

Though some of CCP’s technical expertise comes from their involvement in lateral panels, consumers thought these laterals added the least value of all tasks done by CCP.

There was broad acceptance of the notion that CCP complement rather than duplicate the role of consumer groups in resets; especially when CCP “assist customers to understand the changing regulatory landscape and ... continue to challenge the networks”

“Network businesses continue to have access to far greater resources in arguing their case than consumer representatives do. This will make it more important that the CCP has resources to provide an alternative perspective.”

“...I agree that many (but not all) network businesses have improved how they engage with consumers, but we are not yet at a stage where the consumer is at the centre of all investment decisions for all businesses. The work of the CCP complements, rather than duplicates the role of advocates.”

Some consumer advocates reported feeling unable to speak directly to the AER, and appreciated the privileged access that CCP members have for multiple reasons, among them a view that industry and consumers have matured more than AER, and therefore that CCP must continue to challenge the AER. Some want the CCP to call the AER out for shutting down dialogue.

“The role of the CCP as an in-house challenger of the AERs thinking (not networks) is likely to remain useful”

“The CCP engages directly with different levels of the AER which is an important role. This level of engagement is not necessarily one that some other advocates could access. While there have been many changes in the regulatory framework, none of these changes have corrected the asymmetry between network businesses and consumers (with information and power still weighted towards the business)...”

Nor do consumer advocates tend to agree that New Reg and other more evolved processes necessarily obviate the need for a CCP. Eighty-five per cent of consumer advocate responses agreed or strongly agreed that in future there will still be an important role to be played in providing assurance that network engagement was authentic and appropriately deep.

“There is a power / information imbalance between businesses and consumers that cannot be rectified by the appointment of a negotiation forum.”

“As the knowledge and capacity to advocate on network regulatory matters increases within consumers, they will be in a better position to directly negotiate on network regulatory matters and provide alternative views. In the long run the CCP may not be needed.”

There were mixed views about whether the CCP should be an actor in the reset process with a majority preferring an active role. Some of the better informed and resourced groups in the sector preferred CCP to take a passive role, whereas a majority had a preference for an active role. Consumers held a different view on this topic than other stakeholder groups. On the sliding scale from Active to Passive involvement from 1 to 9, five is the midpoint. On that scale, network businesses scored 4.9, AER staff 4.1, CCP 3.9 and consumers 2.5. Only two out of the 33 consumer responses to the survey scored on the right hand side of this question, indicating a preference for active involvement.

Survey respondents also indicated a slight preference for differentiated levels of attention, for flexibility of role, but were evenly split on whether early engagement was more or less important than deep engagement.

Views were also expressed regarding what the CCP should not be involved in. Examples include acting in ways that diminish the transparency of AER decisions, capacity building, speaking on behalf of the AER, being a party in negotiating outcomes, or holding themselves out as consumer representatives when there are real representatives or real consumers present.

Governance

Consumer stakeholders did not provide a great deal of feedback on governance arrangements. Some would like to see the CCP reporting directly to the AER Board. Others requested greater clarity about who the CCP reports to and the extent of their independence.

There were isolated instances of consumer advocates suggesting CCP members were conflicted: “Many of the CCP are the same people representing different individual organisations or consultants.”

“...remain independent and free from conflicts of interest. The closer ECA gets to ENA and the AER through New Reg, the less consumers can rely on ECA to effectively challenge its good friends.”

Generally, consumer advocates expressed the view that CCP members should not be members of other consumer advocacy bodies.

Membership

Consumer advocates would like to see a diverse CCP which erred on the side of technical rather than engagement skills. This is currently the case, and some advocates would like to see a rebalancing towards consumer engagement skillsets. They also have a preference for local members on each sub panel. “The membership of the CCP needs to be made up of people in the relevant jurisdiction.”

Deep knowledge of the values and aspirations of various different consumer segments also featured in discussions. Some CCP members need to be attuned to the needs of large users, of small business people, of financially vulnerable customers and more.

Regardless of background, some advocates were keen to point out the difference between cost and value. They suggested that the best CCP members have a keen appreciation of that difference and can steer conversations away from cost and towards value.

“The composition of the group may need a rethink as consumers advocate their energy needs c/- of behind the meter software and greater understand of the data about their energy use and needs or ability to trade excess energy. Another example is the move to use distributed energy systems and battery storage (of all types). Are the CCP members across these changes in technology?”

Appendix F: Assessment of the current arrangements

The following table documents our assessment of the current arrangements against the criteria established above and our summation as to whether the existing arrangements delivered on the AER’s objectives.

Objectives & Roles

Criteria	Assessment
<i>Objectives</i>	
Fit-for-purpose now and in the future	<p>The CCP’s current objectives (to advise whether…) are more clearly aligned with the intended output of the CCP’s activities, rather than that outcome it is designed to achieve. Contained within this purpose, it implies two key objectives:</p> <ul style="list-style-type: none"> • That proposals reflect the long term interests of consumers (LTIC); and • That consumer engagement activities are effective and are appropriately reflected within regulatory proposals. <p>As evidenced through engagement, maintaining the intention of these objectives (in some form) are supported by all stakeholders. The objectives do not limit the role of the CCP, and allow it to maintain flexibility to carry out any activities that will support to advise the AER.</p> <p>It was raised by a number of stakeholders that a main benefit of the CCP was its ability to “hold everyone to account”. The ability to ‘challenge’ and act as a ‘critical friend’. By questioning approaches, methods and outcomes, the AER and network businesses are forced to get better. None of this language is currently reflected in the objectives.</p> <p>The objectives do not currently differentiate between scenarios where the CCP plays a more passive/observatory assurance role (due to the strength of the network business’s engagement strategy) or a more active/participatory role to strengthen the engagement process (due to a lack of adequate consumer representative capacity/availability or the weaknesses of the network business’s engagement strategy).</p> <p>The inclusion of the LTIC duplicates the overarching objective that the AER must give ultimate consideration to, in undertaking its economic regulation of prescribed electricity and gas services. Given the resourcing needs of the AER to support this function, there are doubts that a CCP with limited resourcing, technical capability and funding can appropriately opine on how well this objective is being met.</p>

<p>Meeting the needs of AER board and staff</p>	<p>The National Electricity Objective (NEO) and National Gas Objective (NGO) (as established in law) directly reference the promotion of efficient investment in, and efficient operation and use of, electricity/natural gas services for the ‘long term interests of consumers’ (LTIC). This is defined as having consideration of “price, quality, safety and reliability and security of supply”. It is this objective that the AER must give ultimate consideration to, in undertaking its economic regulation of prescribed electricity and gas services.</p> <p>This definition of what the ‘LTIC’ means has a particular regulatory context, in terms of the level of service required, the prudence and efficiency of expenditure allowed, the process a network business must demonstrate to evidence the efficiency of its proposals and how prices should be set to recover costs, all with consideration of the long term impacts of these decisions.</p> <p>The explicit inclusion of the LTIC in the CCP’s ‘objectives’ creates a particular focus and type of discussion, when it could be of better value to consumers to ensure their voice is being heard, that they are being spoken to at the right time, that their priorities are being addressed, that they can influence the network and that they understand the short, medium and long term impacts of their decisions and the proposals being put forward by the network business.</p> <p>Given the overarching governance of the NEO/NGO and the detailed/explicit steps the AER must undertake to satisfy itself that the LTIC are being met, there may be more value on objectives that focus purely on customer needs, priorities and values learned through engagement.</p>
<p><i>Role</i></p>	
<p>Clearly defined and documented including limits</p>	<p>The defined role of the CCP is detailed both in the Governance Handbook provided to CCP members and on the AER’s website¹⁹ for public access. This definition includes reference to providing ‘input and challenge’, ‘wise council’, ‘insights’ and ‘ideas from a consumer perspective’. It also noted that the CCP is not a decision-making forum, nor is its role to negotiate or advocate on behalf of consumers or industry. Its role is to act in an advisory capacity.</p> <p>There are four main roles that the AER has identified that it is seeking the CCP to carry out:</p> <ol style="list-style-type: none"> 1 <i>Pre-lodgement</i> - To monitor, assess and where appropriate, inform a network businesses consumer engagement activities (‘observe and inform’); 2 <i>Post lodgement Assurance</i> - To assess network proposals and provide assurance on the effectiveness of engagement and whether consumer views have been take into account (‘assurance’); 3 <i>Post lodgement Advice/Challenge</i>: To provide advice on consumer perspectives on issues related to the network determination and to challenge the AER to ensure that consumer views have been fully accounted for in decisions (‘challenge’); and 4 <i>Laterals</i>: To help inform the AER’s development of positions through lateral reviews (‘laterals’).

¹⁹ <https://www.aer.gov.au/about-us/consumer-challenge-panel>

	<p>Over two iterations, the CCP also completed roles that were not within its direct remit, but were allowed under the flexible arrangements under which they operate. These included:</p> <ul style="list-style-type: none"> • Its role on lateral sub-panels • supporting an uplift in the capacity and capability of consumer representative bodies, to allow them to more effectively engage with network businesses; • acting as the ‘consumer advocate of last resort’ where there is not appropriate and or available consumer representation, or these bodies seek for the CCP to play a more active role representing consumers; • actively participating during engagement activities (i.e. focus groups) and advocating issues that it identifies as being important for the network business to consider and/or respond to; • engaging with the network businesses on behalf of the AER, without its authority to do so; and • facilitating the negotiation of parties to achieve a mutually agreed outcome in all parties’ interests (i.e. the New South Wales remittal process). <p>A number of stakeholders also identified that a lack of clarity regarding the precise role of the CCP under different circumstances. This resulted in a lack of accountability for CCP sub-panel members, and a lack of knowledge regarding what role they would expect the CCP to play.</p>
<p>Activities align with the objectives</p>	<p>Stakeholder feedback reflected on the fact that the CCP provided robust ‘challenge’ to both the network businesses and the AER on issues. Similarly, that the CCP had brought considerable value to energy consumers through their involvement in both reset and lateral sub-panels.</p> <p>Of the two overarching objectives, it was generally agreed that the CCP’s involvement and advice to the AER allowed for a better outcome for consumers. They did this by holding parties to account, providing information to consumers to reduce information asymmetries, sharing insights from other jurisdictions and placing issues on the table they felt were in consumers’ interests. All of this allowed consumer groups to more effectively engage with the networks.</p> <p>The CCP has also evolved over time to be more in line with Paula Conboy’s “AER 2.0” speech, which sought to move the AER from a highly adversarial approach to a more constructive working relationship with networks.</p> <p>Some stakeholders raised concern with the lack of transparency regarding the role of the CCP after the proposal is lodged. It was not clear how they challenged the network businesses’ proposals, in their advice to the AER. They also stated that it was not clear how the CCP challenged the decisions of the AER, as it was not clearly publicly documented.</p> <p>There are some roles that directly conflict with the objectives established, including the CCP’s perceived representation of the AER on matters, their role in supporting the negotiation of outcomes and acting in an advocacy role where there was a lack of resourcing, funding or capacity for local consumer representatives (The CCP “is not a decision-making forum, nor is its role to</p>

	<p>negotiate or advocate on behalf of consumers or industry. Its role is to act in an advisory capacity”).</p>
<p>Does not unnecessarily overlap with the roles of other groups</p>	<p>There was broad acceptance of the notion that CCP complement rather than duplicate the role of consumer groups in resets; especially when CCP assist customers to understand the changing regulatory landscape and continue to challenge the networks.</p> <p>While network business consumer engagement has improved and consumer representative knowledge of energy networks and pricing matters has become more advanced, there is still considered a critical role for the CCP to continue to hold the network businesses and AER to account.</p> <p>Some stakeholders did raise concerns that the CCP had, on occasions, sought to represent or advocate on behalf of consumers, when those stakeholders were capable of representing themselves. This had changed the focus on issues consumers felt were important, to those that the CCP felt were important. Further, because the CCP act on behalf of the AER, that networks and consumer representatives feel compelled to revert to the views of the CCP, which can stymy progress on interrogating what consumer value. Stakeholders noted that this was not common across the CCP, but more so to do with the style of individual sub-panel members.</p>
<p>Flexible to respond to the strength of different businesses’ consumer engagement or process being completed</p>	<p>While the CCP has played a number of different roles on each price reset and lateral sub-panel, their scope of work does not appear to be fit-for-purpose with the strength of the network’s history or consumer engagement, not the strength of the proposed engagement strategy. Budget allocations for each stage of the price reset are somewhat fixed, reflecting a ‘one-size-fits-all’ approach to the role of the CCP.</p> <p>These limitations have been identified by the CCP, but also industry and consumer stakeholders. As such, the CCP has taken it upon themselves to change their role to suit the circumstance of the business/issue, which has resulted in material budget variations.</p> <p>Some stakeholders felt the CCP’s greatest value was to act in an observatory role during engagement, otherwise they bring their bias on issues they feel are important (as individuals). Conversely, some stakeholders valued their ability to bring insights from other jurisdictions to challenge the networks directly. This role did raise issues of the CCP dominating discussions and not allowing consumers to represent themselves, and changing the focus of discussion.</p> <p>The role of the sub-panel should be fit-for-purpose and allow for a more passive role where they only need to perform an observatory function, and for a more active role where that role would create better outcomes for consumers.</p>
<p>Allows for an appropriate level of influence</p>	<p>It was observed by most stakeholders that the CCP members bring a level of seniority and technical capacity that allows them to effectively engage with the networks on issues that impact consumer outcomes. Similarly, the constitution of the CCP comes with a level of authority and gravitas (due to their relationship with the AER) which ensures their views are listened to, respected and acted upon. This provides the CCP with the ability to challenge and be listened to by network businesses.</p>

	It has been raised that there are occasions where the CCP apply undue influence over stakeholders. This is done by dominating discussions within engagement activities, placing issues on the table that it perceives to be important (but not necessarily appropriate that the local context) and lobbying stakeholders.
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Governance

Criteria	Assessment
<i>Oversight</i>	
Appropriate arrangements to monitor performance (re: activities, budget utilisation)	<p>The AER has a number of arrangements in place to support the oversight of the CCP. This includes</p> <ul style="list-style-type: none"> • The role and operations of the CCP documented in the Governance Handbook; • The role and operations of the Sub-panel are documented in the Schedule of Work; • A process map showing the stages of activity for both the AER and the CCP throughout the network determination process; • The Request for Advice, which details budget, invoicing arrangements and processes for booking travel and accommodation; and • Quarterly reporting, used to provide the AER General Managers with a status report on current spend and remaining budget, outcomes achieved and feedback from recently completed sub-panels. <p>Some feedback provided by the AER saw that there could be value in appointing a Chair of the CCP, to enable more effective oversight and engagement. This was countered by the CCP, who felt that their collegiate arrangement would not flourish with a dedicated leader.</p> <p>On the basis of feedback provided during engagement, there have been some instances of inappropriate behaviour (i.e. over-reach) and/or a style that can be quite dominant and/or aggressive in nature. This same feedback noted this was not consistent across all CCP members. This identifies a lack of an appropriate and consistent style to effectively carry out the CCP's functions, but also a lack of accountability for performance. Individual performance is not monitored formally, nor are there any arrangements for individual performance reviews to take place.</p> <p>CCP members raised a lack of involvement in budget setting and allocation as a major concern. They felt that there is a disconnect between the expectations of their role and the budget allowance provided, driving variation requests.</p>
Clear governance structure known to all	<p>For each sub-panel, CCP members can nominate themselves as Chair. The AER then appoints a Chair for the sub-panel, who has overarching responsibility to co-ordinate the sub-panel's work, facilitate communications with the AER and network businesses and to facilitate collegiality.</p> <p>The sub-panel Chair is not an administrative role, and it is up to the sub-panel members to agree their own protocols, including engagement. The sub-panel</p>

	<p>Chair does not direct the work or working hours of other sub-panel members. They are also not a spokesperson for the sub-panel.</p> <p>Observations provided during engagement with CCP members, indicated different, and at times contradictory messaging and guidance provided by different AER members (i.e. Board, General Members, CCP team and staff). This impacted on the different roles played by the CCP, and the mixed views on the desire for it to carry out those roles.</p> <p>Industry stakeholders also felt that there was a lack of accountability for CCP members in making statements and/or providing advice to the AER, where they did not provide an appropriate evidentiary basis (i.e. what would be expected to support the prudence and efficiency of expenditure under the National Electricity Rules).</p> <p>CCP members raised concerns with the lack of effective administrative processes from the AER. Feedback was quite critical, as members felt the AER’s current oversight and support demeaned the skills, background and experience of the CCP members.</p>
Independent of the AER	<p>Whilst the CCP is funded by the AER, and apart from the aforementioned governance and oversight arrangements/procedures, the CCP’s activities and areas of focus are driven by itself, without the active influence of the AER. This was validated by both industry and consumer stakeholders during workshops held. In fact, the CCP were held in high esteem regarding their willingness to challenge the AER on its positions.</p> <p>Some stakeholders observed that they found it beneficial to have a working relationship with the CCP, who have access to the AER and can test methods, early thinking and processes. Some also noted that if they were able to achieve acceptance of their methods and proposals with the CCP, they felt greater confidence in making their proposals to the AER.</p> <p>Some concerns were raised that the CCP were at times perceived to speak on behalf of the AER on issues or process. This was not perceived to result from being influence by the AER, but mores the individual personalities of CCP members. There were also concerns raised regarding the CCP’s role on the NSW remittal process, whereby they were perceived to have negotiated on behalf of the AER. It was noted by most stakeholders involved that this role was needed to get to the best outcome for consumers, and that this role was unique to those circumstances.</p>
Effective secretariat support	<p>The CCP provided strong feedback that administrative support of the CCP is not appropriate and needs to be improved. It identified that it is one of the main reasons some panel members have resigned. They noted that support differs between reset and lateral sub-panels, the latter providing better support than the former</p>
<i>Cost</i>	
Funding aligns with the expected role and outputs	<p>Treasury provides the AER \$0.5 million annual direct funding for CCP activities with additional money allocated as required from AER. Sub-panels are allocated a budget from which CCP members are paid. The budget is determined by the amount of work members are expected to complete and the size of the network determination or level of interest in the lateral issue for investigation. The budget includes an amount allocated for administrative and travel expenses.</p>

	<p>This budget has been overspent every year, and sometimes by quite a significant amount. This is driven by the depth of roles that the CCP has played, partly driven by the AER and other stakeholders, but also driven by the CCP to play a more active role on reset and lateral sub-panels.</p> <p>Budgets are currently set every 12 months, and do not take into account a multi-year focus.</p> <p>CCP members provided clear and unanimous feedback that current funding was insufficient to carry out the tasks they feel are required to meet their objectives. Further, that they should be involved in the allocation of budgets, to ensure appropriate funding to support their scope.</p> <p>There was also a perception with consumer stakeholders that the CCP was underfunded. Whilst this was largely driven through conversations that had held with CCP members, they also noted that there were instances where the CCP’s role had changed midway through a reset sub-panel as funding had been exhausted.</p>
<p>Remuneration rates reflect the value provided and the opportunity cost of work forgone</p>	<p>The currently hourly/daily rates are those that were set at the establishment of the CCP (being \$200/hr inclusive of GST, up to a cap of \$1,200/day). These rates were a constant source of discontent from CCP members, although the strength of these views differed depending on whether the CCP member:</p> <ul style="list-style-type: none"> • currently worked as a consultant, and therefore the rates provided were materially lower than what they could achieve in the market; • was retired, and this was a source of ‘top-up income’; or • worked for a consumer representative group, and hence the rate provided was higher than that which they receive under their existing terms of employment. <p>A large proportion of CCP members compared the value of the role they play, to other higher paid consultants (like KPMG), regarding what should be an appropriate level of remuneration for their time. Others reflected on the fact that they were happy to complete this form of work at a lower rate because of the positive community outcomes they were able to achieve.</p> <p>The current form of remuneration (hourly rate up to a daily cap) does not provide the right incentives for CCP to appropriately account for their time. In order to be adequately compensated for their time, members are incentivised to only report up to six hours per day, and spread any remaining hours over other days.</p>
<p>Rigorous process for budget variation</p>	<p>Where the CCP identifies the need for a budget variation, it is required to raise the issue with the CCP work team (Consumer Engagement and Insights) and provide an outline of the following:</p> <ul style="list-style-type: none"> • The subpanel budget shortfall and/or surplus to be reallocated; • The extenuating circumstances and need for reallocation; and • Reasons why the CCP member believes a reallocation of budget would deliver a better outcome for consumers. <p>This request is then reviewed and approved/rejected by General Manager Consumer Engagement and Insights.</p>

<p>Appropriate invoicing and member payments</p>	<p>CCP members are provided a template for the purpose of invoicing the AER. Invoices are provided monthly to the AER, and include a breakdown of the tasks completed, and the time related to the completion of each task.</p> <p>Invoices are provided to General Manager Consumer Engagement and Insights for approval, and payments made 21 days after receipt of this invoice. If there are any concerns with items on the invoice, this is flagged with the CCP member and the AER staff lead.</p> <p>CCP members did not flag any concerns over invoice payments.</p>
<p>Expenses are reasonable and recoverable</p>	<p>The AER reimburse CCP members for reasonable travel and accommodation costs following receipt of proof of expenditure, provided that the AER pre-approved the nature and level of expenditure incurred.</p> <p>Limits are set for differing expense categories (e.g. meals, accommodation, travel etc.), and these are consistent with ATO expenses claims policies.</p> <p>No concerns were raised by stakeholders regarding the recovery of expenses.</p>
<p><i>Evaluation</i></p>	
<p>Established process for ex-post review of the success of each sub-panel</p>	<p>At the conclusion of each sub-panel, panel members are required to complete feedback forms, which summaries work completed, success achieved, what could be improved and reflections on the quality of the advice.</p> <p>The feedback forms are appended to the quarterly performance report provided to the AER GMs. This is a recent development and addresses a previous gap regarding the consistent completion of these feedback forms.</p>
<p><i>Conflicts</i></p>	
<p>Conflicts of interest are documented and established</p>	<p>All member conflicts of interest are declared and contained within a public register on the AER’s website. CCP members are provided a conflict of interest guideline to support them in managing such issues.</p> <p>A number of stakeholders provided feedback during workshops that they did not perceive CCP members to be conflicted. Others noted some CCP members have roles with relevant stakeholders, and that some had recently completed consulting work in relation to the network businesses being investigated.</p> <p>Some stakeholders identified that they didn’t think it appropriate some CCP members act in the capacity of consumer representatives outside of the CCP. We note that given the lack of depth of such individuals, excluding them from the recruitment of the CCP may leave a very small pool of people to choose from.</p>
<p>Conflict management arrangements are in place that minimise commercial impact on Panel members</p>	<p>The AER has also established principles regarding CCP member conflicts, which restrict the ability for CCP members to work on other price resets.</p> <p>CCP members raised concerns regarding the commercial impact sitting on the CCP has, noting that they cannot work with any of the network businesses on a price reset. This is a significant commercial opportunity lost.</p>

Membership

Criteria	Assessment
<i>Appointment</i>	
Assessment criteria for CCP appointment fit-for-purpose with the objectives and role	<p>When recruiting members to the CCP, the AER utilised a public Expression of Interest process, which sought for applications with experience in one of more of consumer insight and engagement, regulatory decision making and sectoral knowledge of energy and other utilities.</p> <p>The AER also looked for members that could bring a strong consumer perspective, be willing to challenge the AER and network businesses, whilst building and maintaining collaborative working relationships with all stakeholders. The AER also purposefully selected members who brought a depth of career experience and a level of seniority and authority, to allow for them to more effectively engage with the networks. This was positively reflected on by consumer stakeholders and the AER.</p> <p>The AER did not create any criteria or processes that sought to explicitly test any psychometric testing of social competencies and behavioural tendencies. It is important that processes are in place to allow for such testing. The result will be CCP members who can adopt the most effective style to succeed in the role of critical friend.</p> <p>It is also not clear that the AER has explicitly sought to ensure an appropriate diversity in gender, age, ethnicity, experience, socio-economic status and other attributes. This was noted by a number of stakeholders through engagement (i.e. that the CCP is full of the same type of person). Diversity will ensure an appropriate balanced view across the CCP.</p>
Selection criteria for sub-panels align with the intended outcome	<p>CCP members are appointed to sub-panels based on their sub-panel nominations, skills, expertise and conflicts of interest and available time, given commitments on existing sub-panels.</p> <p>Applicants are able to nominate the sub-panels for which they wish to be considered. It is not clear that the AER consider diversity when appointing sub-panels.</p>
<i>Skills</i>	
Align with the intended role	<p>The AER purposefully selected CCP members that brought experience in energy networks regulation; competition law; energy sector experience; corporate finance; private industry; energy management; sustainability; senior leadership; consumer advocacy; market research; pricing; and engineering.</p> <p>A number of stakeholders noted that to effectively engage with the networks, and to reduce existing information asymmetries, CCP members needs to have a level of seniority, authority and experience (due to the highly technical nature of the subject matters). It was agreed the CCP bring these credentials.</p> <p>Whilst there is a general support for the capability on the CCP, there was consistent feedback from industry and consumer stakeholders that there is not enough relevant experience in good practice consumer engagement and energy consumers more generally. Some CCP members need to be better attuned to the needs of large users, of small business people, of financially vulnerable customers and more.</p>

<i>Behaviours</i>	
Demonstrated good behaviour	<p>There was a considerable amount of feedback provided by stakeholders regarding the behaviour and style of CCP members. Many of these views were conflicting, which was largely dependent on the individual personalities of CCP members.</p> <p>Observations provided by both industry stakeholders, consumer stakeholders and the AER noted styles that were not always conducive to effective challenge and stakeholder management. This manifested in some members behaviour not being respectful in style and nor constructive in tone. These same stakeholders noted that CCP were a bunch of individuals rather than a coherent group with agreed values and behaviours.</p>

Outputs

Criteria	Assessment
<i>Form</i>	
Fit-for-purpose outputs	<p>The AER provides the CCP with an Advice Template for it to complete and submit, in response to the Schedule of Work agreed, and to inform the relevant reset/lateral sub-panel requiring advice.</p> <p>Within the completed Advice Template, the AER requires:</p> <ul style="list-style-type: none"> • A summary of issues that advice has been provided on; • Advice regarding how the sub-panel focus meets the two overarching objectives established for the CCP. <p>Many network stakeholders went out of their way to praise the outputs of the CCP. Members were singled out by name as working very hard and providing great value and advice.</p>
<i>Quality</i>	
Effective in informing the AER's decisions	<p>A number of stakeholders raised concerns regarding the accountability of CCP members in the advice they provide the AER, and the issues they raise during consumer engagement activities that directly contradicts consumer feedback in that jurisdiction. A number of stakeholders suggested that CCP members be required to provide evidence analogous to that required of network businesses under regulatory scrutiny.</p>
<i>Value</i>	
Enhances credibility	<p>Many stakeholders reflected positively on the role of the CCP, including enhancing the credibility of:</p> <ul style="list-style-type: none"> • the AER's decisions; • the network business's consumer engagement process; • the negotiating power of consumer representatives; • consumer outcomes.

	<p>It was observed that the CCP hold all parties to account, acting as a critical friend in the interests of consumers.</p> <p>One network representative stated that CCP was one of the main reasons their proposal was accepted by the AER. Another network reported that their relationship with the AER had previously been poor but was now greatly improved as a result of the mediation role played by CCP.</p> <p>The point was also made by a few workshop participants that although the industry has come a long way it might slip back into old habits if somebody like the CCP doesn't have an oversight/assurance role.</p>
<p>Value for money for the AER</p>	<p>The CCP is a significant budgetary expense for the AER, as well as incurring significant indirect costs regarding supporting resourcing and time commitment.</p> <p>The AER generally reflected positively on the value for money it receives from the AER. On lateral issues it was noted that the CCP provide different views on approaches to issues, question the AER's and NSP's positions and put forward reasonable and workable solutions to complex issues.</p> <p>It was also generally agreed by AER that the CCP provides an arm's length 'conduit' between itself and industry stakeholders, supporting AER 2.0. This have allowed for a more consultative and collaborative approach to price resets. This could not have been achieved without the CCP.</p> <p>There were some members of the AER who did not feel that the CCP have been able to influence their decisions. Some members felt that CCP members were not "technical enough" that would allow them to materially influence their thinking.</p>

Appendix G: Budget Implications

This section provides high-level estimates on the potential impact on the total annual CCP budget under the proposed recommendations. The AER has an annual budget allocation of \$500,000 for the CCP and that in the past the CCP costs have been higher as the AER has supplemented the budget due to the workload.

This has resulted in the AER having to reallocate resources from other projects to fund the CCP and has also created a level of uncertainty in CCP costs over a year.

We consider that our recommendations would help to provide more predictability in the CCP budget. This is because our recommendations seek to provide flexibility to better focus CCP resources when they can provide the most value plus helping to ensure consistency in the application of CCP sub-panels across different determinations and reviews. The scope and extent of CCP involvement should be known at the start of the regulatory determination process.

For example, under the recommendations we would expect that the CCP involvement pre-lodgement would be limited except in extreme situations, allowing more of the CCP resources to be incurred in providing a challenge and assurance role. Further, through having more specialist resources in the CCP membership, this should lead to more targeted use of members' time on particular issues. There could be less need for multiple members looking at the same issues.

Approach and Assumptions

This section presents a number of estimates of expected annual budget for the CCP based on:

- Assumptions on time involvement across the four designated CCP activities of:
 1. *Pre-lodgement* - To monitor, assess and where appropriate, inform a network businesses consumer engagement activities ('observe and inform');
 2. *Lodgement Assurance* - To assess network proposals and provide assurance on the effectiveness of engagement and whether consumer views have been take into account ('assurance');
 3. *Post lodgement Advice/Challenge*: To provide advice on consumer perspectives on issues related to the network determination and to challenge the AER to ensure that consumer views have been fully accounted for in decisions ('challenge'); and
 4. *Laterals*: To help inform the AER's development of positions through lateral reviews ('laterals').
- Number of AER determinations over the next 3 years
- Estimated number of lateral reviews where the CCP will be involved
- Increase from the hourly rate for CCP members to \$230.

Estimated number of hours

The CCP involvement in the AER process will be more specific to each determination as determined by the CCP Steering Committee. For this modelling exercise, to provide a reasonable band of we have identified three simple levels of intensity across the four designated CCP activities. The following table sets out our simple approximations on the potential number of hours required for each determination/review under the various levels of intensity. The assumed hours per intensity entails the work involved for the CCP to meet its objective across the four activities.

	<i>Pre-lodgement</i>	<i>lodgement</i>	<i>Post lodgement</i>	<i>Laterals</i>
	Network engagement/strategy	Assurance on proposal	Input/Challenge to AER decisions	Input into laterals
intensity 1	60	80	40	100
intensity 2	80	120	80	240
intensity 3	150			

Estimated cost per activities

Based on the assumed rate of \$230 per hour, the following table presents the estimate cost per activity per intensity level.

	<i>Pre-lodgement</i>	<i>lodgement</i>	<i>Post lodgement</i>	<i>Laterals</i>
	Network engagement/strategy	Assurance on proposal	Input/Challenge to AER decisions	Input into laterals
intensity 1	\$13,800	\$18,400	\$9,200	\$23,000
intensity 2	\$18,400	\$27,600	\$18,400	\$55,200
intensity 3	\$34,500			

One of our suggestions in the summary report is for the AER to consider having different rates for different activities depending on the skills and expertise required. We recognised that this is a sensitive concept and there are advantages and disadvantages to consider. While will make some activities cheaper with others more expensive it could lead to more optimal use of the AER budget and a higher quality of CCP advice.

Scenarios

We have developed estimated total annual budget for two scenarios of CCP workload:

- **Normal involvement** - what we expected the level of activity required of the CCP based on current conditions and past outcomes.
- **High involvement** – a high case where under specific conditions, more CCP involvement is required given the nature of the issues and the extent of the network business engagement practices (i.e., more determinations require a higher level of workload for the CCP),

Assumed breakdown of CCP activities under normal involvement scenario

	<i>Pre-lodgement</i>	<i>lodgement</i>	<i>Post lodgement</i>	<i>Separate</i>
	Network engagement/strategy	Assurance on proposal	Input/Challenge to AER decisions	Input into laterals
intensity 1	40%	80%	60%	50%
intensity 2	40%	20%	40%	50%
intensity 3	20%			

Assumed breakdown of CCP activities under high involvement scenario

	<i>Pre-lodgement</i>	<i>lodgement</i>	<i>Post lodgement</i>	<i>Laterals</i>
	Network engagement/strategy	Assurance on proposal	Input/Challenge to AER decisions	Input into laterals
intensity 1	20%	50%	25%	
intensity 2	40%	50%	75%	100%
intensity 3	40%			

Estimated annual CCP budget

This table presents our modelling results for CCP annual budget. For completeness, we have included the \$60,000 estimated cost for the CCP Chair and also the suggested 20% contingency as set in the summary report. The total estimate annual budget has been calculated for a few different scenarios regarding the number of determinations and lateral reviews in a year.

This is an over-simplification for the purpose of modelling given that the determination and review processes straddled over a number of years and hence the CCP involvement will vary over the determination period.

High level modelling of CCP annual budget under proposed recommendations

	year 1	year 2	year 3
Assumed number of determinations	5	3	8
Assumed number of laterals	2	4	2
normal involvement scenario			
assumed activity hours	\$343,700	\$319,700	\$510,600
Plus CCP Chair	\$402,700	\$379,700	\$570,600
Plus 20% contingency	\$483,240	\$455,640	\$684,720
high involvement scenario			
assumed activity hours	\$414,000	\$407,100	\$593,400
Plus CCP Chair	\$474,000	\$467,100	\$653,400
Plus 20% contingency	\$568,800	\$560,520	\$784,080

While this is a simple modelling approach, it helps to demonstrated that under our recommendations, there is a strong possibility that the CCP budget will be no more than the current allocated \$500,000. Once in the unique situations of a high number of determinations or the need for the CCP to be more actively involved, will the budget costs be materially more than this current budget.

The actual cost of the CCP will vary across determinations and reviews and will be specific to the issues arising under those processes. Given the length of AER determination processes, it can be hard to tightly control the CCP involvement and an issue raised by stakeholders was that the CCP spends a lot of its budget time prior to the lodgement of the regulatory submission. The recommendations provided in the summary report should help to address this and optimise the value of the CCP.

The effectiveness of the recommendations will obviously depend on the application and how much direction and guidance the AER and CCP Steering Committee provides on the scope and tasks of the CCP across the four areas of activities.

Appendix H: Case Studies

To support our analysis, we looked at a number of comparable consumer challenge arrangements in other jurisdictions both domestically and internationally. This included:

- Ofgem Consumer Challenge Group (UK)
- Ofwat Consumer Challenge Group (UK)
- Public Advocate Office (USA)
- Independent Verifier (NZ)
- Customer Negotiation Committee (South Australia)
- Customer Engagement Council (Victoria)

To inform the collation of these case studies, we sought to detail:

- Role & Objectives
 - What is the overarching objective that the body is seeking to achieve?
 - What is their role as part of a price reset and what issues did they interrogate?
 - How does their role compare against other requirements that are placed on companies to engage consumers?
- Governance
 - How is the group established and who do they report to?
 - How is the group funded?
 - How are conflicts (e.g. with other consumer groups) managed?
 - How regularly have the arrangements been reviewed?
- Membership
 - How are members appointed?
 - What are their core skillsets?
- Outputs
 - What form is the advice provided in and how is the advice used?
 - What requirement is there to accept/implement the advice?
 - What impact did the advice have on the price reset?

H.1 Ofgem Consumer Challenge Group (United Kingdom)

In the UK energy sectors, Ofgem (the economic regulator) regulate using the “RIIO” model. They do this by setting Revenue using Incentives to deliver Innovation and Outputs. This framework was introduced in 2013 and drives a stronger focus on engaging with consumers, reflecting their needs through enhanced performance targets, and delivering value for money network services for existing and future consumers. Ofgem has established a new enhanced stakeholder engagement model for “RIIO-2”²⁰:

- A requirement for distribution companies to each set up a Customer Engagement Group and for transmission companies to set up a User Group. All of these groups are to be independently chaired. They will provide Ofgem with a public report on their views on the companies’ business plans from the perspective of local stakeholders (in distribution) and network users (in transmission). Companies will provide secretariat support for these groups, and provide any technical support that they may require.
- Ofgem has set up a central RIIO-2 Challenge which will also be independently chaired. They will provide Ofgem with a public report on companies’ business plans from the perspective of end consumers. Ofgem will provide the secretariat for this group, and any technical support that they may require.

A key feature of these models is that these Groups are independent, both from the companies and from Ofgem. Because the Groups are independent, they can offer robust challenge to company proposals, and their views can help us to understand the extent to which the business plans reflect and will meet the needs of stakeholders.

These company-led groups are expected to supplement, rather than substitute, the stakeholder engagement that companies must undertake to develop their plans. For instance, the Customer Engagement Group will consider whether companies have properly reflected local stakeholder requirements. They will not be the means of identifying those local requirements. Companies will still need to engage with local stakeholders.

Where any of these groups disagree with company proposals, Ofgem propose to hold open hearings to hear evidence on the points of contention, and to give an opportunity for any other critics or supporters of the company plans to provide arguments or evidence.

The purpose of these enhanced engagement arrangements is to provide a stronger voice for network users, consumers and consumer advocates in the price control process. Systematic challenge from these groups should produce better quality business plans from companies that are more reflective of the needs of their local stakeholders and ultimately, existing and future end consumers.

²⁰ Ofgem, *RIIO-2 Enhanced Stakeholder Engagement Guidance – Version 1*, 9 April 2018

Ofgem also has an annual stakeholder engagement and vulnerability incentive for network businesses, which isn't part of RII02, but has an impact on how network businesses engage consumers inside and outside price resets²¹.

Roles & Objectives

The Consumer Challenge Group (CCG) was set up to act as a 'critical friend' to Ofgem, to ensure that price control settlements for transmission and gas distribution are in the best interests of consumers.²²

The CCG acts in an advisory capacity to help inform Ofgem's decision making processes and provides an input that may not be provided through other means, such as primary consumer research.

CCGs can be involved in challenging price controls for sectors including Electricity Transmission, Gas Distribution and Gas Transmission.

At each business plan submission stage, the CCG assess value for money, quality and deliverability of the plans provided by the companies and submit a final report to Ofgem at the same time as the network companies.

The CCG may challenge all aspects of the network company business plans, with a particular focus on the range and quality of services offered, sustainability and environmental impacts, total expenditure, depreciation and the cost of capital.

The CCG are requested to focus on the following (but not limited to):

- assess, scrutinise and challenge the business plans from the view of existing and future consumers, with a focus on sustainability, affordability and the protection of vulnerable consumers
- consider how companies might respond to the overall price control framework once it is set. This will help Ofgem to understand the risk that some elements could have a stronger/weaker impact on company behaviour than we might anticipate
- consider Ofgem's policies for regulating each sector and whether they are likely to drive outcomes that are in the interests of existing and future consumers

CCG provide Ofgem with an independent report, which assists Ofgem in focusing on contentious areas of spending, through the open public hearings, as part of the review process.

It reviews areas of agreement and disagreement (with the company) and reasoning, a summary of recommendations, identifying specific areas or issues where (in the opinion of the Group) the network company's plans are weak or not properly justified.

Governance

The group is established by Ofgem and was first established for a CCG for Network Price Controls in July 2008, in recognition of the limited nature of consumer engagement in price reviews resulting from limited resources.

²¹ A key point of difference between the Ofgem CCG and the AER CCP is that Ofgem completes all resets at the same time, so the CCG's focus is more about cross company issues, whereas the CCP is able to go into more detail about each one.

²² Ofgem – Consumer Challenge Groups - <https://www.ofgem.gov.uk/network-regulation-riio-model/current-network-price-controls-riio-1/riio-1-forums-seminars-and-working-groups/consumer-challenge-group>

As the CCG is set up by Ofgem as an independent panel, members are recruited by Ofgem via an external recruitment agency.

The CCG does not have a separate budget and is provided with technical support by Ofgem. Where necessary, Ofgem will commission advice for the Group from its own economics, technical and engineering consultants.

The CCG is remunerated for their time, where they would not otherwise be able to participate (e.g. those who are self-employed or whose employers could not cover the costs of their time). This was valuable and enabled all members to devote sufficient time to the task. This was on a time and materials basis, which has now changed to members being remunerated based on a fixed salary for an eighteen month period.

Biographies of all members of the CCG are published publicly and also state declarations of interest.²³

As part of the RIIO-2 review²⁴, meetings with the CCG are held once a month, and frequency and duration are dependent of the Agenda agreed with the Chair and CCG.

The CCG is not a decision making body and Ofgem considers the views raised by the CCG, but are under no obligation to accept them. The CCG does not have any decision making powers and do not endorse the business plans submitted by the companies. Ofgem's board make the final decision on the price controls.

The Terms of reference clearly state that the group is independent from Ofgem and no action or recommendation on the part of the Group will under any circumstances be construed as any commitment on the part of Ofgem to take similar action to adopt such recommendations.

Membership

The initial CCG was appointed based on their expertise in energy sector knowledge and in the interests of consumers and made up of six members – four with a background in household consumer issues and two in business consumer issues.²⁵ The members held key positions with experience in consumer focussed advisory firms, utilities, infrastructure and regulatory policy, public spending, marketing, technology and sustainable energy. The members were appointed in an individual capacity and are not representatives of any organisational interest.

For the RIIO – T1 and GD1²⁶, the group had eight members and comprised of consumer (both household and industrial/commercial) and environmental experts. Their roles are high within their respective organisation and include Chief Executive, Chair, Director, Chairman, Co-Founder, Deputy Director, Head and Non-executive positions. CCG members brought insight across a range of sectors including sustainable energy, consumer focused interests, essential services, water industry and infrastructure.

²³ Ofgem – Consumer Challenge Group – RIIO ED1 – Biographies and Declaration of Interest
<https://www.ofgem.gov.uk/ofgem-publications/75347/consumerchallengegroupbiogsed1july13.pdf>

²⁴ Ofgem RIIO-2 Challenge Group - https://www.ofgem.gov.uk/system/files/docs/2018/11/riio-2_challenge_group_terms_of_reference.pdf

²⁵ Ofgem – Consumer First – The Ofgem Consumer Challenge Group -
https://www.ofgem.gov.uk/sites/default/files/docs/2009/07/cfconsumerchallengegroup_0.pdf

²⁶ Ofgem – RIIO T1 and GD1 Consumer Challenge Group - <https://www.ofgem.gov.uk/ofgem-publications/57547/riio-and-gd1-ccg20-12-2012-pdf>

Outputs

The report submitted by the CCG, assists Ofgem in evaluating business plans submitted by the DNO (distribution network operators), and fast-track assessments. Ofgem requests that the report clearly identify (with reasons) the list of questions or concerns the Group believes should be interrogated further in the open public hearings.

For the RIOT1 and GD1²⁷, CCG contributed by providing input and challenge on issues throughout the development of the price control, from the Draft Strategy to Initial Proposals and met with Ofgem T1 and GD1 teams to provide challenge, feedback and suggestions on policy development. The CCG met twice with the Authority's GD1 and T1 price control committee. CCG also has a seat on Ofgem's Price Control Review Forum where it provided views and input alongside a wider set of stakeholders at the meetings.

H.2 Ofwat Consumer Challenge Group (United Kingdom)

In the UK water markets, Ofwat regulate water prices. Ofwat are currently finalising their review of water prices to be set for five years from 1 April 2020, known as PR19. Under PR19²⁸, Ofwat applies a three tiered approach to engagement:

- Companies are responsible for carrying out direct local engagement with their customers to understand their priorities, needs and requirements, which should then drive decision making and the development of the company's business plan;
- Consumer Challenge Groups (CCG) provide independent challenge to companies and provide independent assurance to Ofwat
- Ofwat inform, enable and incentivise good customer engagement and:
 - facilitate more CCG collaboration; and
 - continue to provide information and clarity about our expectations (but not provide detailed or prescriptive guidance on how companies should engage with their customers).

To support effective consumer engagement, Ofwat identifies seven principles, documented in its customer engagement policy statement for PR19²⁹. It also released a paper on moving transitioning from passive customer to active participant³⁰, defining how customer participation supports the design, production, delivery, consumption, disposal and enjoyment of water, water services and the water environment in the home, at work and in the community.

To inform its initial assessment of a company's business plan (i.e. regulatory submission), Ofwat takes into account evidence that the company has:

²⁷ Ofgem – RIIO T1 and GD1 Consumer Challenge Group - <https://www.ofgem.gov.uk/ofgem-publications/57547/riio-and-gd1-ccg20-12-2012-pdf>

²⁸ Ofwat, *Delivering water 2020: Our final methodology for the 2019 price review*, December 2017

²⁹ Ofwat, *Delivering water 2020: Our final methodology for the 2019 price review*, December 2017

³⁰ Ofwat, *Tapped in – from passive customer to active participant*, March 2017

- effectively addressed the principles of good customer engagement including, but not limited to, evidence from its CCG;
- effectively taken forward the themes of customer participation including, but not limited to, evidence from its CCG; and
- engaged effectively with customers on longer-term issues such as resilience, and taken into account the needs and requirements of future customers.

Similar to Ofgem, the role of the CCG is not to displace direct engagement with customers, but to supplement existing and advancing engagement activities. Its primary roles are to provide assurance to Ofwat on the effectiveness of engagement, and to advise on the degree to which customer feedback has been adequately reflected in the business plan.

Role & Objectives

CCGs provide independent challenge to companies and independent assurance to Ofwat regarding³¹:

- Quality of company’s customer engagement; and
- Extent to which the results of this engagement are driving decision making and reflected in the company’s plan

The CCG reports submitted by the CCG provide independent evidence that informs Ofwat’s assessment of the quality of the business plan as part of their initial assessment.

For the current price review (PR19), Ofwat clarified two other roles, as part of their responsibilities as CCG:

- Reviewing and challenging companies’ on-going performance, including their Annual Performance Report; and
- Involvement in informing the development of Ofwat policy through contributing to consultations and workshops. This role is welcomed by Ofwat, but not required of CCGs for PR19.

The CCG may also assess company’s costs where appropriate.

Ofwat provides guidance for CCGs on issues to consider when assessing the quality of customer engagement.

These issues are non-exhaustive and Ofwat provides flexibility for the CCG to focus on issues of importance to them. Ofwat steers away from prescriptive guidance, which may divert the companies’ attention from requirements of customers to the regulator.

Governance

The CCGs are set up independent by the individual network companies as an independent panel, to challenge companies on the quality of their customer engagement and the degree of influence of the submitted business plans to Ofwat.

³¹ Aide Memoire for Customer Challenge Groups - <https://www.ofwat.gov.uk/wp-content/uploads/2018/03/Aide-Memoire-for-Customer-Challenge-Groups.pdf>

For PR19, Ofwat have requested an increased focus on CCG governance and funding process transparency. Governance processes can include (but are not limited to)³²:

- The appointment of chairs and members;
- The remuneration of chairs and members;
- Any conflict of interests
- Support and other resources provided to the CCG
- CCG access to non-executive members of company Boards;
- The expertise on the group; and
- The CCG process.

Ofwat maintain regular contact with CCGs through regular chair workshops (held quarterly) and email communication with CCG chairs.

Ofwat meets with the water companies and CCG Chairs, which provides Ofwat with an insight of each company's business plan submissions and CCG report. Ofwat is not prescriptive of how CCGs engage with the company, but expect that CCGs are involved in reviewing and challenging companies' on-going performance.

CCGs also hold private meetings without the company being present. By operating at arm's length from the company, they can maintain their independence and transparency³³.

Membership

Recruitment for the CCG is completed by the Company. Individual network companies remunerate the independent CCG in different ways – some are remunerated for each meeting and some only have their expenses covered (as a voluntary role).

For PR19, CCGs compose of bodies – CCWater (the Consumer Council for Water), regulators, water companies and environment, organisations loosely connected to the water industry representing views of particular consumer or business owners and paid members to provide strategic advice to address technical or complex subject matters.³⁴

Outputs

The CCGs submit an independent report to Ofwat at the same time as business plan submission by the network companies.

The report provides Ofwat with assurance and independent evidence that informs Ofwat's initial assessment of business plan quality. Advice cannot be taken into account, unless the advice is evidence based, to meet Ofwat's legal obligations.

³² Ofwat's customer engagement policy statement and expectations for PR19 - https://www.ofwat.gov.uk/wp-content/uploads/2015/12/pap_pos20160525w2020cust.pdf

³³ Aide Memoire for Customer Challenge Groups - <https://www.ofwat.gov.uk/wp-content/uploads/2018/03/Aide-Memoire-for-Customer-Challenge-Groups.pdf>

³⁴ Customer Challenge Groups - <https://www.ofwat.gov.uk/regulated-companies/price-review/price-review-2014/customer-engagement/customer-challenge-groups/>

As a regulator, Ofwat needs to abide by their legal duties and assessment of submitted business plans and quality must be evidence based³⁵. To meet requirements, CCG reports should highlight:

- Areas of challenge and disagreement, including how the company has responded to challenges;
- Any areas of outstanding disagreement; and
- How trade-offs have been explored and reflected in the development of the company's business plan;

The CCG reports form an important element in Ofwat's assessment of company plans, with an increased focus on CCG governance and funding process transparency as part of PR19. Each CCG is required to set up their own website, publishing all items for public access.

H.3 Public Advocate Office (United States of America)

Role & Objectives

The Public Advocates Office (the Office) is the independent consumer advocate within the California Public Utilities Commission (CPUC) that advocates solely on behalf of investor owned utility ratepayers.

The Office's statutory mission is to obtain the lowest possible rate for service consistent with reliable and safe service levels. The Californian Public Advocates Office is the only State entity charged with this responsibility and have a critical role in ensuring that consumers are represented at the CPUC on matters that affect how much consumers pay for utility services and the quality of those services.³⁶

The Office's role is to achieve the best value for consumers across the regulated industry sectors including energy, water and communications.

As part of regulatory proceedings, the Office challenges costs, as part of Ex-post reasonable reviews.

The Office advocates for consumers in General Rate Case (GRC) proceedings. An in-depth review is completed, whereby the Office develops fact-based recommendations to advocate for the lowest possible customer rates consistent with safety, reliability and the state's environmental goals. These span across the energy, water and communications, with proceedings being division specific.

The Office also participates in public meetings, working with a variety of stakeholders, including customers of small business organisations, community and environmental groups and other consumer orientated organisations to advocate for customers before the CPUC and in other forums.

The Office perform a thorough examination of the benefits and costs of proposed programs and policies and advocate for outcomes that are consistent with state policy goals and in the best interests of consumers. The proposals are examined to determine if they are necessary, will keep

³⁵ Aide Memoire for Customer Challenge Groups - <https://www.ofwat.gov.uk/wp-content/uploads/2018/03/Aide-Memoire-for-Customer-Challenge-Groups.pdf>

³⁶ Public Advocates Office – About - https://www.publicadvocates.cpuc.ca.gov/About_ORA.aspx

rates affordable, support California’s energy goals, and promote the safety and reliability of the state’s energy infrastructure.

Governance

The Office is led by an executive management team, which oversees the office’s seven branches covering the issues of energy, water and communications.

They report to the CPUC and assist in representing consumers for utility services.

Each year, the Office reports to the Legislature, their expenditure in previous budget cycles, estimated total dollars expended in the current year and the total dollars proposed for appropriation in the upcoming year.³⁷

The Office’s budget is statutorily designated as a separate account into which funds are annually transferred via the annual Budget Act to the CPUC Ratepayer Advocate Account, to be used exclusively by the Office in the performance of its duties.

On or before January 10 of each year, the Office is required to provide to the legislature the following:

- Staffing levels over five years – number of personnel utilised by the office with a comparison of its staffing levels for a five-year period
- Budget – total amount expended by the Office in the prior year, estimated amount to be expended in the current year and total proposed for appropriation in the following budget year.
- Workload - Standards and measures for the Public Advocates Office.

Membership

The Public Advocates Office Director is appointed by the Governor and confirmed by the California State Senate.

The Office has a staff of over 140 professionals consisting of engineers, economists, scientists and auditors with expertise related to the electricity, natural gas, water and telecommunications industries in California.³⁸

Over the last 5 years, the number of authorised staff part of the Public Advocates Office have increased from 147 to 183 for the 2019-2020 year.

Outputs

The Office participate in a number of CPUC proceedings, filing pleadings to aid the CPUC in developing the record from which Commissioners formulate final decisions and meet with decision makers on behalf of ratepayers to ensure that consumer perspective is heard.

Staff perform an in-depth review and analysis of regulatory policy issues and utility proposals, for funding, totalling over billions of dollars, in order to determine whether utility requests are in the interest of the ratepayers.

³⁷ 2014 Public Advocates Office 2014 - <https://www.publicadvocates.cpuc.ca.gov/AR2014.aspx>

³⁸ 2014 Public Advocates Office 2014 - <https://www.publicadvocates.cpuc.ca.gov/AR2014.aspx>

Energy General Rate Cases evaluated investor-owned utility companies in the areas of customer rates, procurement, renewables, distributed energy resources, transmission and distribution infrastructure, safety, and consumer protection.

Water General Rate Cases support cost-effective conservation programs and long-term water supply solutions.

Communications Ratemaking Proceedings look to conduct a detailed review to assess the reasonableness of proposed costs – e.g. executive compensation, operations and maintenance, customer care, general and administrative expenses and infrastructure investment and reviews customers against the revenue requirements established by CPUC.

In 2018, the Office participated in 168 CPUC proceedings and filed approximately 804 pleadings to advocate for the interests of California consumers. Across Energy, Water and Communications sector, the Office was able to provide customers savings of \$3.3 billion and \$43 billion in the last decade.³⁹

H.4 Independent verifier (New Zealand)

Role & Objectives

The independent Verifier is required to test the assumptions underpinning capex, opex and demand forecasts, in order to assist Transpower to submit a better quality and more robust proposal, as well as direct the Commission to areas of the expenditure proposal that require greater scrutiny.⁴⁰

The independent Verifier has a duty of care to the Commission (as well as to Transpower) to act as independent expert and with reasonable care when carrying out its scrutiny.

The Verifier's role and obligations will be:⁴¹

- Engaging with New Zealand's state-owned electric power transmission enterprise (Transpower), in an independent manner in accordance with the tripartite deed; and
- Evaluating whether Transpower's proposed base capex allowance, proposed opex allowance, proposed grid output measures and key assumptions are consistent with an expenditure outcome which represents the efficient costs of a prudent supplier

The Verifier is not required to audit the quantitative information in the proposal, but expected to ascertain and conclude on the effectiveness of the process used to assemble the quantitative information that informs the proposal.

The criteria for issues that the Verifier should interrogate cover the following:

³⁹ Public Advocates Office – 2018 Annual Report -

https://www.publicadvocates.cpuc.ca.gov/uploadedFiles/Content/Annual_Reports/AR2018/Public%20Advocates%20Office%202018%20Annual%20Report.pdf

⁴⁰ New Zealand Commerce Commission – Independent Verification for RCP3 – Terms of Reference -

https://comcom.govt.nz/_data/assets/pdf_file/0021/91272/Independent-verification-for-RCP3-Terms-of-reference-16-April-2018.PDF

⁴¹ New Zealand Commerce Commission – Independent Verification for RCP3 – Terms of Reference -

https://comcom.govt.nz/_data/assets/pdf_file/0021/91272/Independent-verification-for-RCP3-Terms-of-reference-16-April-2018.PDF

- General evaluation of the base capex proposal and the opex proposal, including the reasonableness of the key assumptions and whether policies and prioritisation of projects and programs demonstrate a risk-based approach
- Specific evaluation of the opex proposal, including drivers not covered by the key assumptions that contribute to the proposed opex allowance, methodologies and efficiencies.
- Evaluation of identified programs including relevant policies and planning standards
- Criteria for considering the low incentive rate base capex allowance and extent to which Transpower shows consideration whether there are viable alternatives and magnitude of cost uncertainty of the base capex project or program.
- Consideration of grid output measures and revenue linked grid output measures.

The Verifier is required to exercise its professional judgement about the relative consideration to give to each of the criteria.

Transpower agreed to pilot using an independent verifier ahead of submitting its proposal. The independent Verifier is able to complete frontload work, testing the assumption underpinning their capital and operating expenditure and demand forecasts. This helps the Commission to focus their review of the proposal on areas that require greater scrutiny.

Governance

The independent Verifier is recruited by the Commission and have a consulting and engineering advisory background.

The Verifier report to the Commission via submission of their report on their opinion of Transpower's price submission.

Membership

The Commission engaged Synergies Economic Consulting in partnership with GHD Advisory to perform the role of independent verifier to scrutinise the base capital expenditure (Base Capex) and operating expenditure (opex) components of Transpower's third regulatory control period (RCP3) proposal for its price-quality path for five years, from 1 July 2020.

Outputs

This arrangement of setting up an independent Verifier was previously used for Powerco's recent application for a major network upgrade, which worked well. The scrutiny through the setup of the Verifier resulted in the electricity lines company reducing its capital and operating spending forecast by around 5%.

As this is a pilot independent verification for Transpower's proposal, this allowed the Commission:

- An opportunity to evaluate the success of independent verification before Transpower committed to their business plan to the Commission.
- Consulting on formally introducing verification requirements, will allow the Commission to better develop the formal verification requirements as a result of going through the pilot verification process.

The independent verification looks to improve the Commission's decision making through testing, in advance of the Commission receiving the proposals, help mitigate risks of any potential incentives on Transpower to provide overly generous estimates of forecast expenditure and result in better scrutiny of the investment proposals which may lead to a more appropriate level of forecast expenditure in the proposal.

The independent Verifier is required to submit a verification report providing their opinion on Transpower's proposal, policies, consultation with its stakeholders, issues and areas for the Commission to focus on and any exclusions not included in the proposal that the Verifier reasonably believes should.

The Verifier submits a draft verification report to Transpower, for them to comment on the draft report and take into account the Verifier's draft comments prior to them submitting their proposal to the Verifier for final verification.

The Verifier's findings will help inform a process and issues the paper that the Commission publishes to invite stakeholder comment on Transpower's proposal. As part of this, the Commission anticipates consulting on the extent to which they should rely in its evaluation of the proposal on the Verifier's findings.

The degree to which the Commission will take into account the findings of the verification report will depend (amongst other things) on the level of engagement of the Verifier at each stage of development of the proposal and the robustness of the analysis and information on which the Verifier relied on, taking into account the evaluation criteria (including the considering opex and base capex together, given the potential cost trade-offs between opex and base capex.

H.5 Customer Negotiation Committee (South Australia)

Role & Objectives

The Customer Negotiation Committee (CNC) represents all customers of SA Water, in challenging and negotiating SA Water's proposed business plan before submission to the Commission for review.

As part of the planning process for the regulatory determination, the CNC assists SA Water with developing their draft business plan proposal and discuss and negotiate the plan over a four month period, facilitated by SA Water.

SA Water negotiate their proposal with the CNC, through the Negotiation Forum and throughout the development of the price submission. In negotiations with SA Water, the CNC is required to take into account customer consideration, areas of importance and willingness to pay, which guides SA Water's business planning⁴². The CNC will analyse and test SA Water's proposals and provide a robust customer perspective. The CNC is supported by the Essential Services Commission of South Australia (ESCOSA), regulators, social advocacy groups and experts to evaluate the proposal.

⁴² SA Water – Our Plan 2020-2040 Proposal Summary
https://www.sawater.com.au/_data/assets/pdf_file/0019/350650/Our-Plan-Summary.pdf

A public report is prepared by the Independent Chairperson of the CNC, following the negotiation process which summarises the views of the Customer Negotiating Committee and those areas where further analysis and judgement is required by ESCOSA in making its regulatory determination.

The negotiation process is non-binding and ESCOSA remains responsible for making regulatory determination, to best serve consumers' long term interests. The findings from the CNC helps inform the draft regulatory determination. Where issues are successfully negotiated between the parties and are consistent with the guidance provided by it up front, ESCOSA is likely to accept or give significant weight to those outcomes when making its determination.

Governance

The Customer Negotiation Committee (CNC) is established by the Essential Services Commission of South Australia (ESCOSA), but it is not subject to its control. Its role is to represent all SA Water customers, by challenging and negotiating SA Water's proposed business plan before submission to ESCOSA.

Comprising a Chairperson, and members from SA Water's Customer Experts Panel and the Customer Working Group, the CNC is required to take into account customer consideration, areas of importance and willingness to pay through a Negotiation Forum.

The new governance structure provides separation between ESCOSA's decision-making role and the process of negotiation between SA Water and customer representatives along with independent oversight.

The CNC is provided with ESCOSA's Guidance Papers, the report from the Consumer Experts Panel (advisory body for the CNC) and additional background information from other regulators.

The CNC is able to seek further guidance from ESCOSA and is also provided the opportunity to seek access to independent expert advice.

The CNC is paid a sitting fee for attendance at each committee meeting and meetings at the Negotiation Forum. A travel allowance is available for members required to travel a distance of greater than 40 kilometres one way to attend meetings.

Members of the CNC must declare any potential, perceived or actual conflict of interest to the Independent Chairperson, who may refer it to the Independent Probity Advisor for consideration and management.

The Independent Chairperson or Independent Probity Advisor (as the case may be) reserves the right to excuse a member of the CNC from a meeting or particular discussion item where a conflict of interest is identified.⁴³

Membership

The Independent Chairperson has experience in economic policy, budget formulation, Commonwealth-State financial relations, insurance and risk management, accounting policy and

⁴³ SA Water Regulatory Determination 2020 – Negotiation Forum – Charter and Governance - https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=2ahUKEwixyYnNov_jAhUK73MBHcl8DzEQFjABegQIARAC&url=https%3A%2F%2Fwww.escosa.sa.gov.au%2FArticleDocuments%2F11296%2F20190805-SAWRD20-CharterGovernance-NegotiationForumCharter.pdf.aspx&usq=AOvVaw2G5GWDwL2YRLCkzZSn2U-R

corporate support and has supported boards for Government and not-for-profit organisations and served and chaired audit and risk committees.

The member appointed from the Consumer Experts Panel is an economist and worked in community services and is also a member of the AER Consumer Challenge Panel, a member of ESCOSA's Consumer Advisory Committee and currently sits on a number of other consumer reference groups for essential service providers and regulators.

The member appointed from SA Waters' Customer Working Group has prior experience in the health and community services sector and has advocated and contributed to new or updated Australian Standards for consumer goods, recall of unsafe products and improved information for consumers.

Outputs

The Independent Chairperson prepares a public report following completion of the negotiation process, summarising the views of the CNC and any areas where further analysis is required by ESCOSA.

Following the negotiation process, the CNC's public report summarises the views of the CNC and any areas where further analysis is required by ESCOSA in making its regulatory determination.

ESCOSA assesses the business plan in context of:

- Statutory objectives and factors under their legislative framework;
- Reports from the Chairperson of the CNC, the Independent Probity Advisor, the Consumer Experts Panel and regulators of SA Water; and
- Stakeholder submissions.

Where issues are successfully negotiated between the parties and are consistent with the guidance provided by it up front, ESCOSA is likely to accept or give significant weight to those outcomes when making its determination. The structured input from consumer representatives help better inform ESCOSA's determination.

ESCOSA notes that a successful negotiation process does not require the CNC and SA Water to reach an agreement on all aspects of the draft business plan. The submitted business plan from SA Water and report submitted by the CNC's chairperson should report these (areas of disagreement) in the report to ESCOSA. ESCOSA exercise its judgment when making regulatory determination.

Following the negotiation process, the CNC's public report summarising the views of the Customer Negotiating Committee and any areas where further analysis is required by ESCOSA in making its regulatory determination.

H.6 South East Water (Victoria)

ESC (PREMO) – Victorian water

In October 2016, the ESC released their water pricing framework and approach⁴⁴ (PREMO) aimed at providing both financial and reputational incentives to businesses to develop submissions that propose better customer value through better customer engagement. The framework rewards businesses that:

- focus on delivering outcomes sought by their customers;
- accept risks on behalf of their communities; and
- deliver services as efficiently as possible.

These rewards including linking the rate of return a business can earn with the level of ambition of its pricing proposal and fast-tracking businesses through the price determination process where the customer value proposition is clearly articulated and the submission is well evidenced.

The rate of return is determined on the basis of the 'rating' the submission achieves against each of the PREMO elements (Performance, Risk, Engagement, Management, Outcomes), across four rating levels:

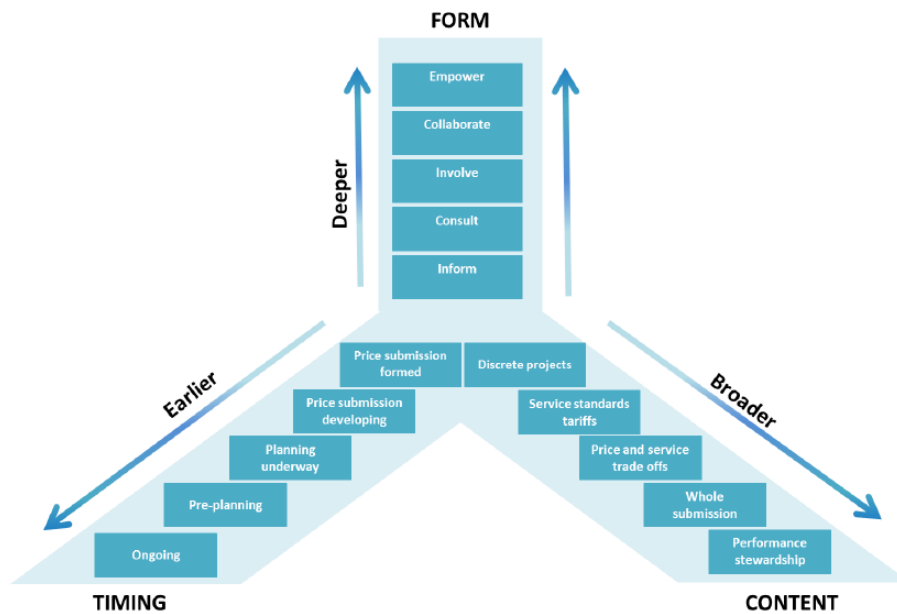
- Leading
- Advanced
- Standard
- Basic

The return on equity that forms part of the rate of return, is linked to these ratings. In the 2018 price review, this ranged between 5.3% for leading, and 4.1% for basic.

The premise of the PREMO framework is to incentivise businesses to put the customer at the centre of its planning, striving to clearly understand what products and services its customers (and potential customers) want and expect. The ESC does not prescribe the manner in which water businesses engage with their customers. Each water business is best positioned to explore different approaches to find the engagement strategy that works best for its customers and develop this strategy over time. Instead, they provide a set of good practice principles that they expect each business to consider to support engagement that is broad, deep and starts early. This is demonstrated in their customer engagement diagram:

Figure 1 ESC Customer engagement framework

⁴⁴ Essential Services Commission, *Water Pricing Framework and Approach – Implementing PREMO from 2018*, October 2016



A key factor in assessing the effectiveness of customer engagement is how the business describes its customer engagement activity and translates the findings into its submission. The business will need to explain why it chose the various engagement activities, what it learnt and how it used the information gained from its engagement program to develop its submission. A price submission must clearly describe how the business has taken into account the customer views and values revealed through the engagement processes, and how these have informed the customer outcomes proposed.

In effect, water businesses are incentivised to have their customers directly challenge their submissions during engagement, as their PREMO rating (which is linked to the return on equity component of the rate of return, and the opportunity to be fast-tracked through the price review) reflects how well the price submission reflects customer needs. In some circumstances, water businesses established their own independent customer challenge bodies.

One of the businesses, South East Water (SEW), who was one of four fast-tracked businesses under PREMO, established an independent body to advise on and challenge the customer engagement program it had designed to inform its 2018 price submission to the ESC (refer to Appendix H for further detail).

Role & Objectives

In 2016-17 South East Water established an independent body to advise on and challenge the customer engagement program it had designed to inform its 2018 price submission to its economic regulator.

The role of the Council was to challenge the:

- planning and implementation of South East Water’s customer engagement program;
- interpretation of research findings;
- business decisions; and

- communication.

These challenges were within the context of a new regulatory assessment framework called PREMO, which the economic regulator had recently introduced. The new approach placed greater emphasis on the role of customer engagement to influence price submissions and provided an incentive in the form of a greater return to businesses that expressed greater ambition and successful delivery of commitments.

The Council considered:

- will the customer engagement program capture the diversity of customers (and communities);
- is enough, clear information provided to customers to ensure effective engagement;
- is the customer engagement plan consistent the proposed level of engagement (IAP2);
- does the customer engagement program reflect best practice/most appropriate in the utility sector;
- will the customer engagement program meet expectations of the economic regulator;
- has customer research been accurately interpreted and does it capture all perspectives;
- is South East Water accurately portraying in its pricing submission the extent to which customer insights have impacted business decisions; and
- does South East Water’s price submission contain commitments consistent with the findings of its customer engagement program.

There was no formal requirement to accept or implement the advice of the Council. The role of this Challenge Council ensured that SEW were held to account on over the findings it received through engagement, and to ensure that the proposals submitted to the ESC appropriately reflected that feedback and created better value for SEW’s customers.

The council did not substitute for customer engagement, but was used to ensure that good practice direct engagement with SEW’s customers occurred. It held SEW to account, in a way that could not be achieved by the ESC during the development of the submission. It also allowed for a senior strategic group to better understand SEW’s business, its customers and to share views on how to create better value for consumers, through the regulatory price setting process.

Governance

South East Water appointed an independent chair of the Council and selectively invited members holding senior positions in a range of interests.

South East Water paid an honorarium for attendance at each meeting. The Council had no budget to engage in its own work, instead it advised South East Water to engage in additional or modified consultancies.

South East Water approached senior position holders with a range of skills and experience, and not necessarily located within their service area. A Terms of Reference was given to each potential member and it stipulated a 12-month appointment period.

The original intention was for the Council to meet monthly, but time commitments of the members dictated a 2-monthly interval. South East Water agreed to this reduced frequency in order to attract the best people to the Council.

The Council chair in consultation with Council members and South East Water representatives set the meeting agendas. The Council chair had access to the South East Water Board of Directors.

At the end of each meeting, Council members, without South East Water staff present, reflected on any discomfort and potential improvements. The chair provided quick feed-back to South East Water management on what changes should be made before the next meeting.

At the completion of the 12-month term there was a facilitated discussion on performance of the Council with all members and South East water staff who had interacted with the Council. As a result, South East water has now established an ongoing Customer and Community Advisory Council with a broader remit than simply the price submission (keeping South East Water accountable for delivery of its commitments in the price submission remains a role). The latter Council has an independent chair, most of the previous members and has been supplemented with broader skills and experience such as environment, agriculture, local government, youth and plumbing. There were goals of gender balance and indigenous representation.

Membership

The Council had an independent chair with a long history of multiple roles in the water sector, and members who held senior positions in:

- consumer advocacy;
- industry/manufacturing;
- academia/behavioural science;
- urban development;
- multiculturalism; and
- a South East Water General Manager.

South East Water staff and consultants provided information to the council.

Outputs

The Council advised South East Water on how-when-what to test with consumers and interpretation of the qualitative and quantitative results. The Council overviewed the scope of engagement South East Water was undertaking with special interest groups and advised on gaps or areas for increased attention.

All advice was verbal to South East Water representatives present at the Council meetings. Recommendations were minuted and actions reviewed at the next Council meeting. The Board of Directors of South East Water invited the independent chair of the Council to attend a Board meeting so that the Board could satisfy itself that its own management were listening to the Council.

The advice from Council was used to extend, redirect, add rigour or reconsider the customer research and South East Water's interpretations. Most often South East Water received confirmation of their actions from the Council.

South East water received the most benefit when it engaged early with the Council, before processes and actions were committed.

South East Water's price submission was one of only four businesses to receive a fast-tracked review by the economic regulator.

Appendix I: Survey responses

This Appendix contains a series of charts and tables. Explanatory text is sparse because the charts relate to assertions made in Appendix E of this report. For insight and analysis of themes please consult Appendix E.

The survey was collaboratively designed to test support for various future alternate states of the CCP. The survey was administered through the AER’s engagement portal and was open between Monday September 9th and Monday September 23rd.

The survey was anonymous. The only compulsory questions related to which sector the respondent came from (AER, CCP, Industry or Consumer group); and the respondent’s degree of familiarity with the operations of the CCP on a network reset, on a lateral sub panel, with the governance arrangements of the CCP. In addition, respondents rated their own expertise in relevant law/economics, engineering/network design, and consumer engagement/representation/advocacy.

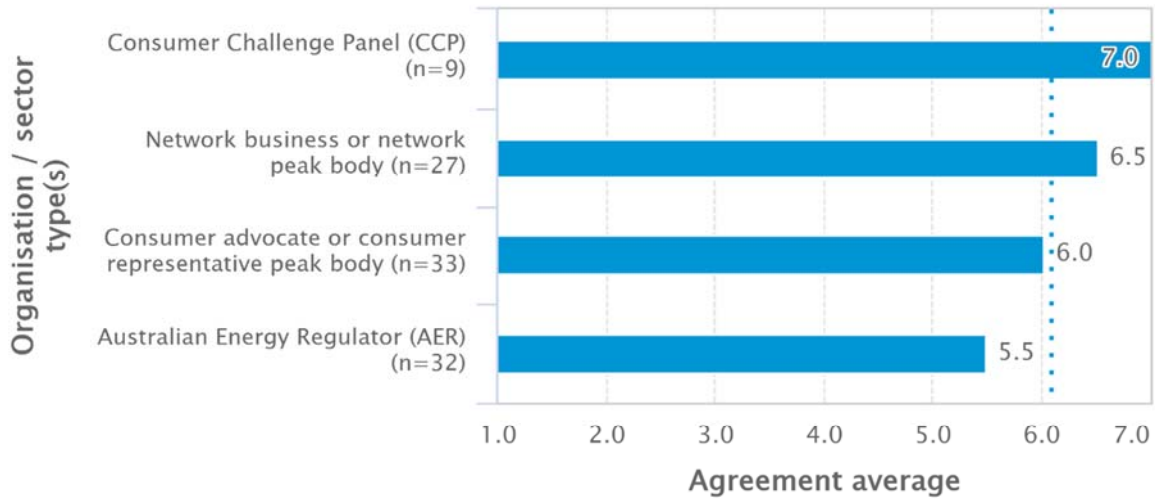
One hundred and one responses were received, with only three respondents indicating that they came from more than one sector (for example, CCG and CCP). Only five respondents were CCG members, prohibiting meaningful yet anonymous analysis. These five were moved to the CCP or advocate group as appropriate.

Relevant feedback is provided for each of the four organisation/sector types.

Organisation / sector type(s)	Responses
Australian Energy Regulator (AER)	32 (100%)
Consumer Challenge Panel (CCP)	9 (100%)
Consumer advocate or consumer representative peak body	33 (100%)
Network business or network peak body	27 (100%)

Respondents reported a high degree of familiarity with the operations of the CCP on network resets:

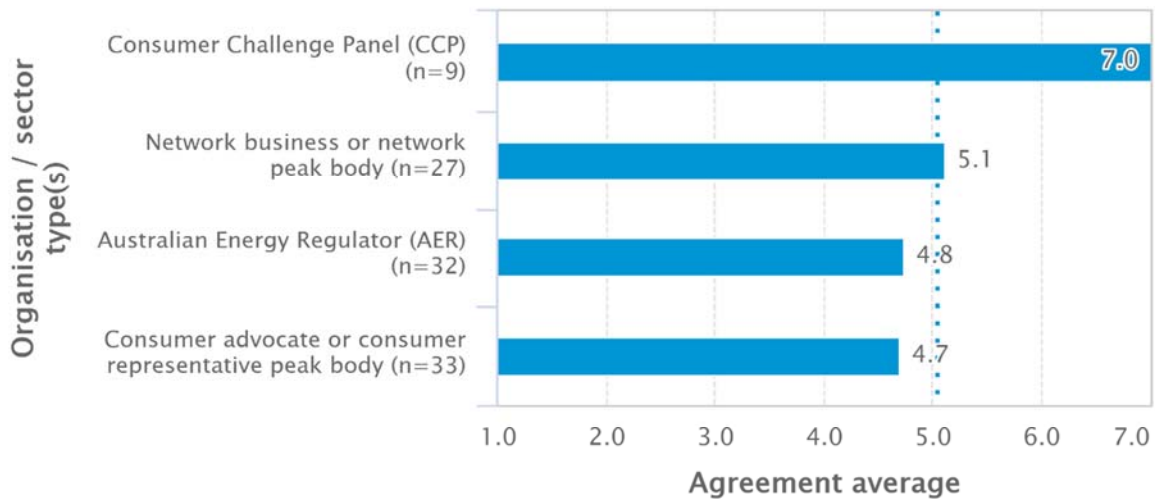
Agreement average: 6.1



1. I am familiar with the operations of the CCP on a network reset
 Date period: Invited 9 Sep 2019 – 24 Sep 2019
 Response filter: All responses

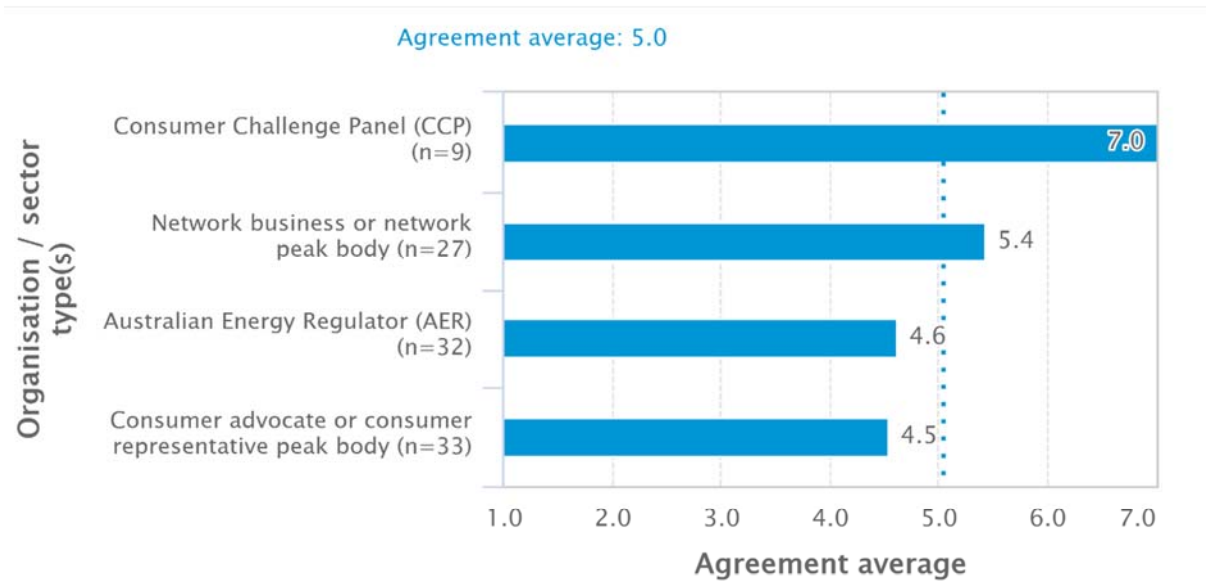
But less familiarity with the workings of lateral sub-panels

Agreement average: 5.0



2. I am familiar with the operations of the CCP on a lateral sub panel
 Date period: Invited 9 Sep 2019 – 24 Sep 2019
 Response filter: All responses

Many AER staff and consumer advocates were not aware of the governance arrangements of the CCP:

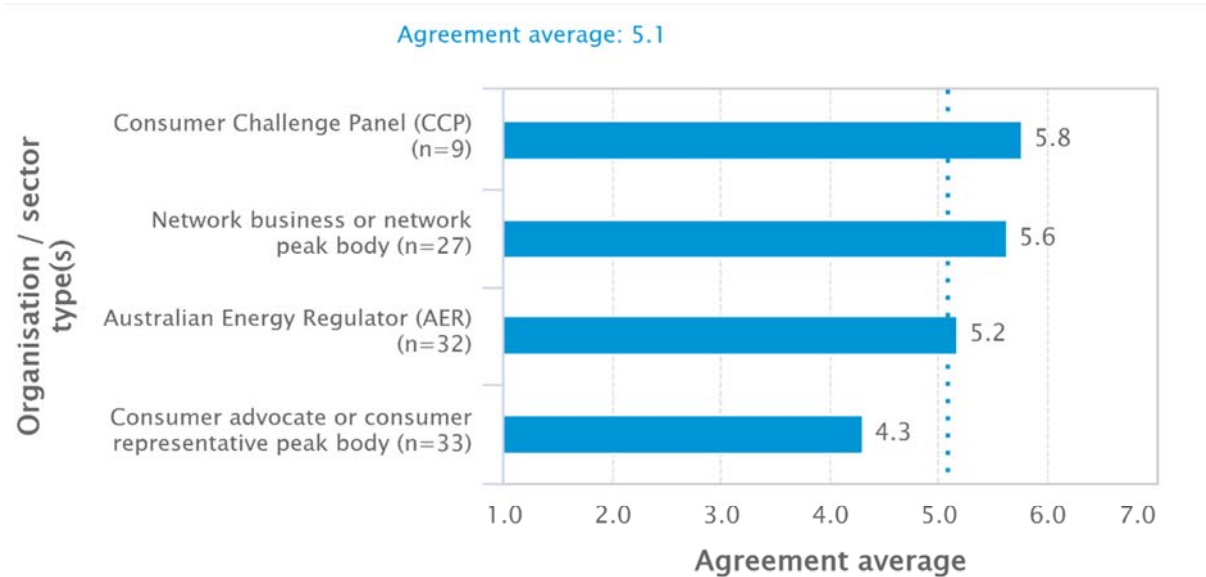


3. I am familiar with the governance arrangements of the CCP

Date period: Invited 9 Sep 2019 – 24 Sep 2019

Response filter: All responses

Consumer advocates were less likely to have expertise in law/economics:

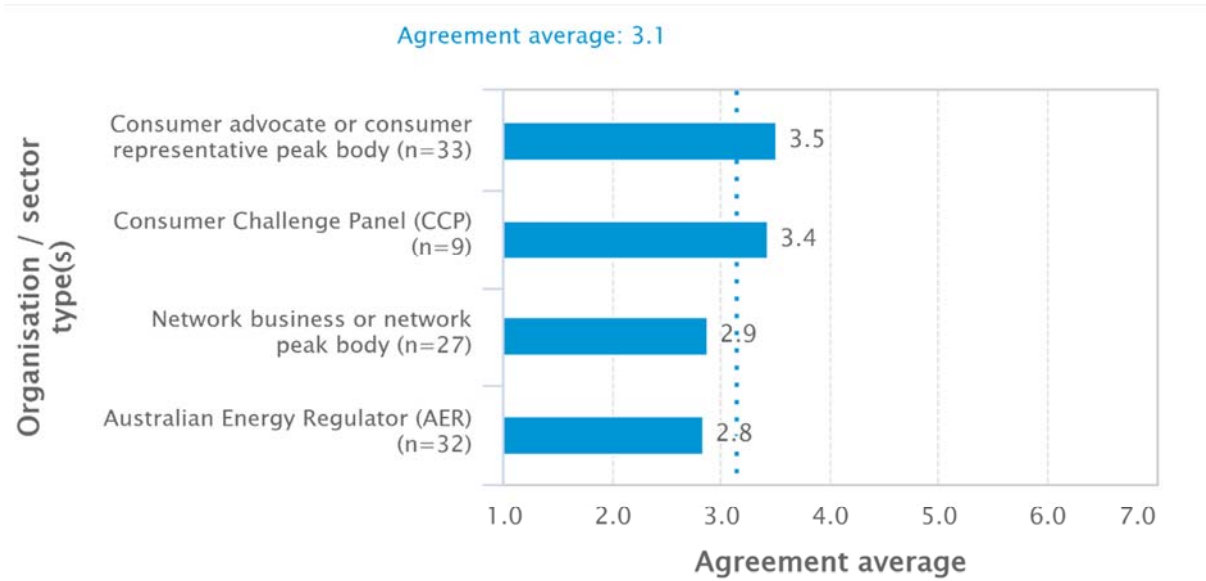


4. I have significant expertise in relevant law and/or regulatory economics

Date period: Invited 9 Sep 2019 – 24 Sep 2019

Response filter: All responses

Fewer than one in five survey respondents indicated significant expertise in engineering/network design:

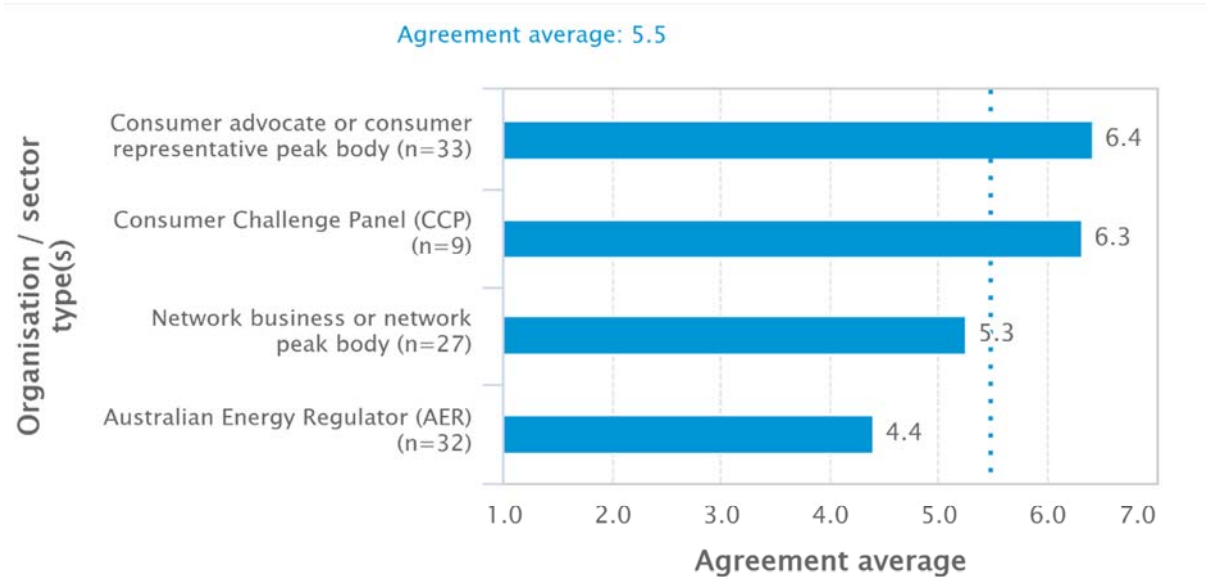


5. I have significant expertise in engineering / network design

Date period: Invited 9 Sep 2019 – 24 Sep 2019

Response filter: All responses

AER staff were least likely to profess expertise in consumer engagement:

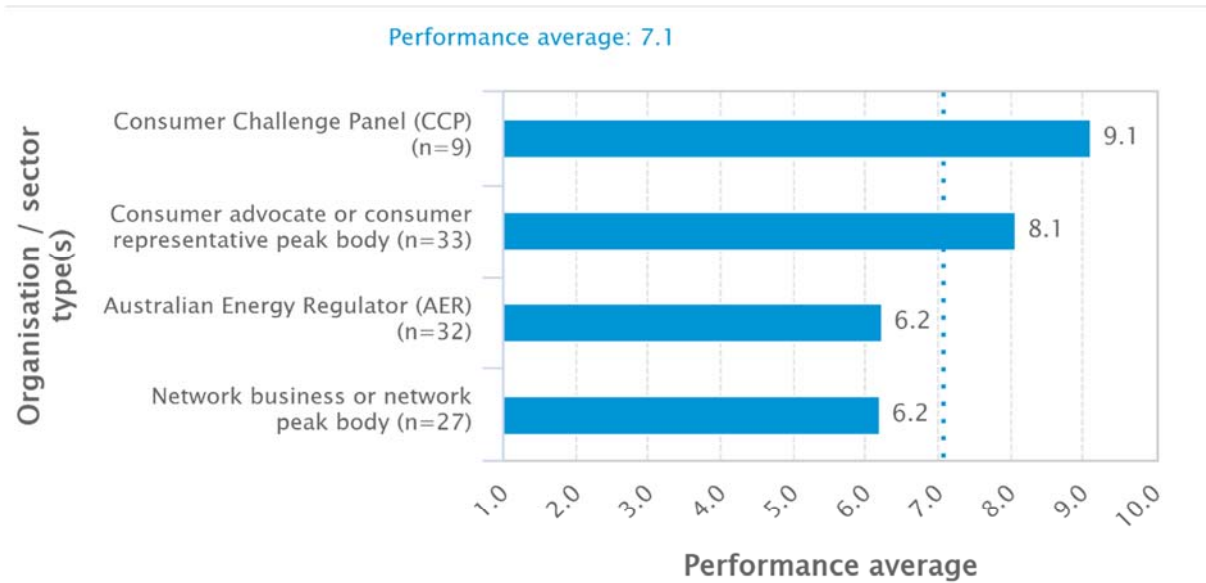


6. I have significant expertise in consumer engagement / representation / advocacy

Date period: Invited 9 Sep 2019 – 24 Sep 2019

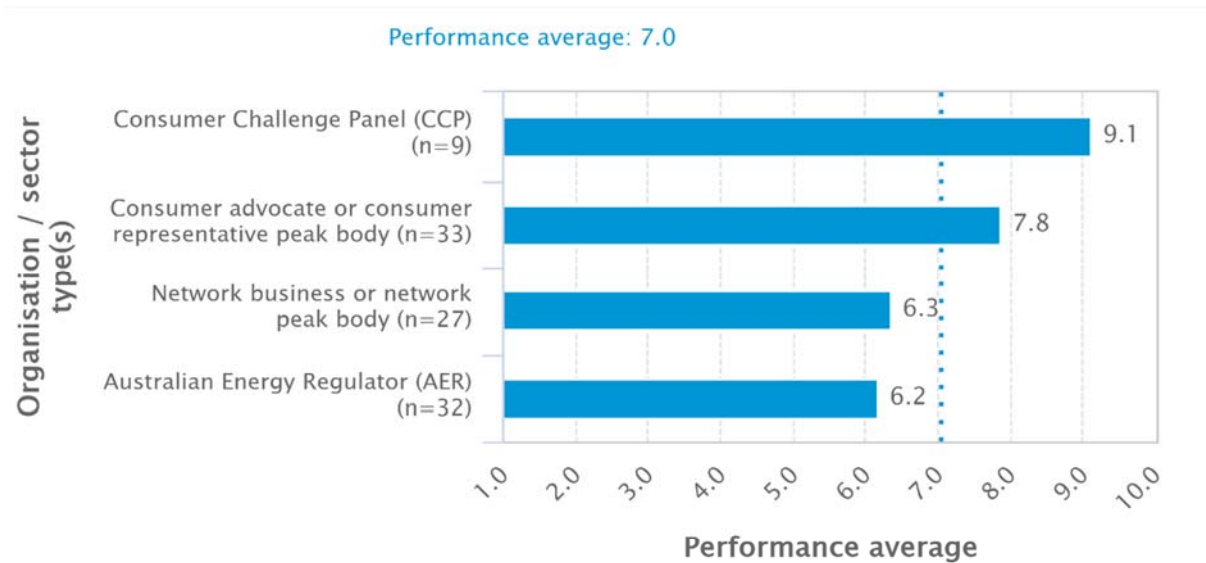
Response filter: All responses

Consumer advocates were far more likely than network or AER staff to think highly of CCP’s ability to assist the AER in making better determinations:



7. The CCP program provides the AER with assistance in making better regulatory determinations.
 Date period: Invited 9 Sep 2019 – 24 Sep 2019
 Response filter: All responses

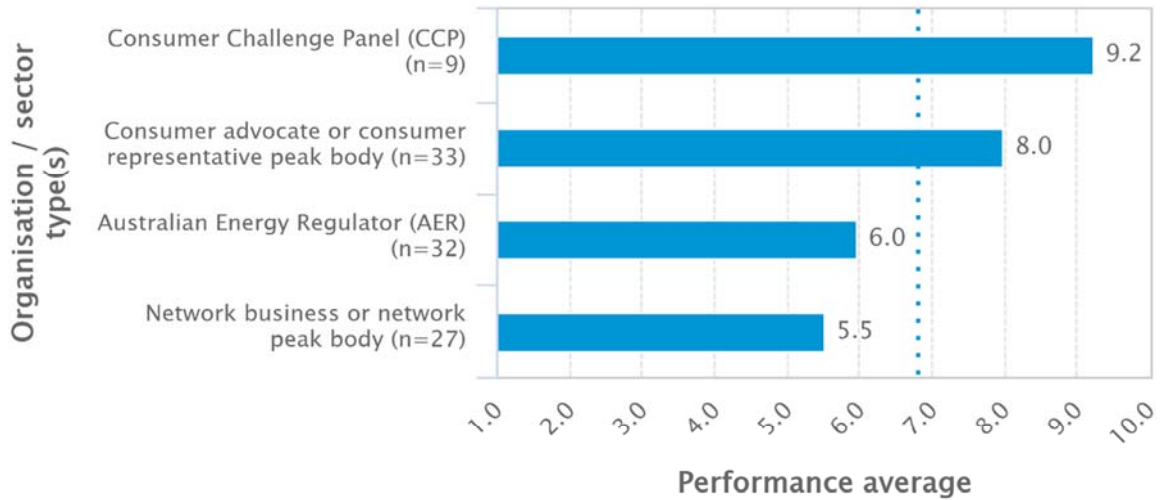
The same pattern is evident on the question of advising the AER on the effectiveness of network businesses' engagement:



8. The CCP program successfully advises the AER on the effectiveness of network businesses' engagement with their customers and the impact this has had on proposals.
 Date period: Invited 9 Sep 2019 – 24 Sep 2019
 Response filter: All responses

The pattern is even more pronounced on the question of whether the CCP advances the interests of consumers:

Performance average: 6.8



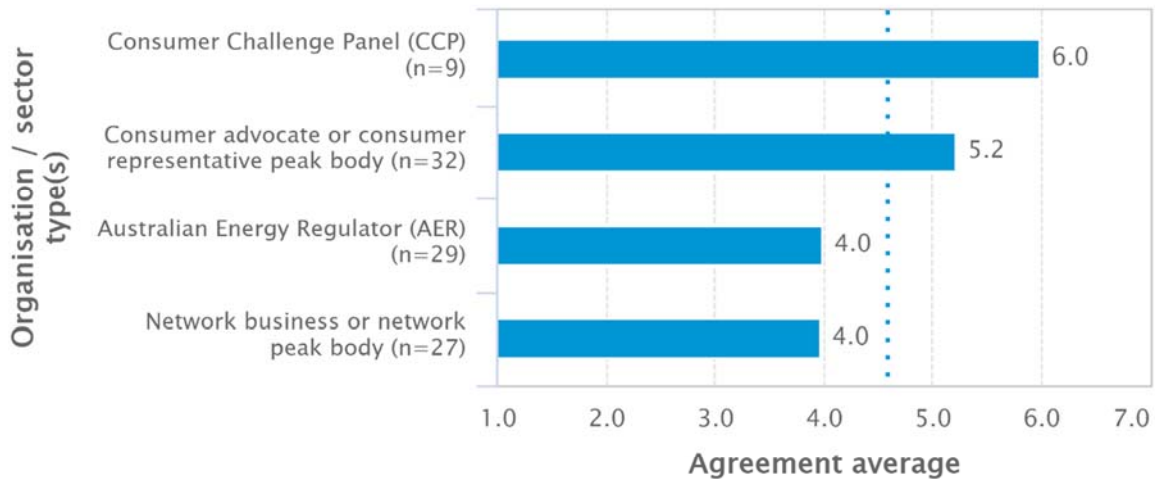
9. The CCP program effectively advances the interests of consumers.

Date period: Invited 9 Sep 2019 – 24 Sep 2019

Response filter: All responses

Perceptions of conflicts of interest varied among stakeholder groups with substantial levels of disagreement with the statement from AER and industry stakeholders:

Agreement average: 4.6



43. CCP members are free from conflicts of interest, or manage any real or perceived conflicts of interest appropriately

Date period: Invited 9 Sep 2019 – 26 Sep 2019

Response filter: All responses

Survey respondents report that the CCP has improved in the last 3 years

According to stakeholders, CCP's performance has improved in the last three years. In the 2016 review of CCP a survey of stakeholders was done. Three key questions were repeated in the 2019 survey. The 2019 survey questions which were replicated in the 2015 survey.

In 2015, Nous Group was commissioned by the AER to conduct an independent review of the Consumer Challenge Panel. Their review commenced with the development of a consultation survey for specific stakeholder groups where each of the AER, network businesses, consumer representatives and past CCP members were provided with a survey specific to their engagement in the AER network determination process. The survey was sent to 489 individuals and 89 completed responses were received.

Three questions from the 2015 Nous Group survey were repeated in 2019 for the purpose of comparative analysis. The three questions were:

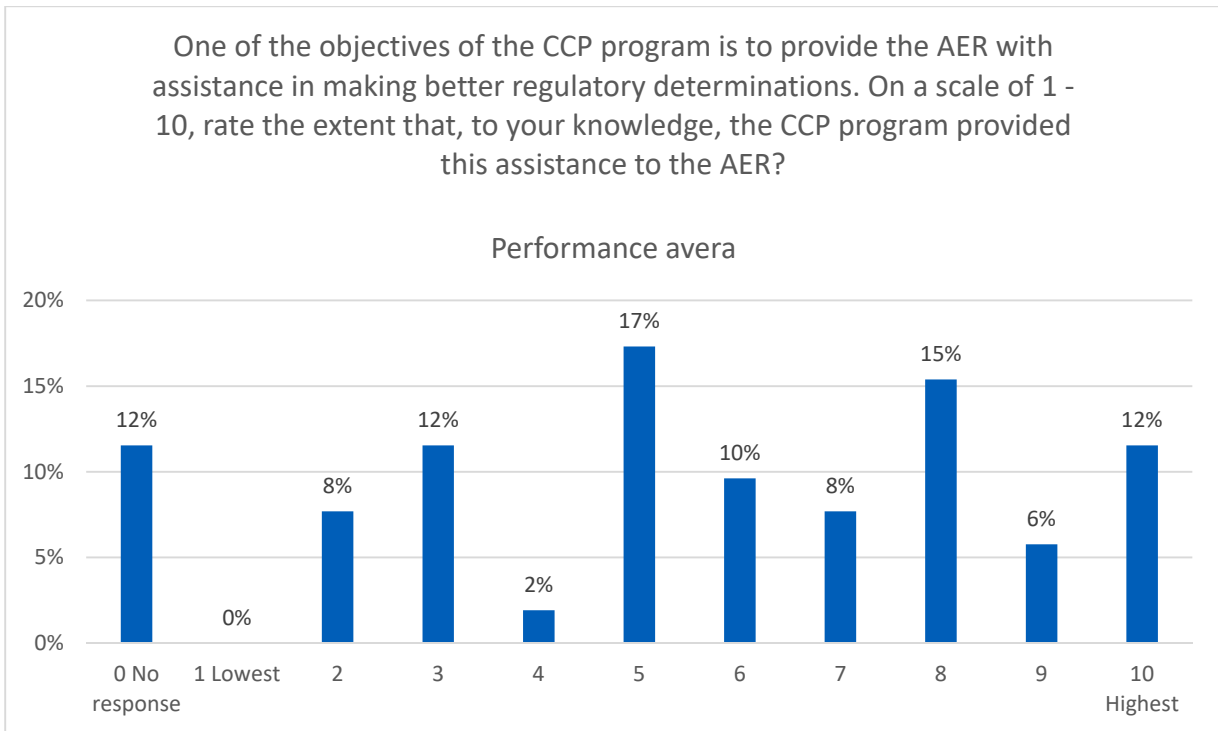
1. One of the objectives of the CCP program is to provide the AER with assistance in making better regulatory determinations. On a scale of 1 - 10, rate the extent that, to your knowledge, the CCP program provided this assistance to the AER?
2. A further objective of the CCP program is to advise the AER on the effectiveness of network businesses' engagement with their customers and how this process informs and is reflected in the development of proposals. On a scale of 1 - 10, in your experience, to what extent has the CCP program successfully advised the AER on the effectiveness of network businesses' engagement with their customers and the impact this has had on proposals?
3. On a scale of 1 - 10, in your experience, how effectively does the CCP program advance the interests of consumers?

Although the questions were refined for the 2019 survey, the slight modifications did not prevent valid comparative analysis across the two surveys.

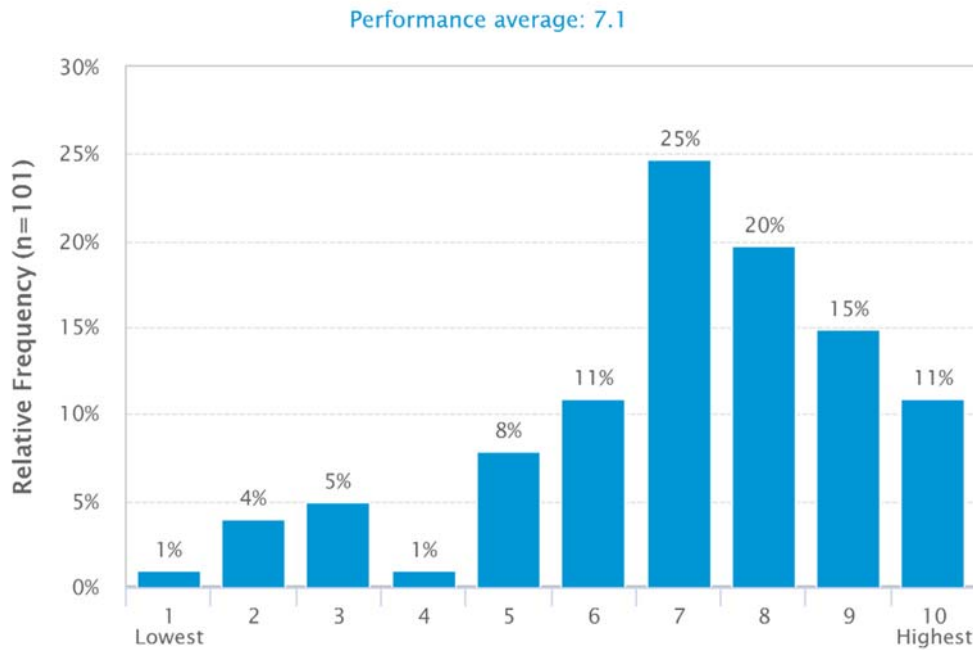
Insync was provided with a sample of 52 of the completed responses from the 2015 Nous Group survey. Insync was not provided with a breakdown of data for each stakeholder group. As such, the following data and analysis is based on the overall sample of the 52 completed responses only.

The CCP program provides the AER with assistance in making better regulatory determinations

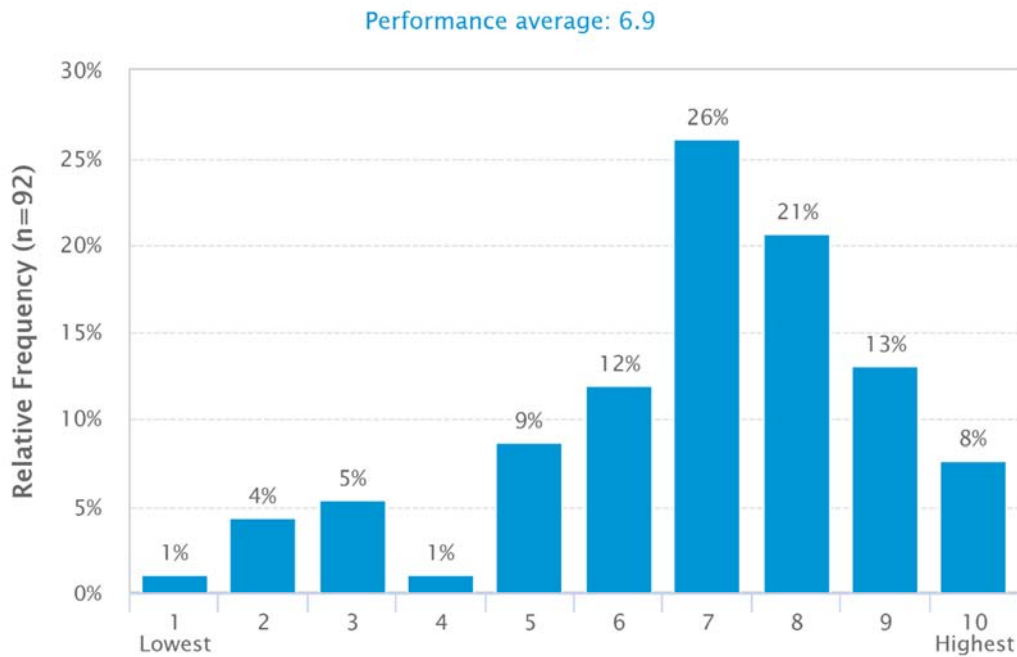
In 2016, respondent scores were spread across the board when asked to consider the CCP's ability to assist the AER in making better regulatory determinations. The largest proportion of responses ranged between scores of five and seven (35 per cent), indicating a general level of agreement.



However, in 2019, respondent scores were generally more positive about the CCP’s ability to assist the AER in making better regulatory determinations. The chart below suggests a bimodal distribution with two groups; a bell curve at the left consisting of around 11% of generally negative responses and a bell curve to the right representing various degrees of positivity among the remainder.



7. The CCP program provides the AER with assistance in making better regulatory determinations.
 Date period: Invited 9 Sep 2019 – 25 Sep 2019
 Response filter: All responses

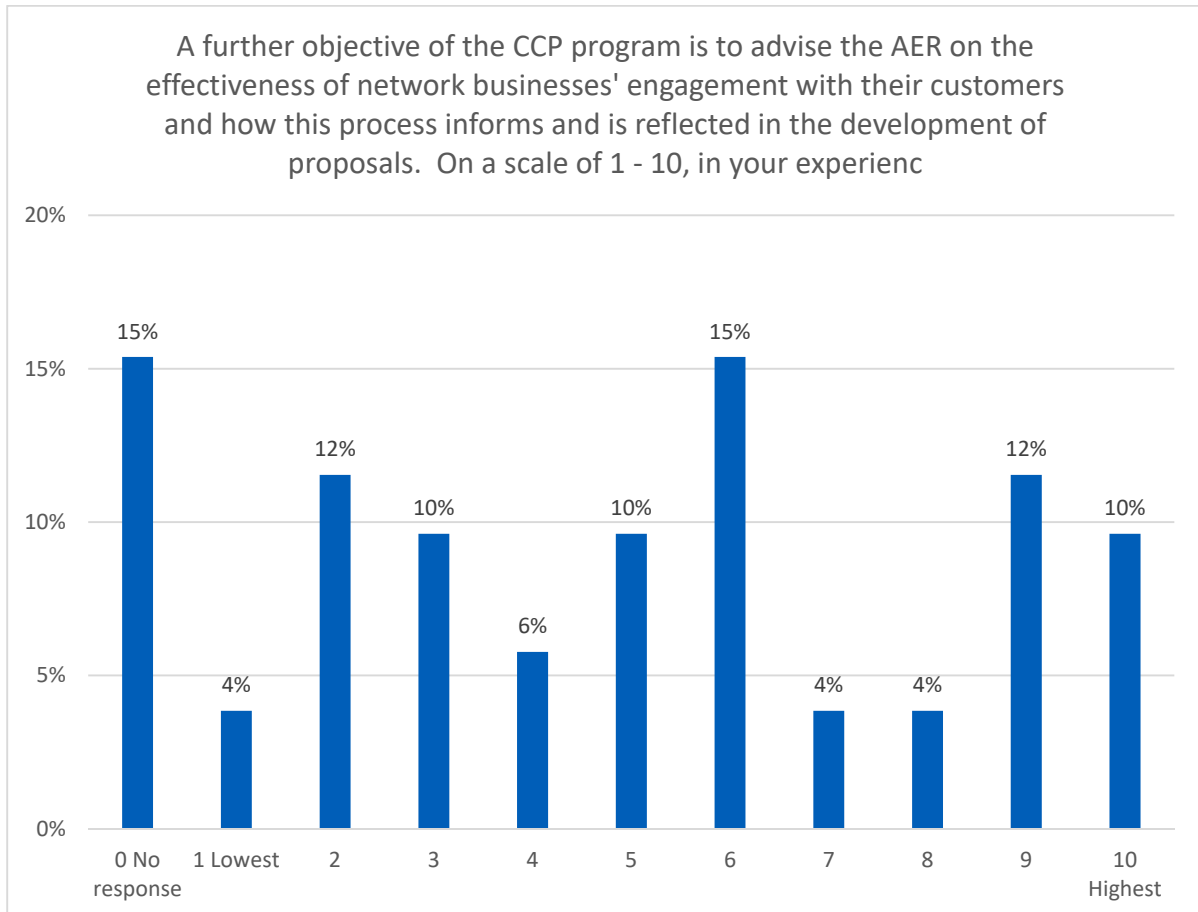


7. The CCP program provides the AER with assistance in making better regulatory determinations.
 Date period: Invited 9 Sep 2019 – 20 Nov 2019
 Response filter: Please select the organisation/sector type (s) you belong to: Australian Energy Regulator (AER),
 Consumer advocate or consumer representative peak body, Network business or network peak body

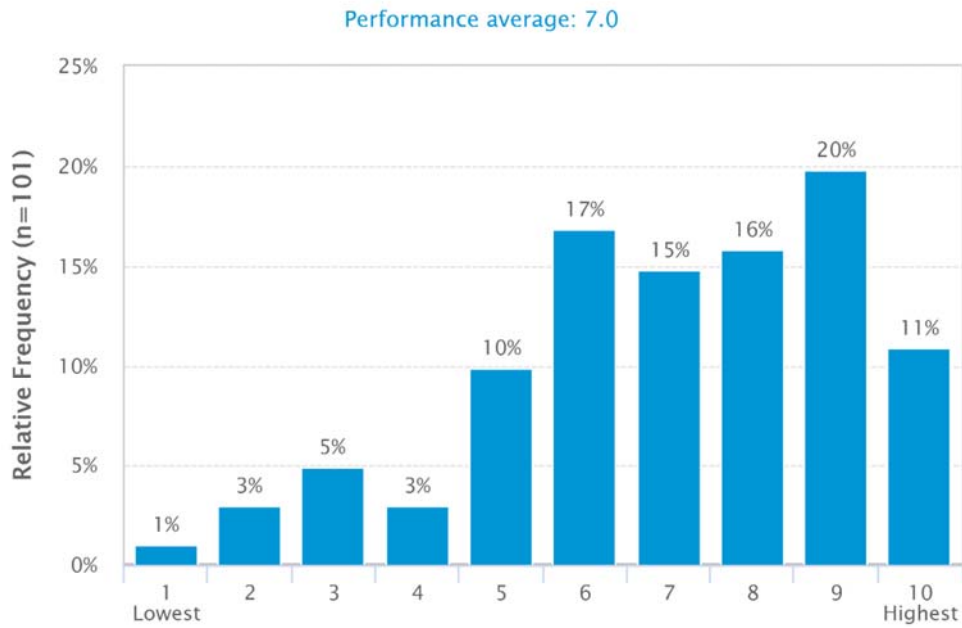
Figure 1 The same chart as that shown above but excluding the responses of CCP does not materially change the overall message from the feedback.

The CCP program successfully advises the AER on the effectiveness of network businesses' engagement with their customers and the impact this has had on proposals

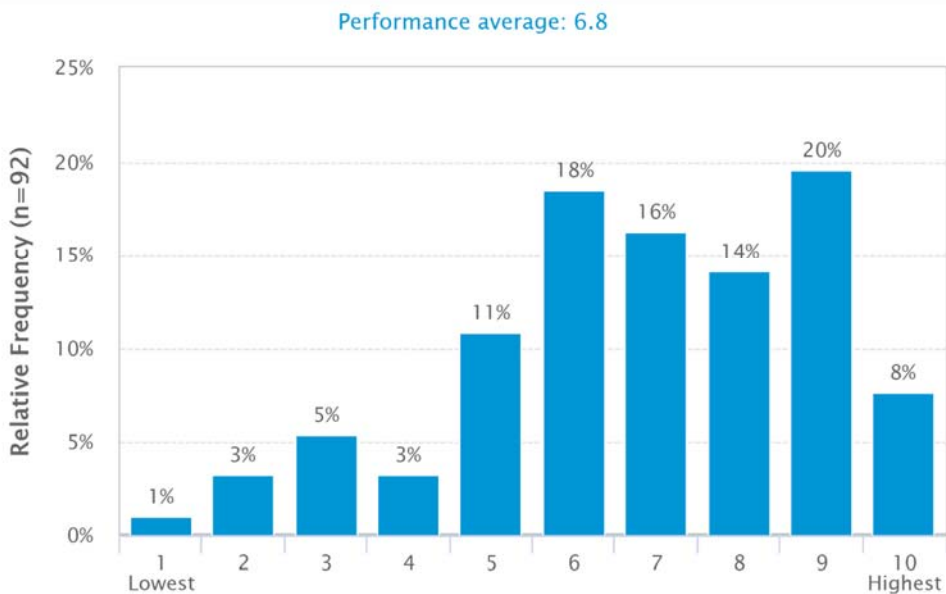
When asked to rate the CCP's ability to advise the AER on the effectiveness of network businesses' engagement in 2016, responses were spread and no overall pattern is apparent. Forty-two per cent of responses rated five or less, and 45 per cent of responses rated a six or more.



In 2019, the scores were more consistent and showed a higher level of agreement overall with 79 per cent of responses six or more.



8. The CCP program successfully advises the AER on the effectiveness of network businesses' engagement with their customers and the impact this has had on proposals.
 Date period: Invited 9 Sep 2019 – 25 Sep 2019
 Response filter: All responses

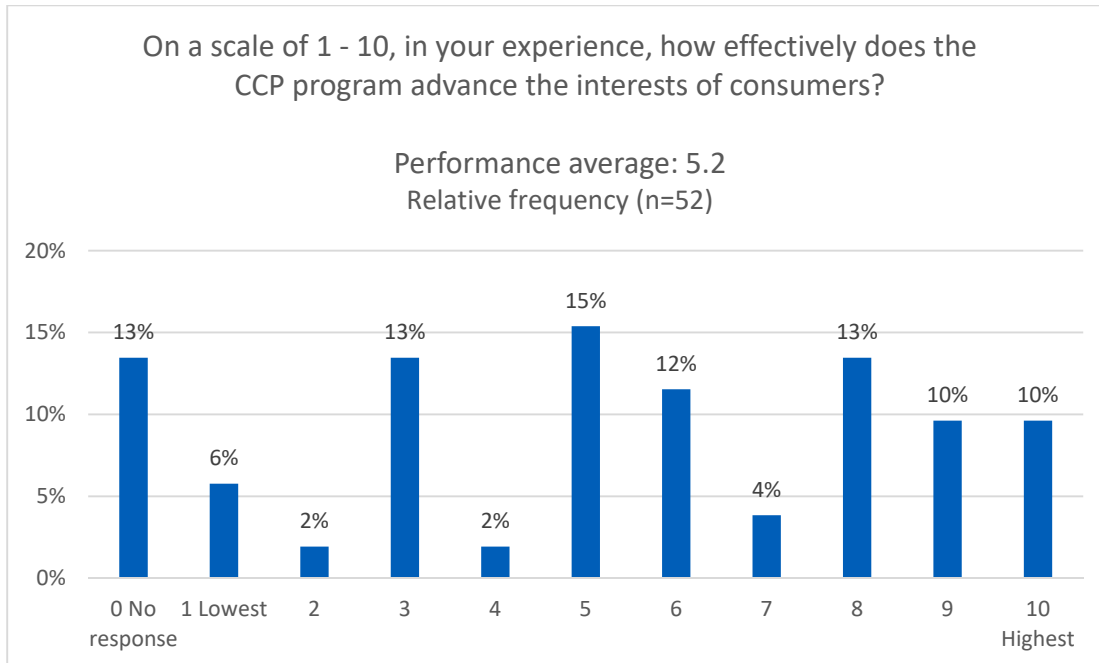


8. The CCP program successfully advises the AER on the effectiveness of network businesses' engagement with their customers and the impact this has had on proposals.
 Date period: Invited 9 Sep 2019 – 20 Nov 2019
 Response filter: Please select the organisation/sector type (s) you belong to: Australian Energy Regulator (AER), Consumer advocate or consumer representative peak body, Network business or network peak body

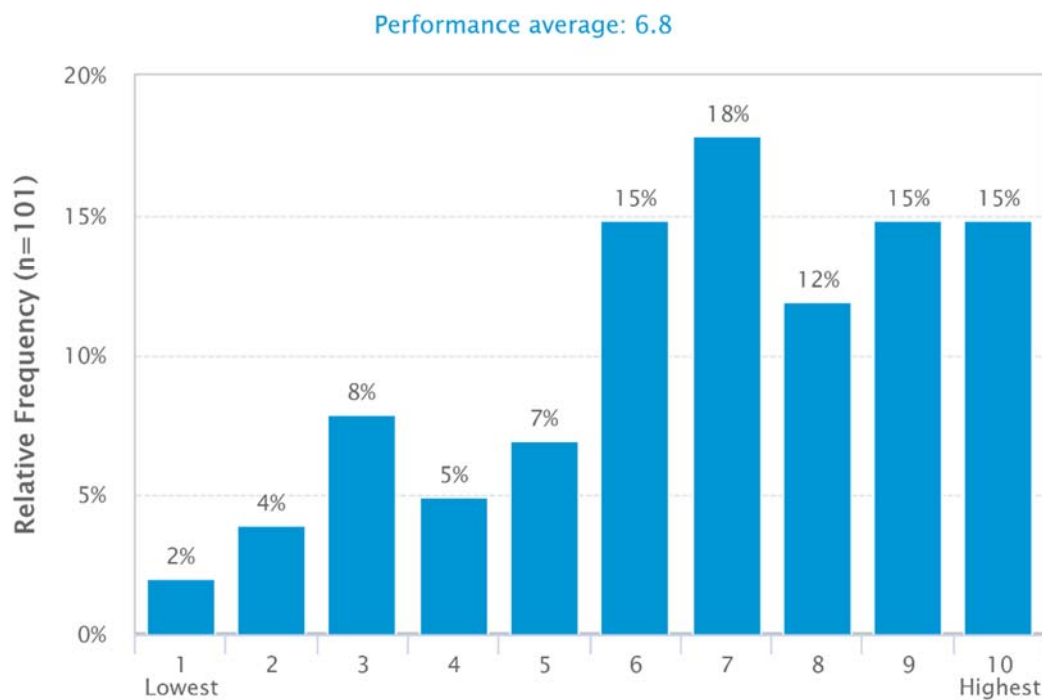
Figure 2 The same chart as displayed above but with CCP responses removed shows that the underlying message is not materially altered.

The CCP program effectiveness advances the interests of customers

In 2016 around half (49 per cent) of responses were six or more when asked about the CCP’s ability to advance the interests of consumers.



These results were similar in 2019. On average, respondents have become more positive about the CCP’s ability to advance the interests of consumers, with 75 per cent of responses being six or higher and the average score moving from 5.2 to 6.8.

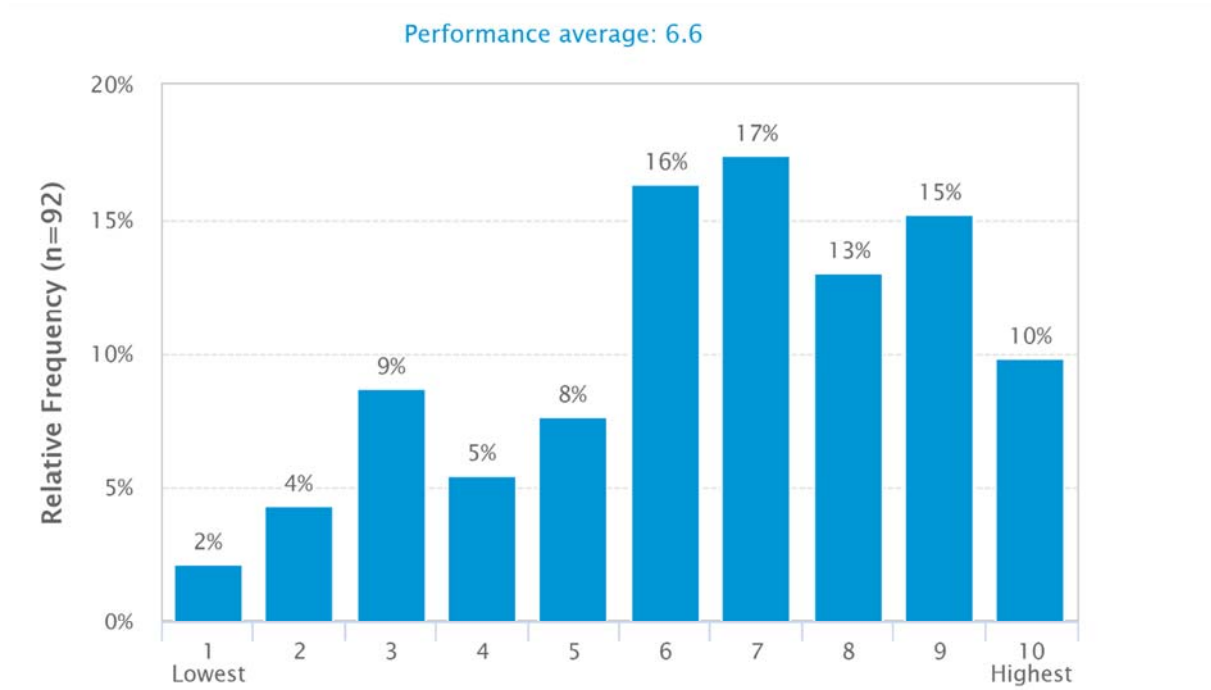


9. The CCP program effectively advances the interests of consumers.

Date period: Invited 9 Sep 2019 – 25 Sep 2019

Response filter: All responses

When the views of the CCP members are removed from the analysis, little difference is apparent, with the average score dropping from 6.8 to 6.6.



9. The CCP program effectively advances the interests of consumers.

Date period: Invited 9 Sep 2019 – 20 Nov 2019

Response filter: Please select the organisation/sector type (s) you belong to:: Australian Energy Regulator (AER), Consumer advocate or consumer representative peak body, Network business or network peak body

Figure 3 The average score drops by 0.2 when CCP responses are excluded from analysis.

Methodology

Overall, the survey ran well with few queries or concerns about the validity or intent of the questions.

Timing

Phase 1 of the review included broad consultation with stakeholders about the issues which should be included in the reviewers' deliberations. This enabled the survey to be comprehensive and confirmatory. The survey ran concurrently with the workshops and interviews that comprised Phase Two of the review. This allowed the reviewers to direct conversations away from topics that were covered by the survey and towards matters that were unique to each stakeholder group. For example, the extent to which the CCP challenged the AER is little known to network businesses, and as such was excluded from the survey. However time was devoted to that topic in workshops and interviews with AER staff and CCP members.

Open window

The survey was open for two weeks with two reminders being sent out during the open period. This appeared to be sufficient.

Technology

The survey was hosted on the AER's technology platform. This was not optimal for two main reasons. Firstly, we cannot be sure that respondents were truly candid in their responses, they may not have trusted the AER's assurances of anonymity. Secondly, the technology was unable to ask some types of questions. The question designers would have preferred to ask questions on sliding scales indicating the current state of the CCP and the respondent's preferred future state, for example on whether CCP is/should be an active participant in resets.

Psychometric qualities

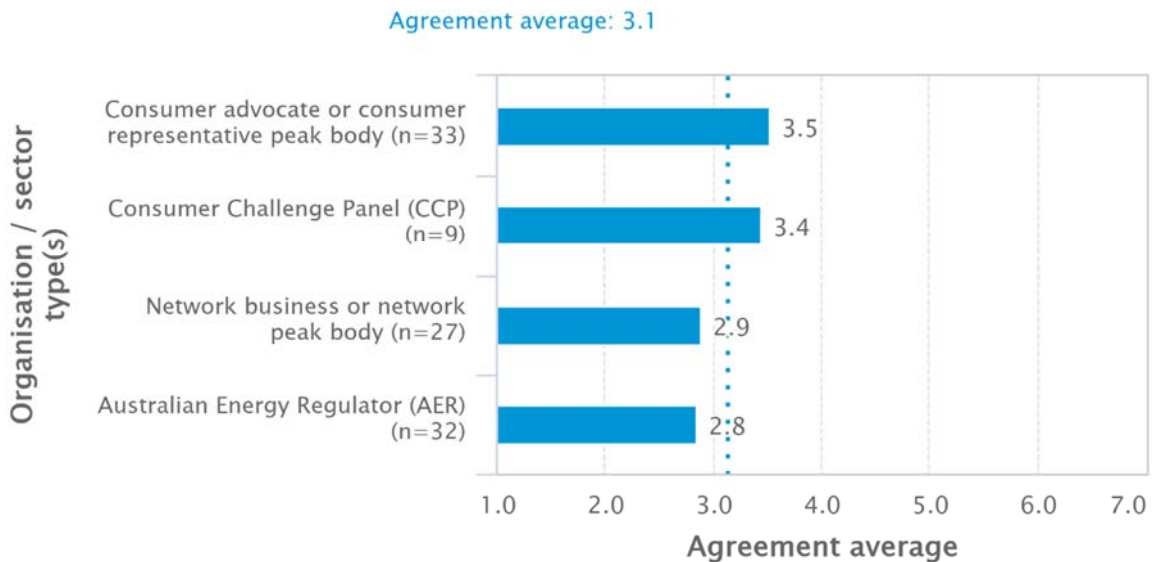
Questions were tested for psychometric validity and reliability throughout Phase 1 of the project. Question wording was further refined with valuable edits being made by AER staff.

Of particular value was the exercise of codifying the seven current/potential roles of the CCP. This was necessarily an imperfect process, because the boundaries of each role are not perfectly clear. Nevertheless, by asking stakeholders to give their views on each different role quantitative comparisons could be made which have given this report a measure of clarity and certainty which would not otherwise have been possible.

If the CCP could only perform one of the tasks (above), which should it be?

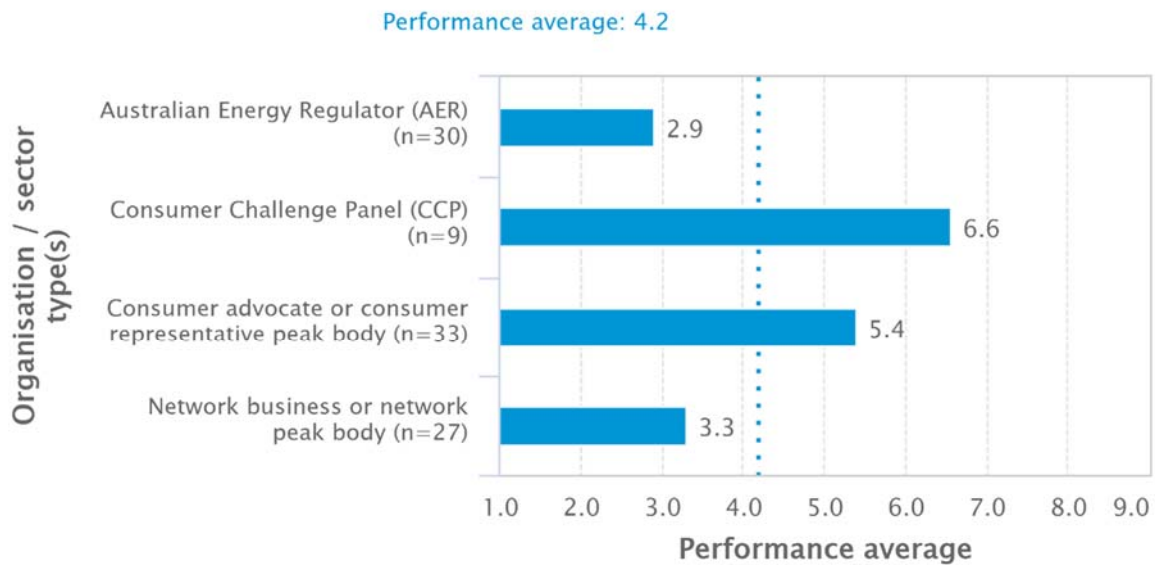
Organisation / sector type(s)	Advising the AER on whether the network businesses' proposals are in the long term interests of consumers.	Advising the AER on the effectiveness of network businesses' engagement activities with their customers and how this is reflected in the development of their proposals.	Engaging directly with network business before lodgement to improve the quality of proposal and presentation of consumer views.	Providing the AER with advice on "lateral" issues which affect all network businesses.	Facilitating negotiation between network businesses and their consumer	Increasing the technical literacy and capacity of consumer advocates.	Acting as the "consumer advocate of last resort" and negotiating directly where consumer advocacy in a jurisdiction is lacking/absent.
	Australian Energy Regulator (AER) (n=32)	22%	31%	9%	19%	6%	6%
Consumer Challenge Panel (CCP) (n=9)	22%	33%	11%	22%	11%	0%	0%
Consumer advocate or consumer representative peak body (n=33)	48%	12%	9%	9%	3%	6%	12%
Network business or network peak body (n=27)	15%	26%	7%	26%	7%	7%	11%

Though there are many strong questions, we would call into question the psychometric reliability of our request for respondents to rate their expertise in engineering/network design. It is difficult to believe that all respondents were holding themselves to the same standards given the results of the question, which indicates that consumer advocates have on average more expertise in engineering/network design than the network businesses or AER staff:



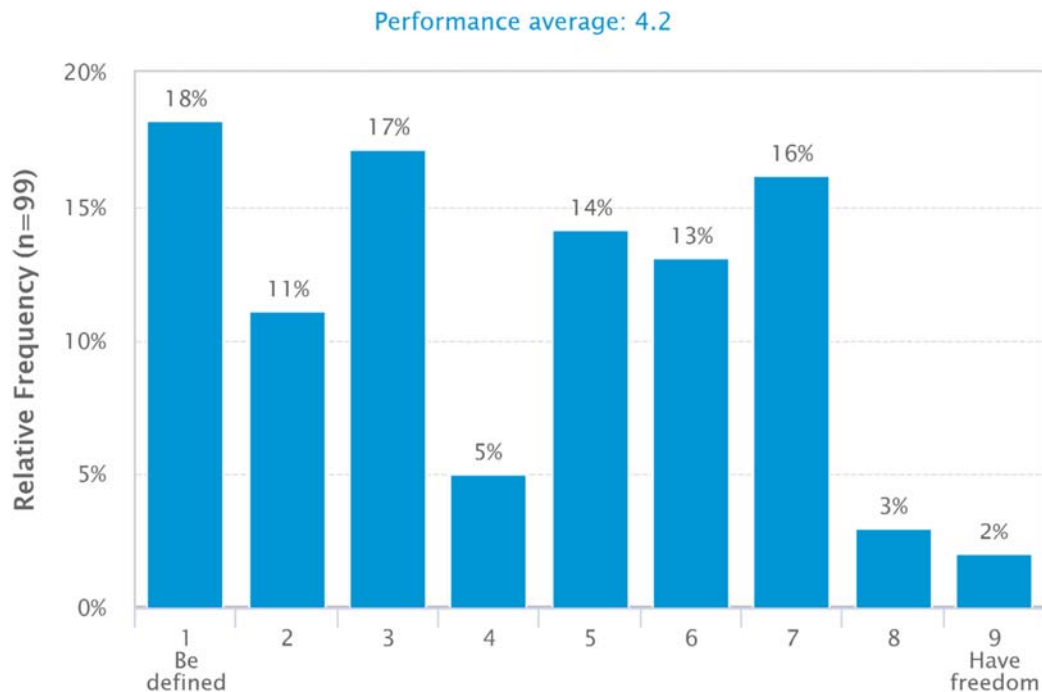
5. I have significant expertise in engineering / network design
Date period: Invited 9 Sep 2019 – 25 Sep 2019
Response filter: All responses

Network businesses were the most likely to prefer that CCP's role was well defined. At the other end of the scale, CCP members were most likely to prefer a role with greater freedom.



The role of the CCP should be...
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: All responses

Figure 4 All responses to the statement "The role of the CCP should be defined" vs "The role of the CCP should have freedom"



The role of the CCP should be...
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: All responses

Figure 5 All responses to the statement "The role of the CCP should be defined" vs "The role of the CCP should have freedom"

AER staff

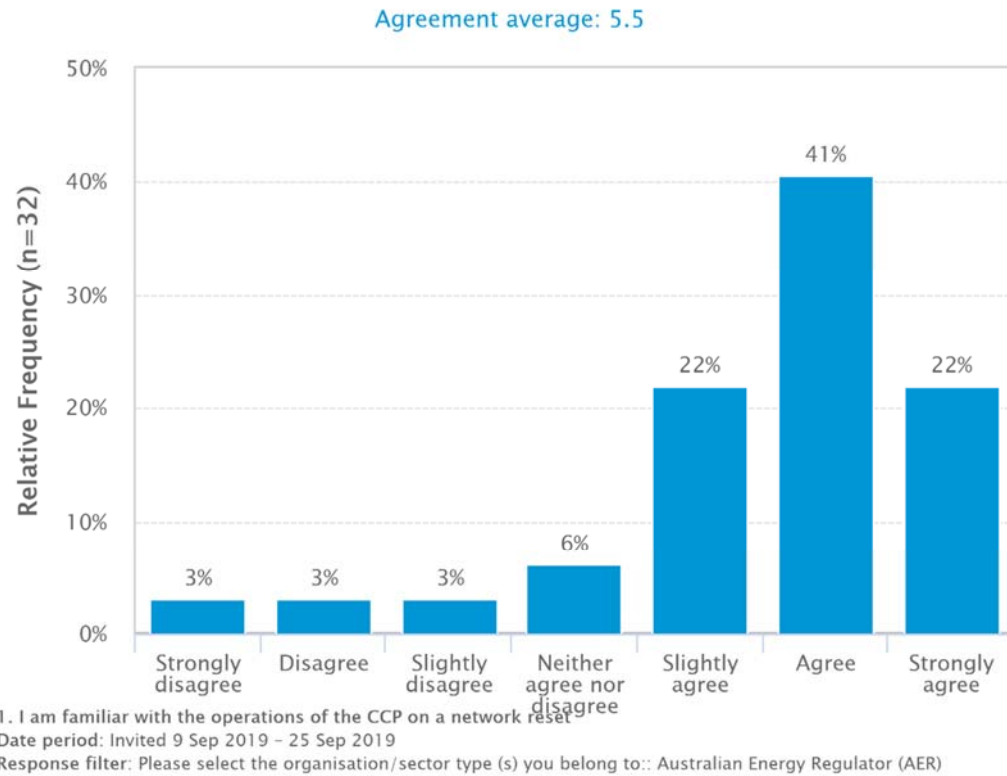


Figure 6 AER Staff expressed familiarity with reset work

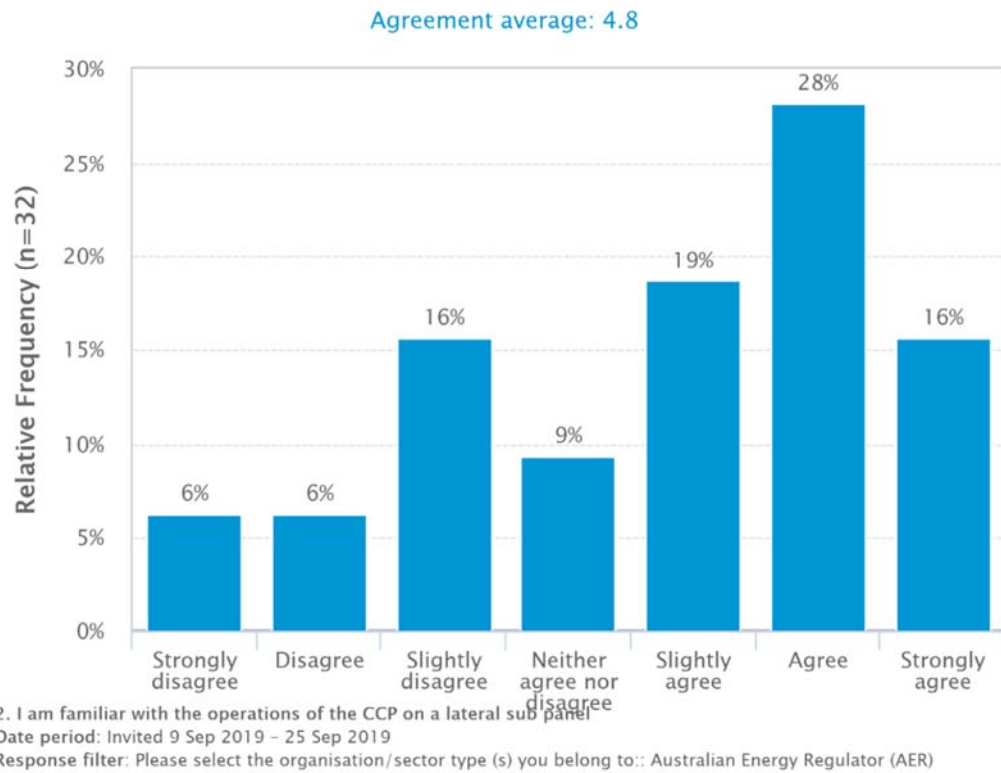
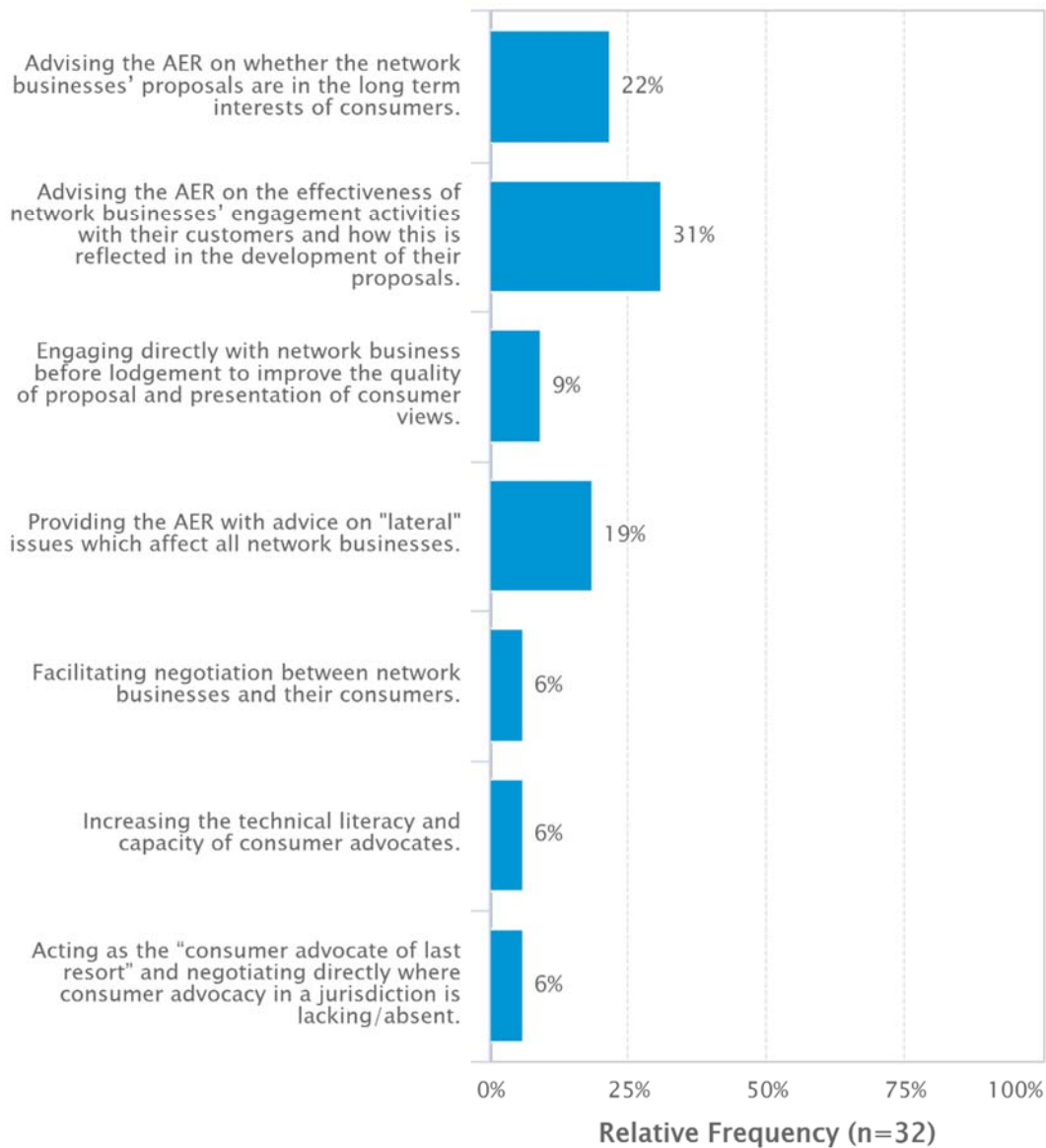
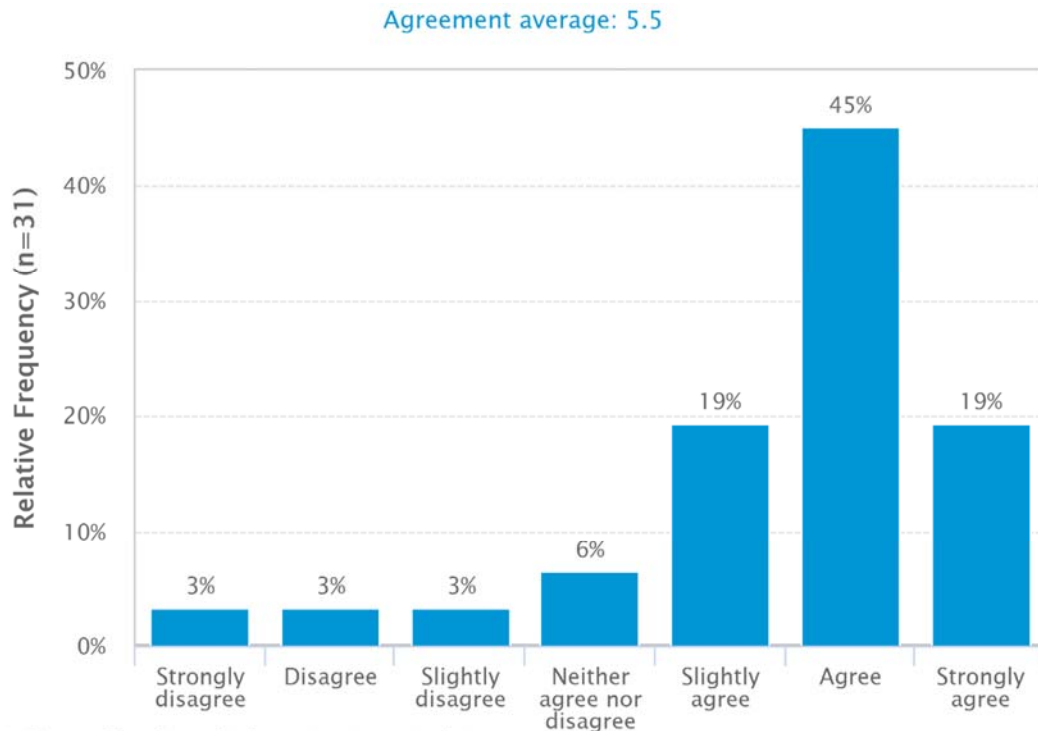


Figure 7 There was less familiarity with resets.



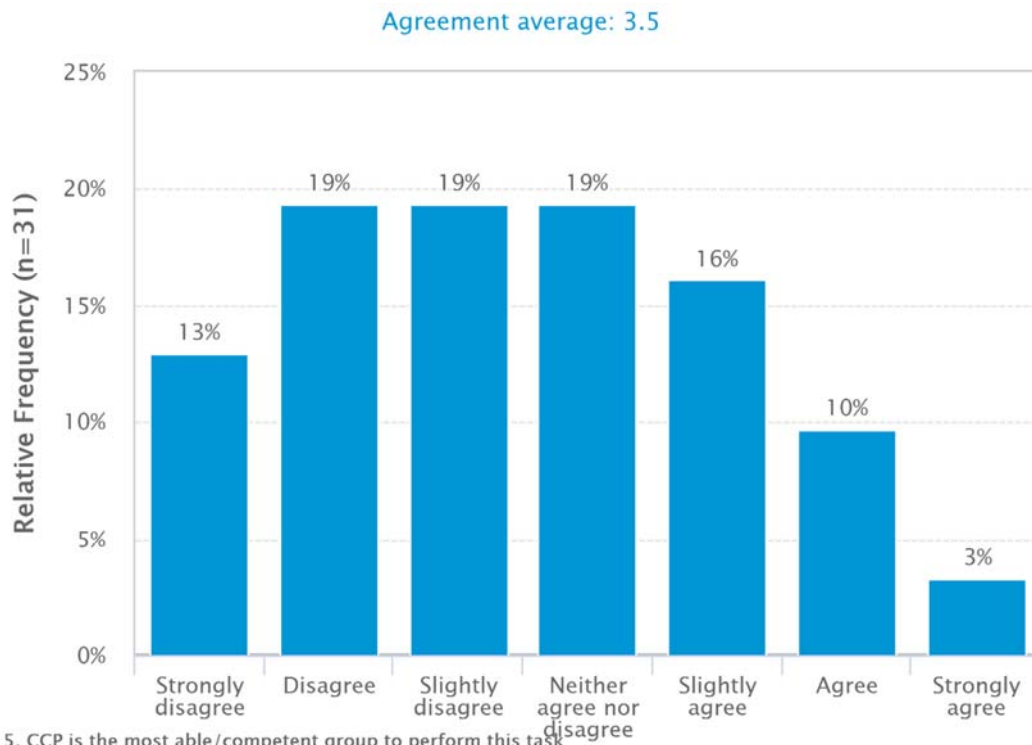
If the CCP could only perform one of the tasks (above), which should it be?
 Date period: Invited 9 Sep 2019 – 24 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Australian Energy Regulator (AER)

Figure 8 The CCP's original two roles received the most support, but responses were very diverse.



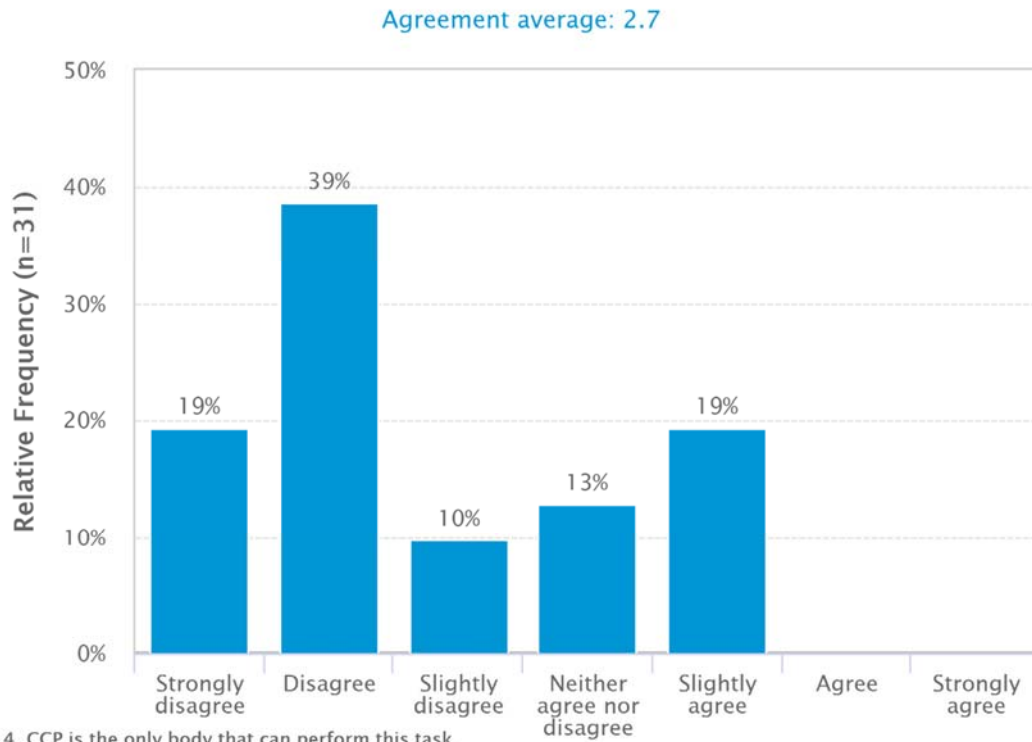
16. The need for this task is becoming increasingly important
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to: Australian Energy Regulator (AER)

Figure 9 AER responses for the task "Advising the AER on the effectiveness of network businesses' engagement activities with their customers and how this is reflected in the development of their proposals"



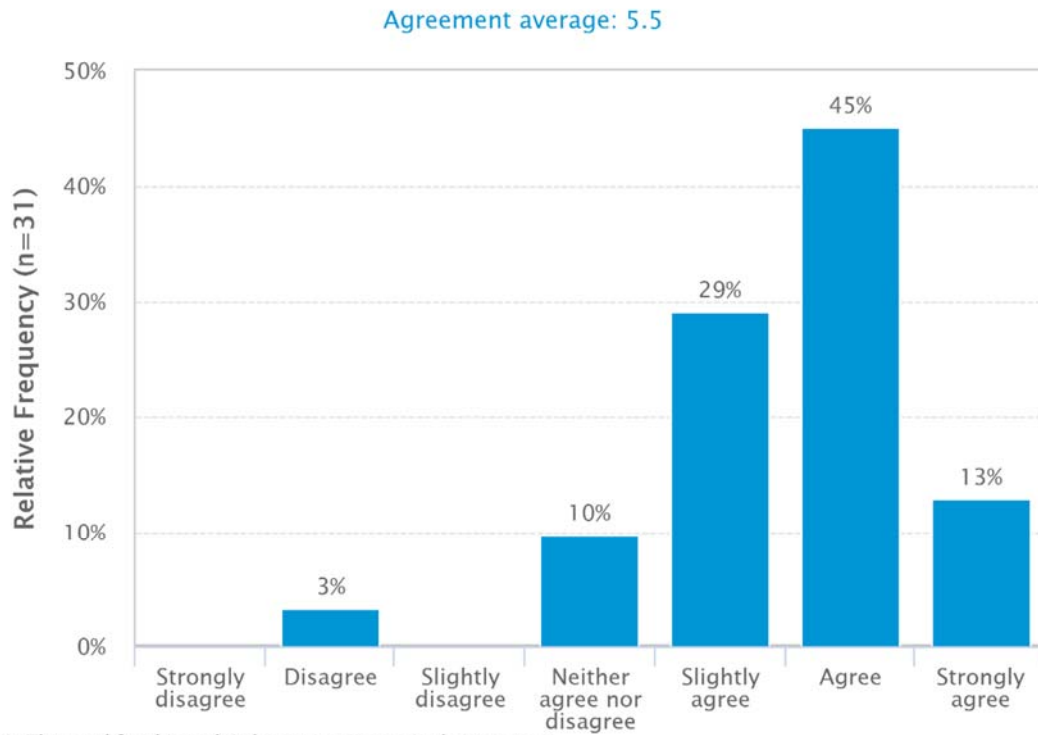
15. CCP is the most able/competent group to perform this task
 Date period: Invited 9 Sep 2019 – 25 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Australian Energy Regulator (AER)

Figure 10 AER responses for the task "Advising the AER on the effectiveness of network businesses' engagement activities with their customers and how this is reflected in the development of their proposals"



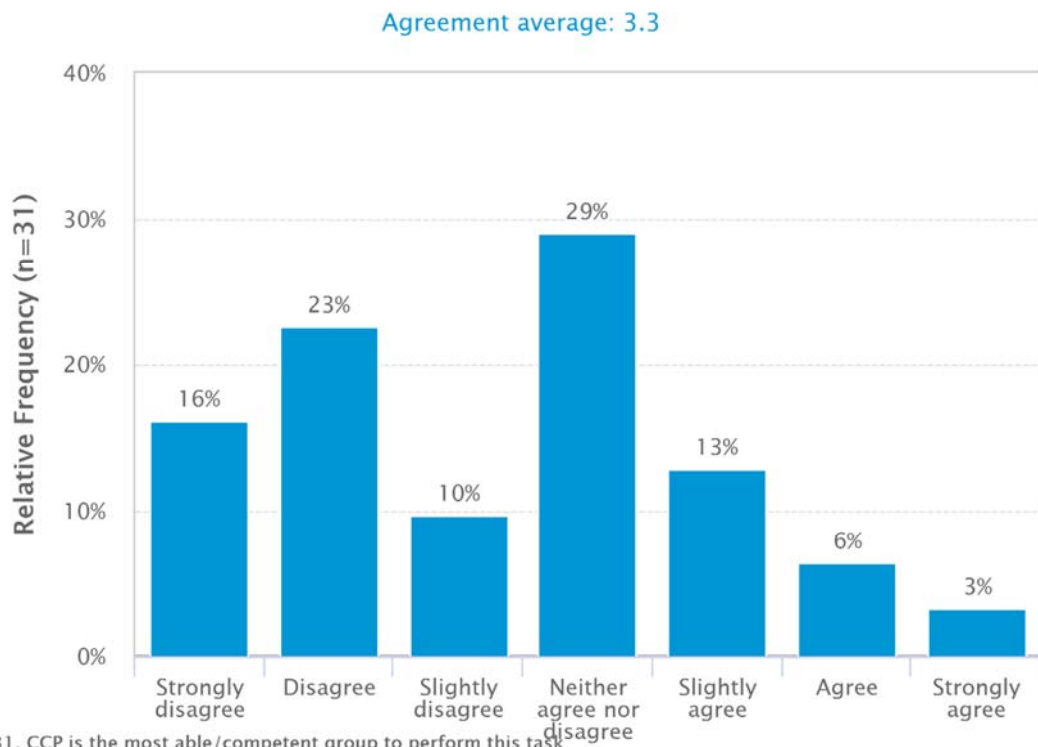
14. CCP is the only body that can perform this task
 Date period: Invited 9 Sep 2019 – 25 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Australian Energy Regulator (AER)

Figure 11 AER responses for the task "Advising the AER on the effectiveness of network businesses' engagement activities with their customers and how this is reflected in the development of their proposals"



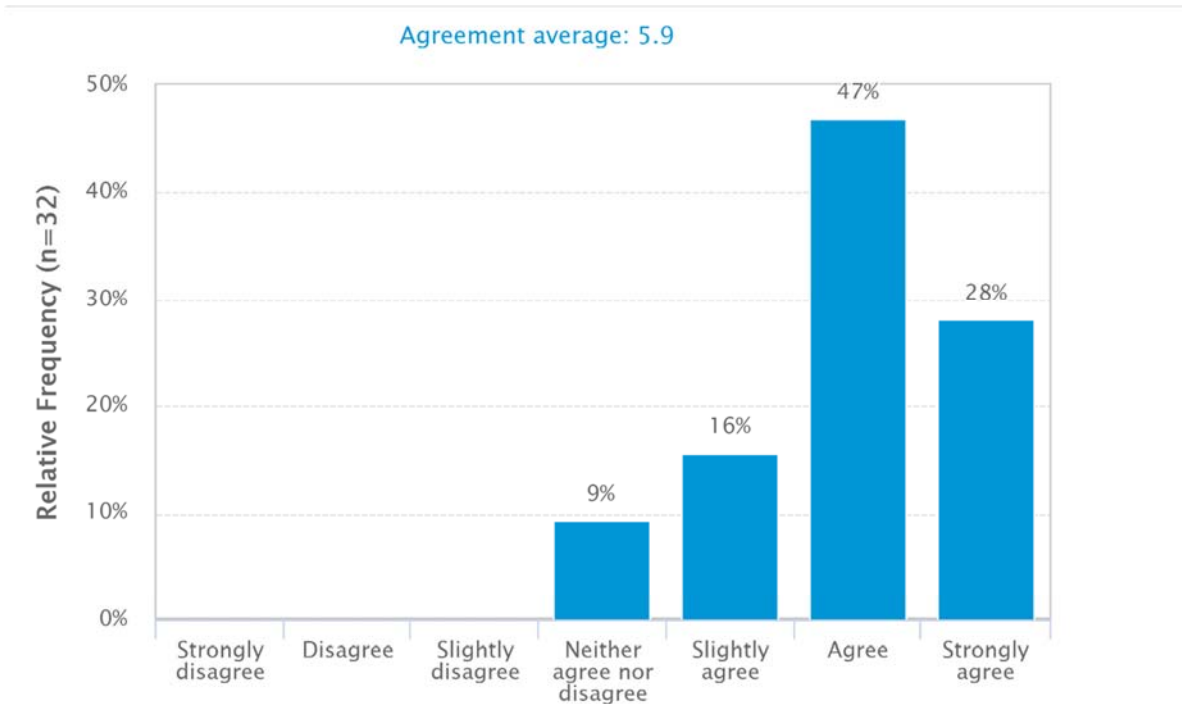
32. The need for this task is becoming increasingly important
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Australian Energy Regulator (AER)

Figure 12 AER responses to the task "Increasing the technical literacy and capacity of consumer advocates"



31. CCP is the most able/competent group to perform this task
 Date period: Invited 9 Sep 2019 – 25 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Australian Energy Regulator (AER)

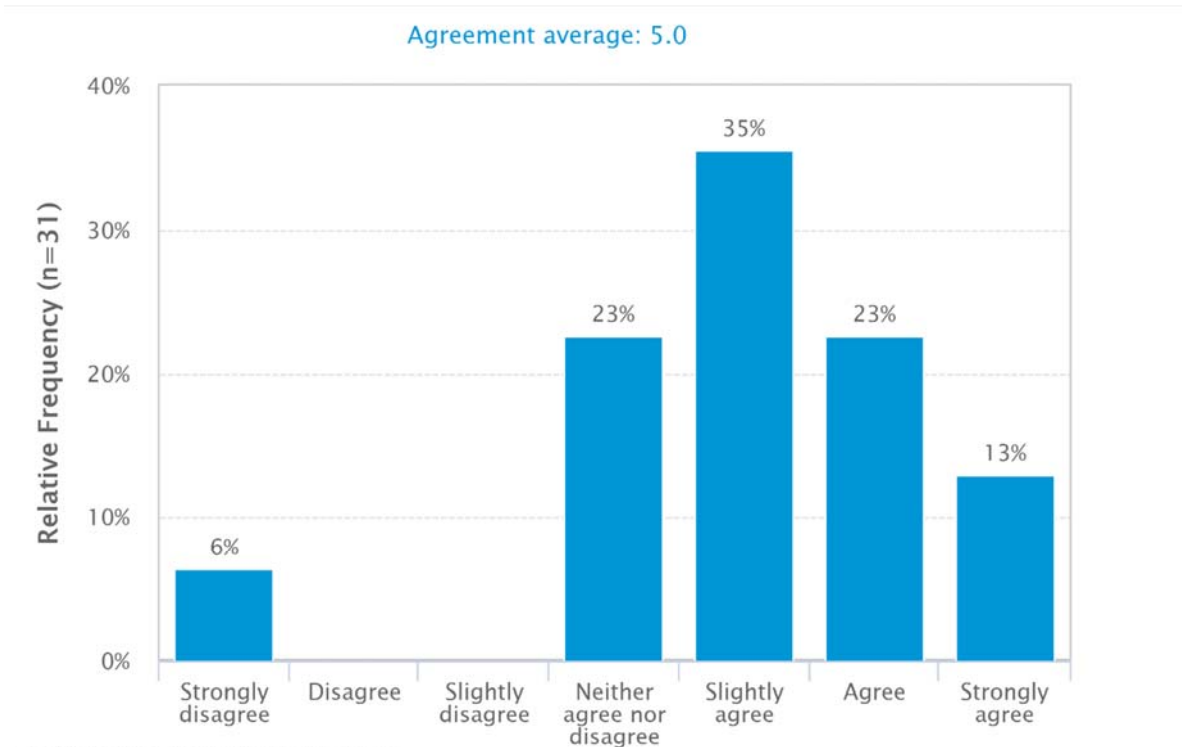
Figure 13 AER responses to the task "Increasing the technical literacy and capacity of consumer advocates"



41. Even though network businesses are getting better at consumer engagement, in the future there will still be an important role for a group to provide assurance that the engagement was authentic and of appropriate depth

Date period: Invited 9 Sep 2019 – 26 Sep 2019

Response filter: Please select the organisation/sector type (s) you belong to:: Australian Energy Regulator (AER)

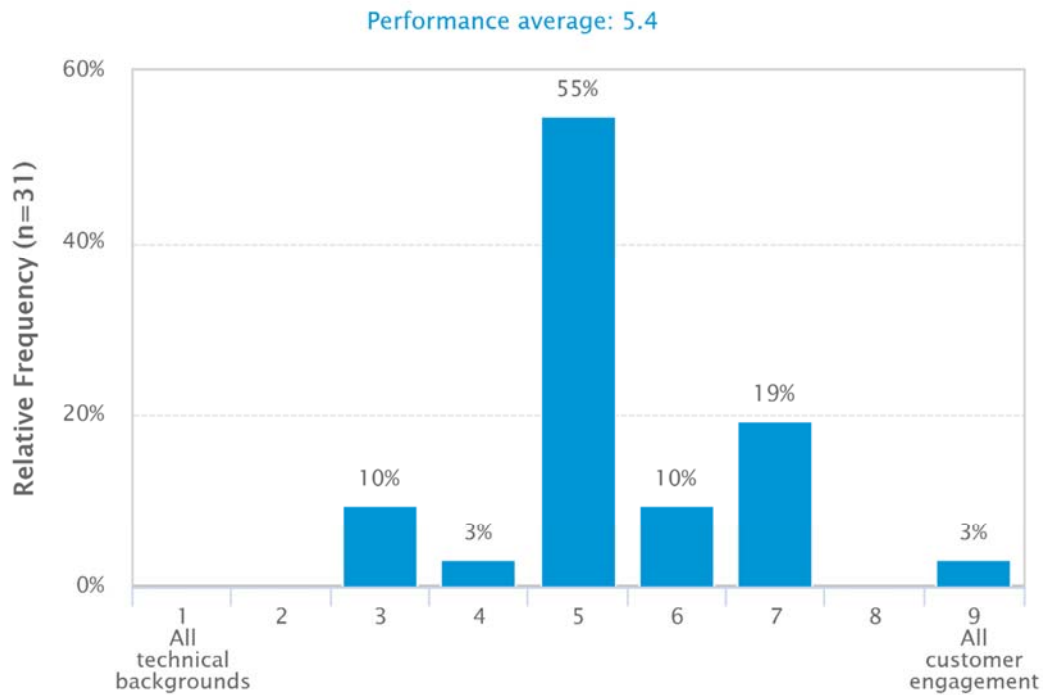


37. This task creates great consumer value

Date period: Invited 9 Sep 2019 – 30 Sep 2019

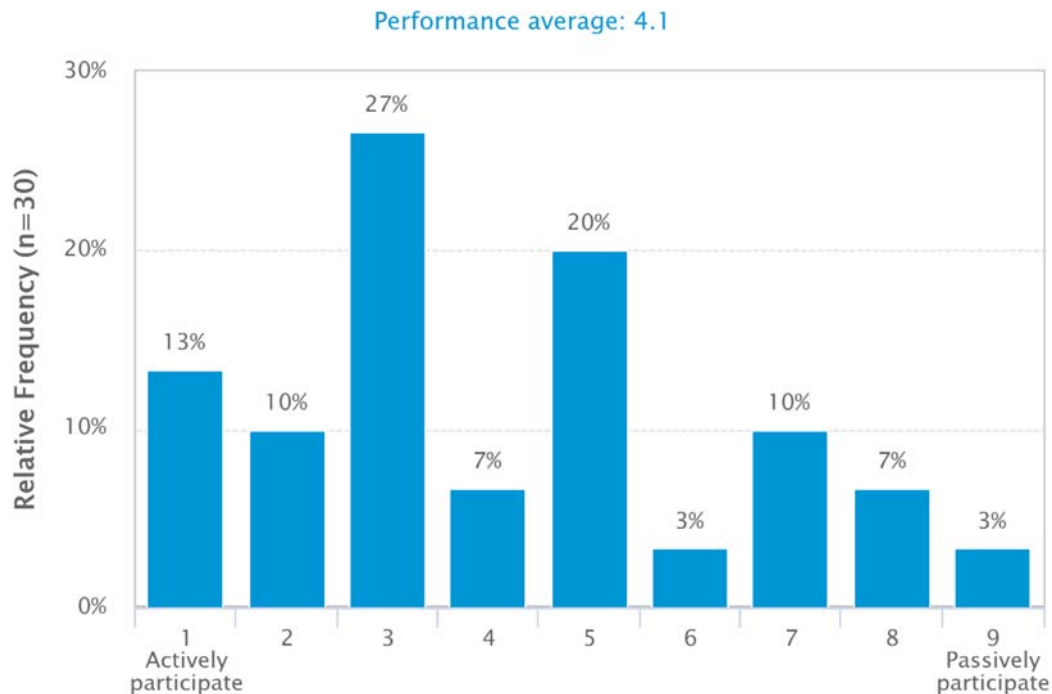
Response filter: Please select the organisation/sector type (s) you belong to:: Australian Energy Regulator (AER)

Figure 14 AER responses to the task "Acting as the consumer advocate of last resort and negotiating directly where consumer advocacy is lacking/absent in a jurisdiction"



The CCP should comprise of members with...
 Date period: Invited 9 Sep 2019 – 26 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Australian Energy Regulator (AER)

Figure 15 AER responses to the statement "The CCP should comprise of members with all technical backgrounds" vs "The CCP should comprise of members with all customer engagement backgrounds"



When going through the reset process, the CCP should...
 Date period: Invited 9 Sep 2019 – 26 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Australian Energy Regulator (AER)

Figure 16 AER responses to the statement "When going through the reset process, the CCP should actively participate" vs "When going through the reset process, the CCP should passively participate"

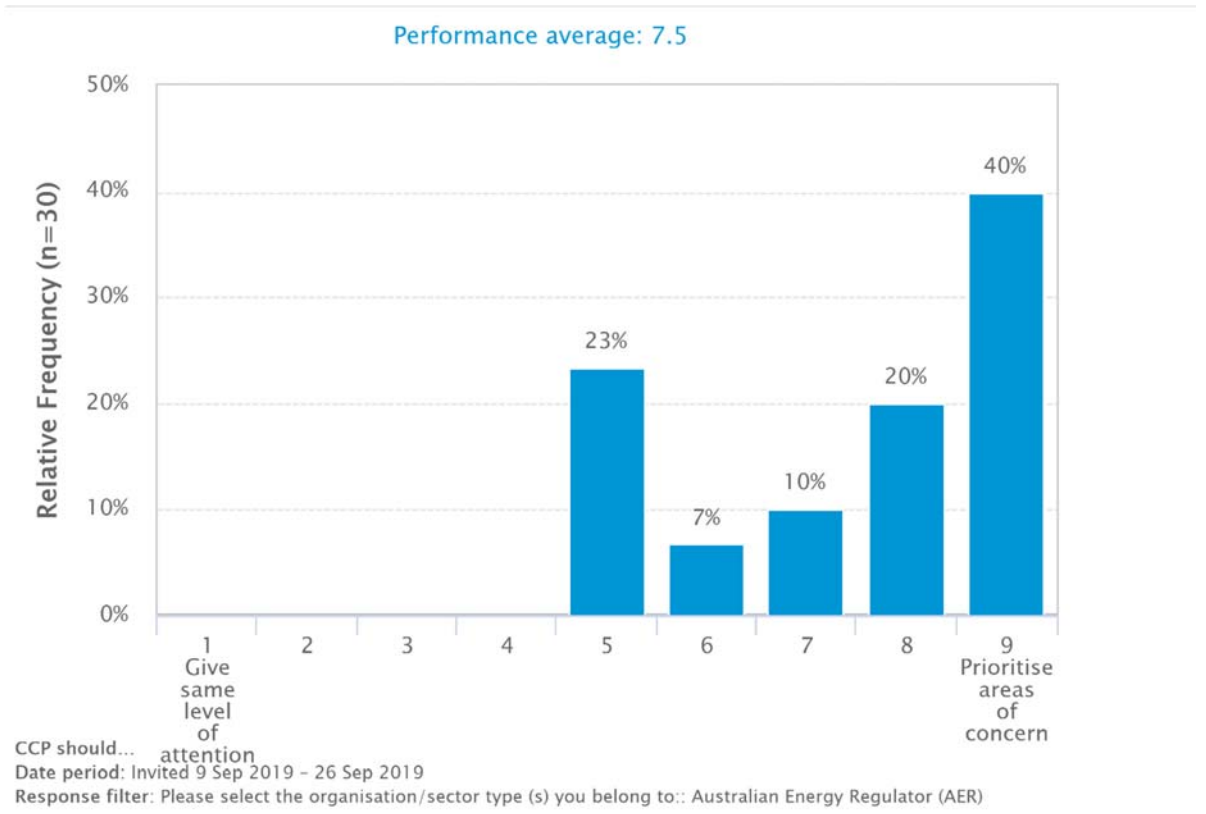


Figure 17 AER responses to the statement "CCP should give same level of attention" vs "CCP should prioritise areas of concern"

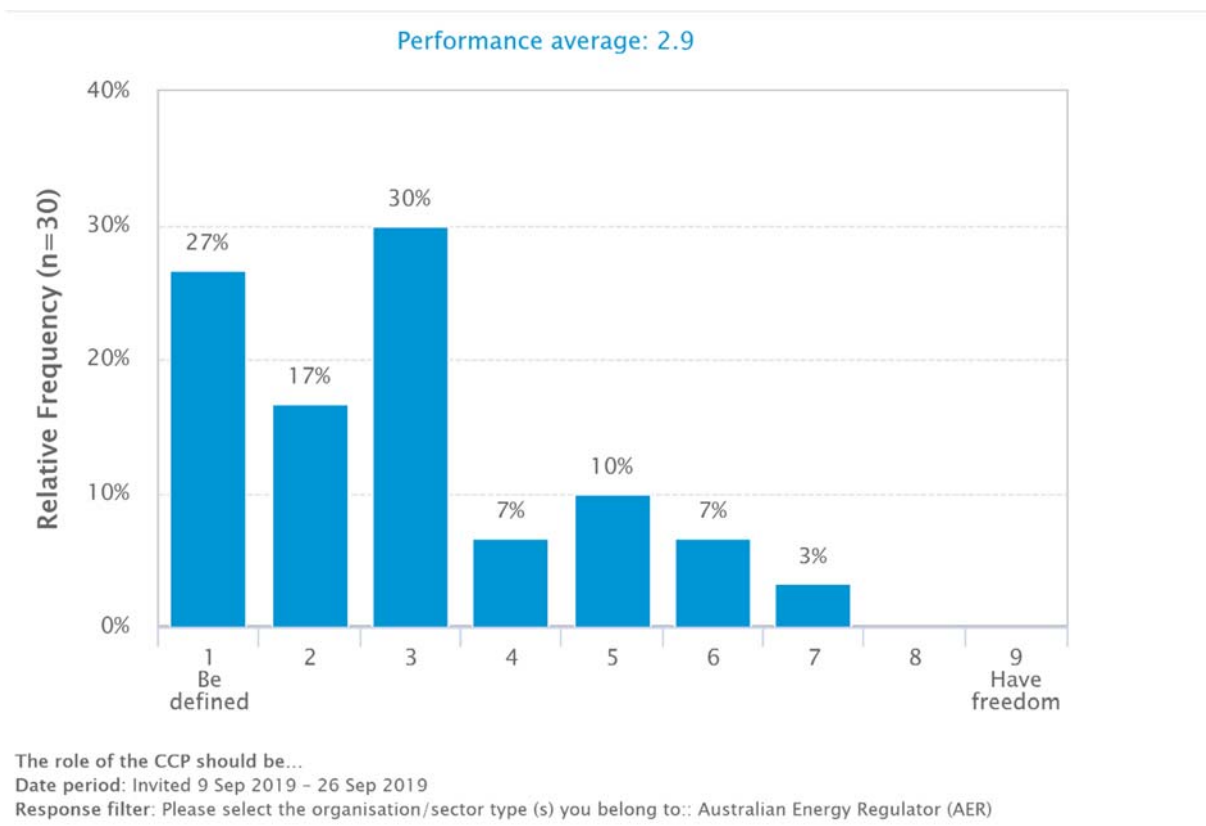
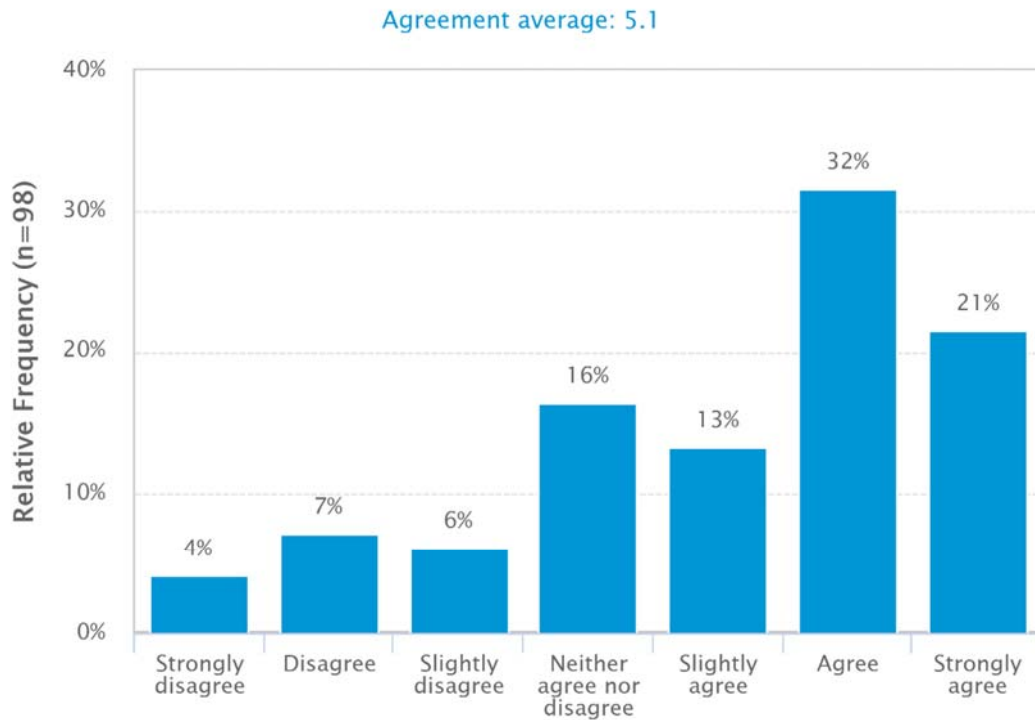
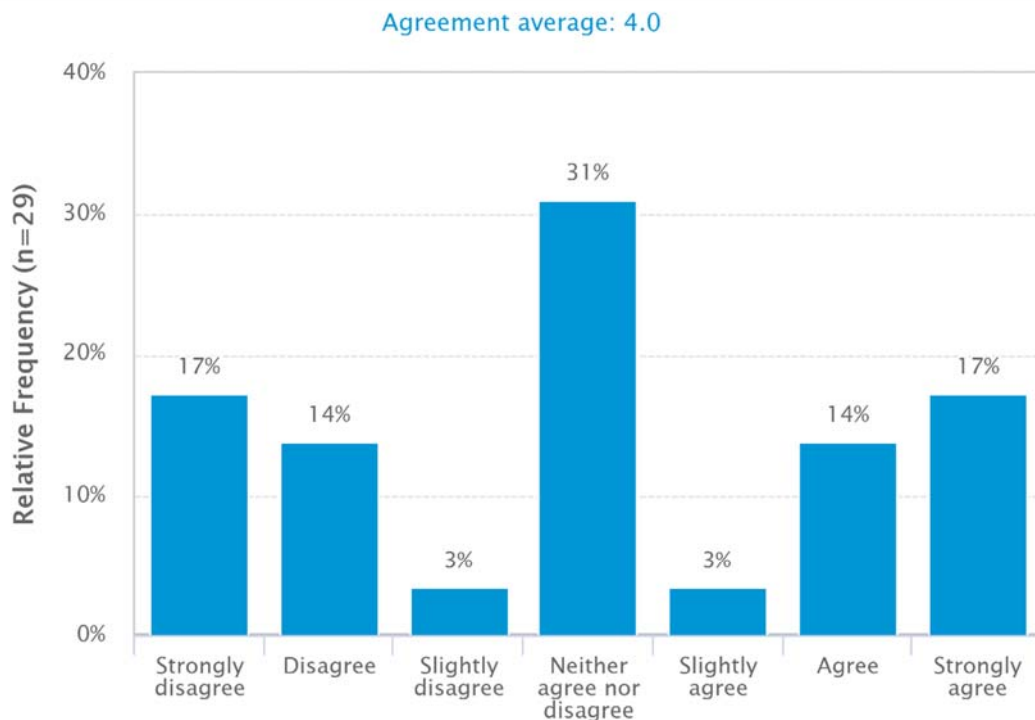


Figure 18 AER responses to the statement "The role of the CCP should be defined" vs "The role of the CCP should have freedom"



42. CCP priorities should be set collaboratively by representatives from stakeholder groups, not exclusively by the AER
 Date period: Invited 9 Sep 2019 – 26 Sep 2019
 Response filter: All responses



43. CCP members are free from conflicts of interest, or manage any real or perceived conflicts of interest appropriately
 Date period: Invited 9 Sep 2019 – 26 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Australian Energy Regulator (AER)

Figure 19 Three groups are apparent in this response curve, which could be described as discontinuous. Clearly some respondents have concerns.

CCP members

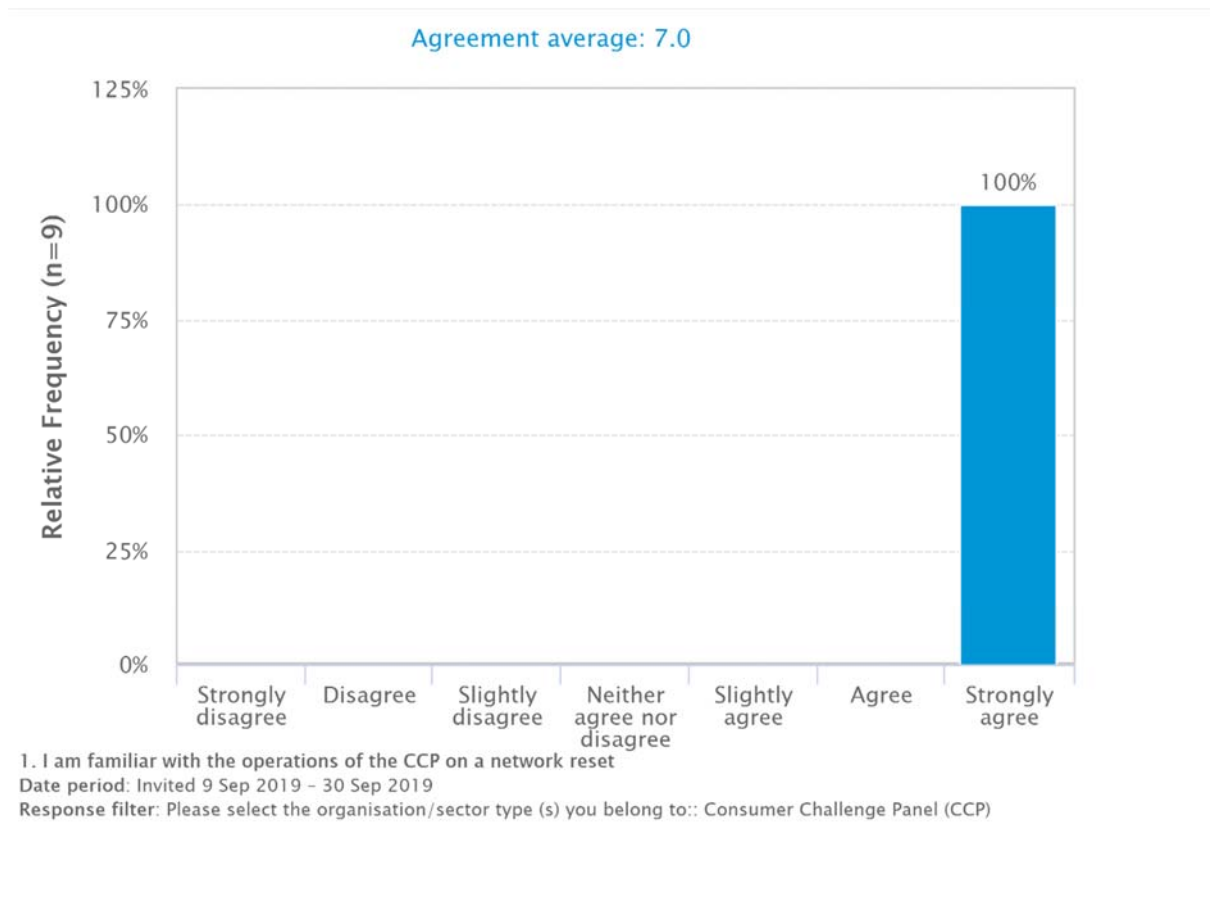


Figure 20 As one would expect, CCP respondents expressed high familiarity

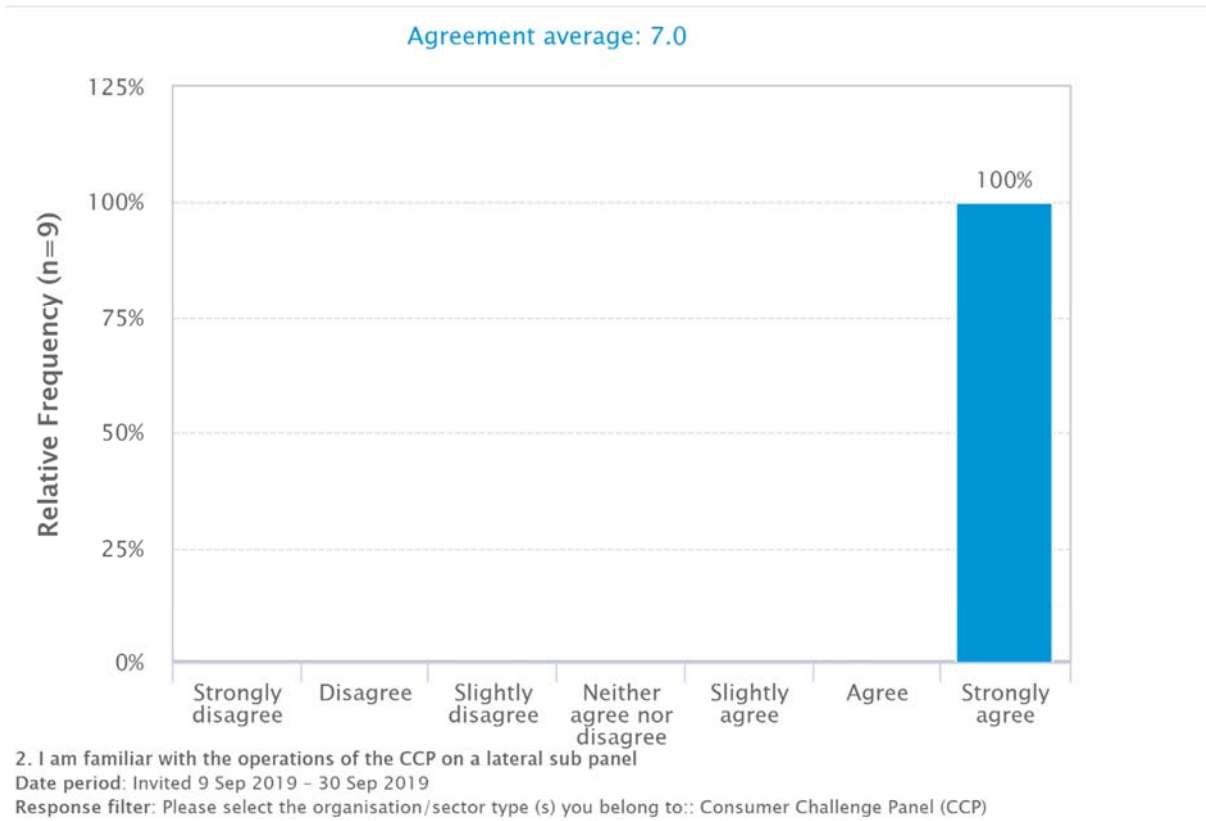
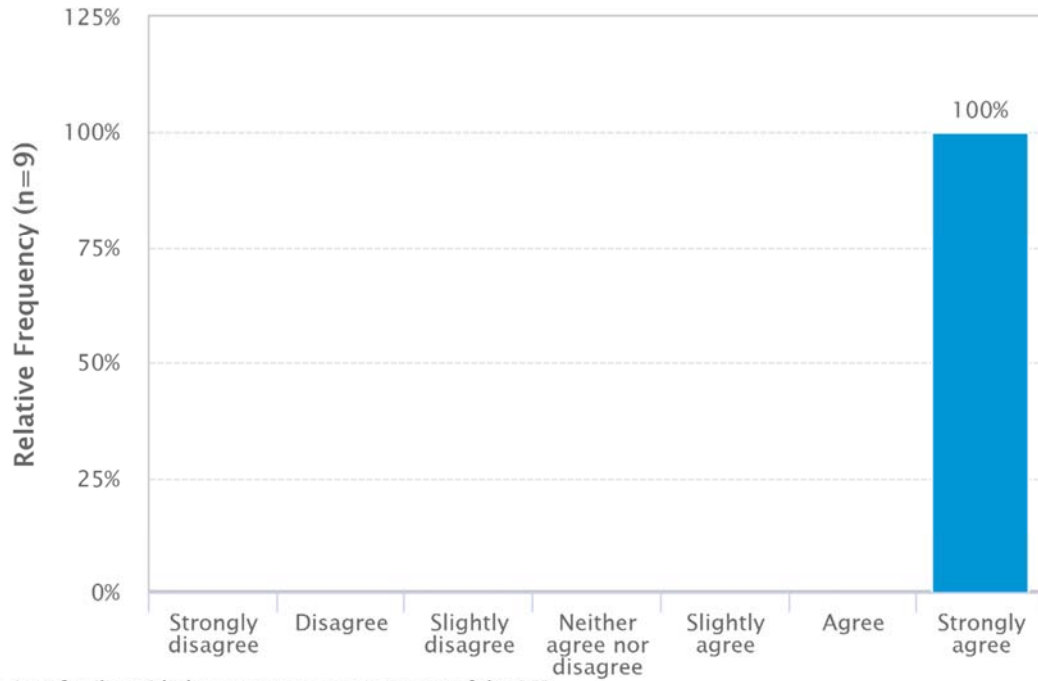


Figure 21 CCP are very familiar with their work on lateral sub panels

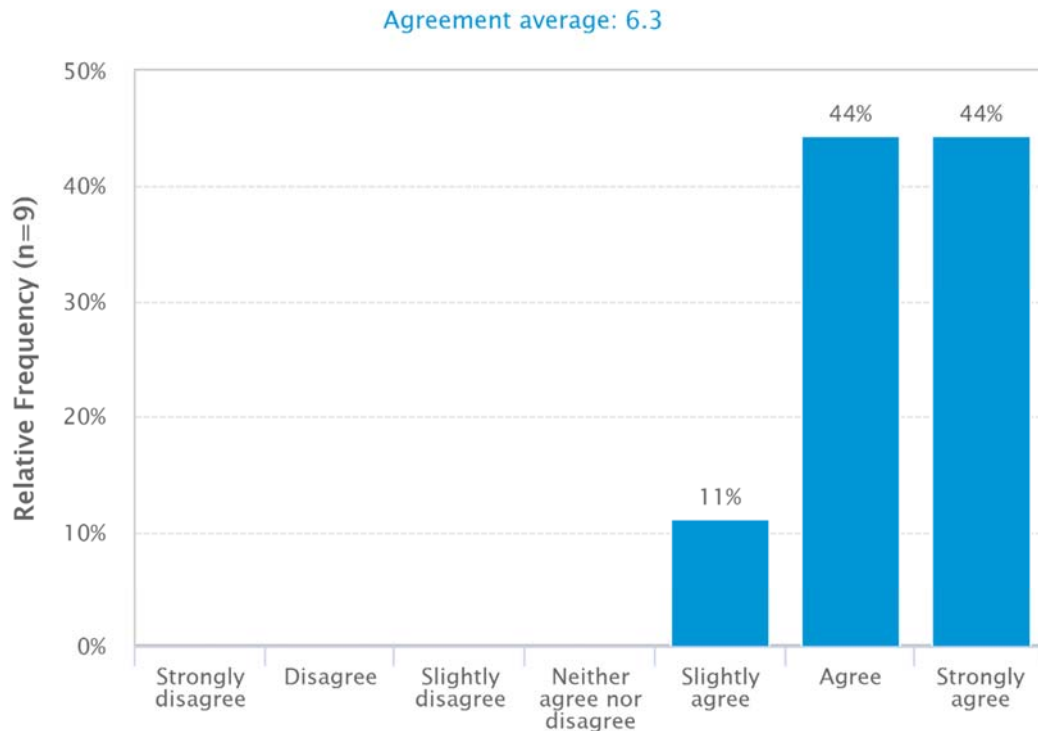
Agreement average: 7.0



3. I am familiar with the governance arrangements of the CCP

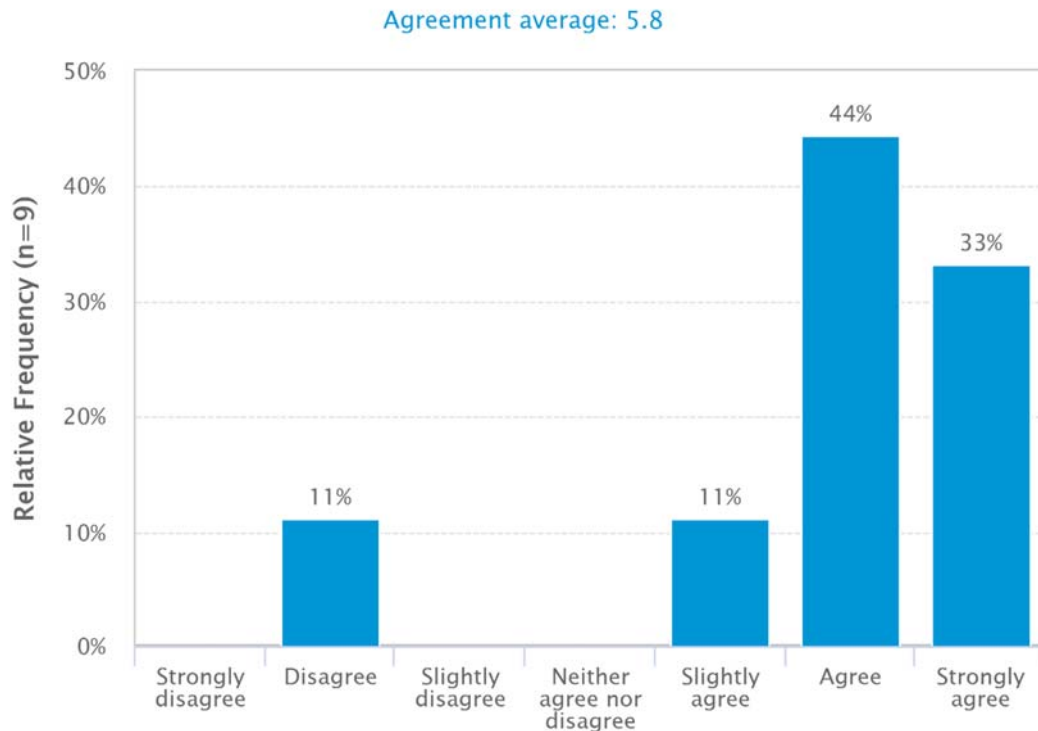
Date period: Invited 9 Sep 2019 – 30 Sep 2019

Response filter: Please select the organisation/sector type (s) you belong to:: Consumer Challenge Panel (CCP)



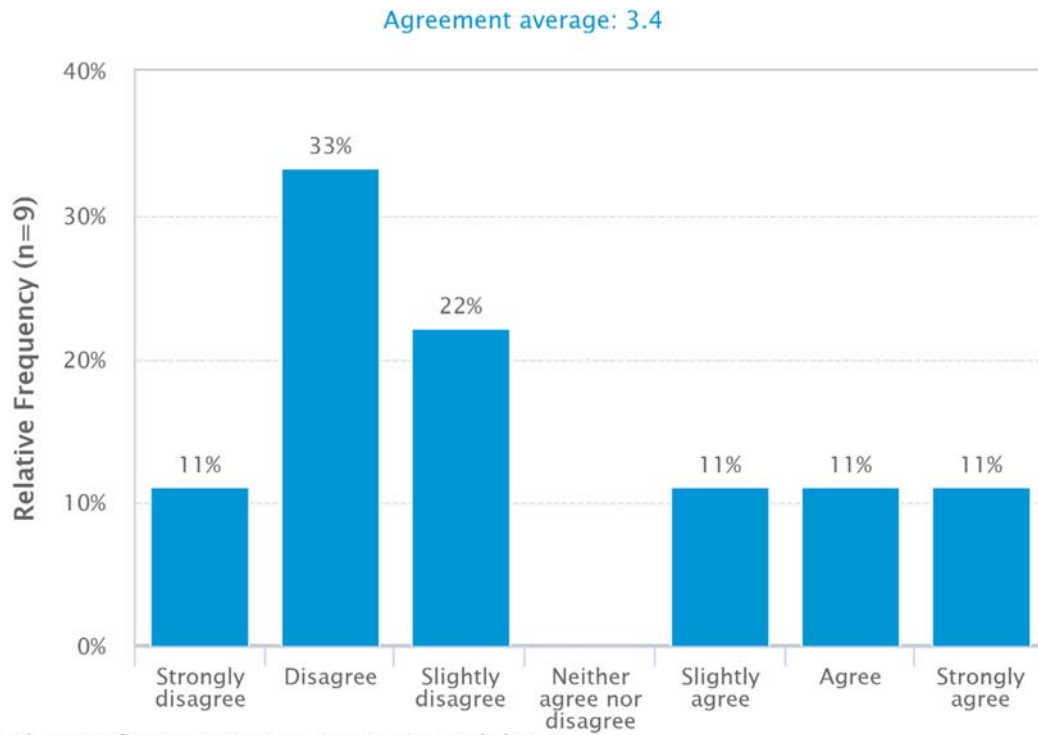
6. I have significant expertise in consumer engagement / representation / advocacy
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer Challenge Panel (CCP)

Figure 22 CCP members self rated highly on the topic of consumer representation/advocacy/engagement



4. I have significant expertise in relevant law and/or regulatory economics
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer Challenge Panel (CCP)

Figure 23 Whereas all CCP members were experienced at aspects of their work related to consumers, not everyone had as much expertise in law/economics

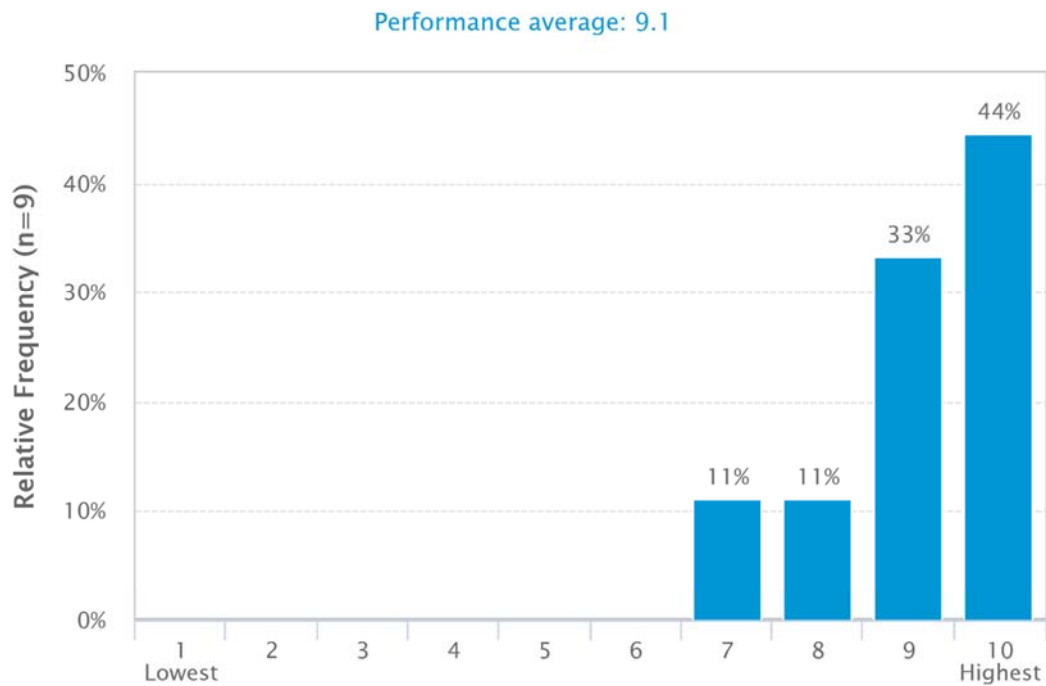


5. I have significant expertise in engineering / network design

Date period: Invited 9 Sep 2019 – 30 Sep 2019

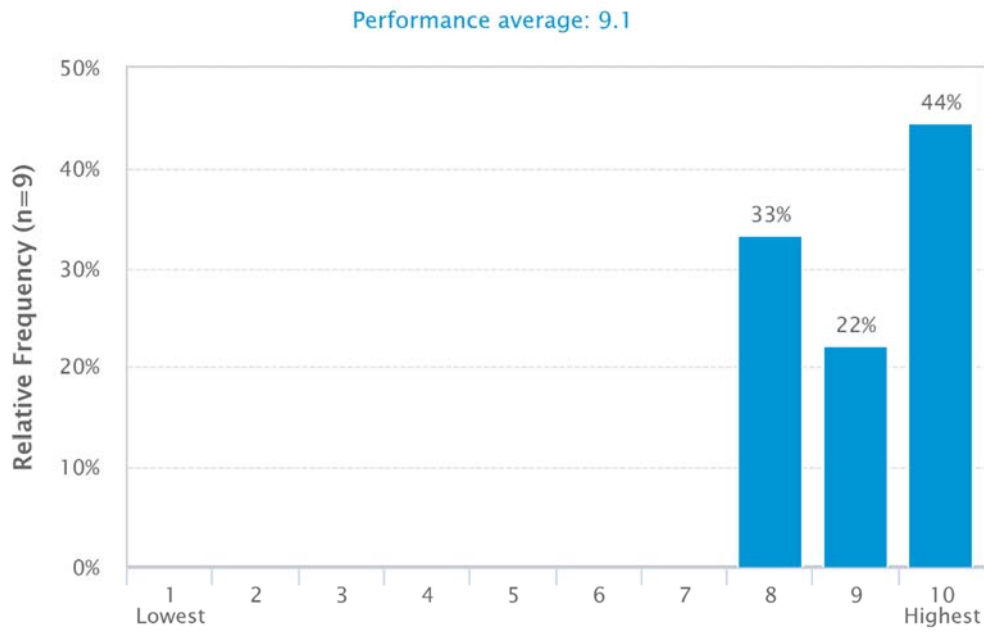
Response filter: Please select the organisation/sector type (s) you belong to:: Consumer Challenge Panel (CCP)

Figure 24 Network design skills were not uniform across CCP respondents.



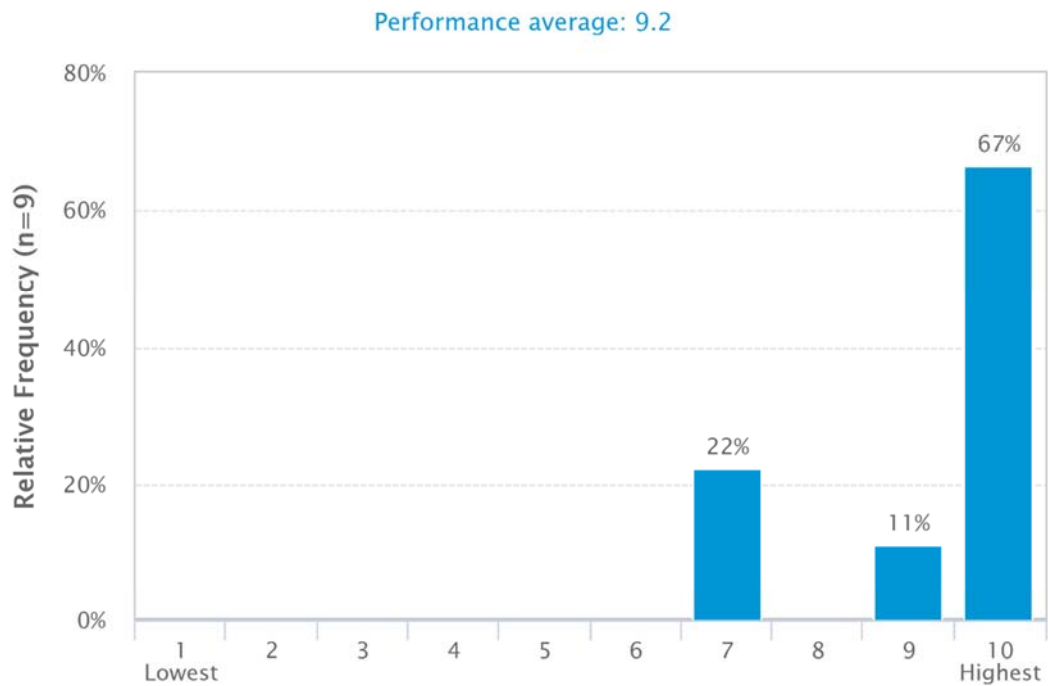
7. The CCP program provides the AER with assistance in making better regulatory determinations.
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer Challenge Panel (CCP)

Figure 25 CCP members were all positive about assisting the AER in making better regulatory determinations.



8. The CCP program successfully advises the AER on the effectiveness of network businesses' engagement with their customers and the impact this has had on proposals.
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer Challenge Panel (CCP)

Figure 26 CCP members were also positive about one of the original aims of CCP

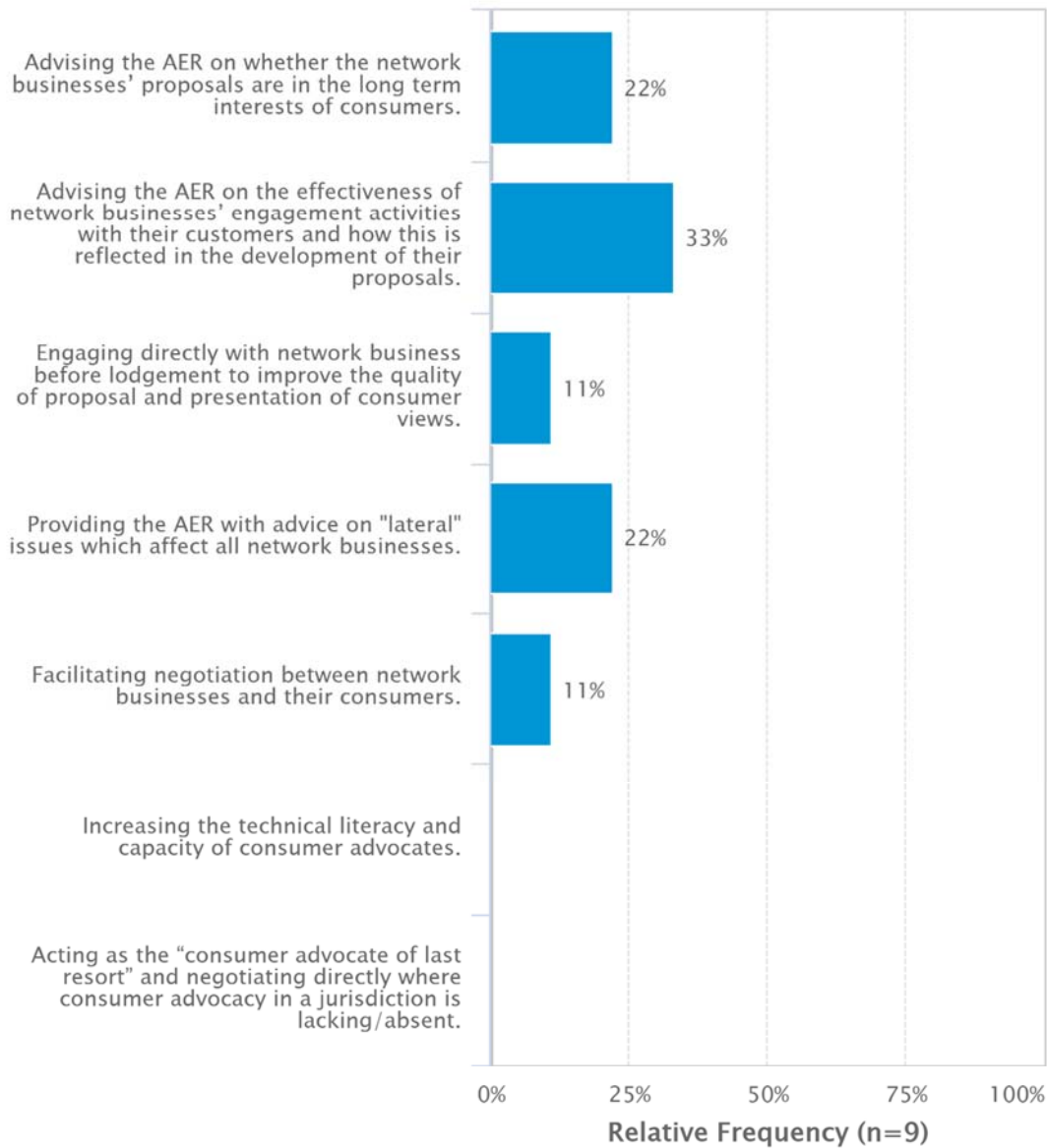


9. The CCP program effectively advances the interests of consumers.

Date period: Invited 9 Sep 2019 – 30 Sep 2019

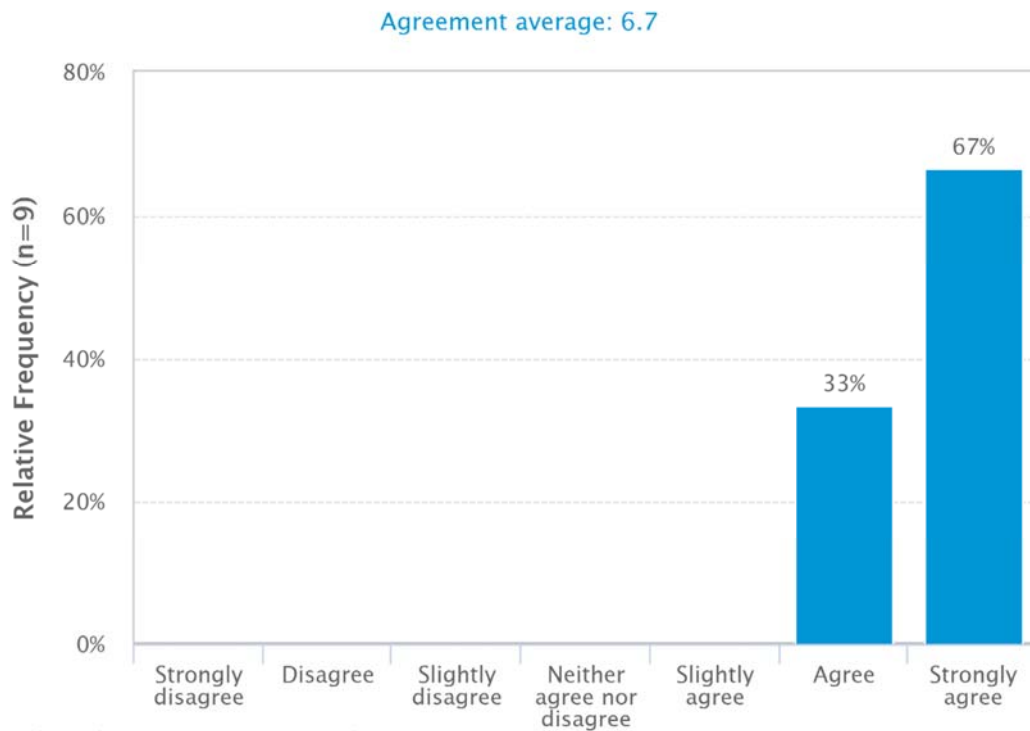
Response filter: Please select the organisation/sector type (s) you belong to:: Consumer Challenge Panel (CCP)

Figure 27 All CCP members responded positively about advancing the interests of consumers.



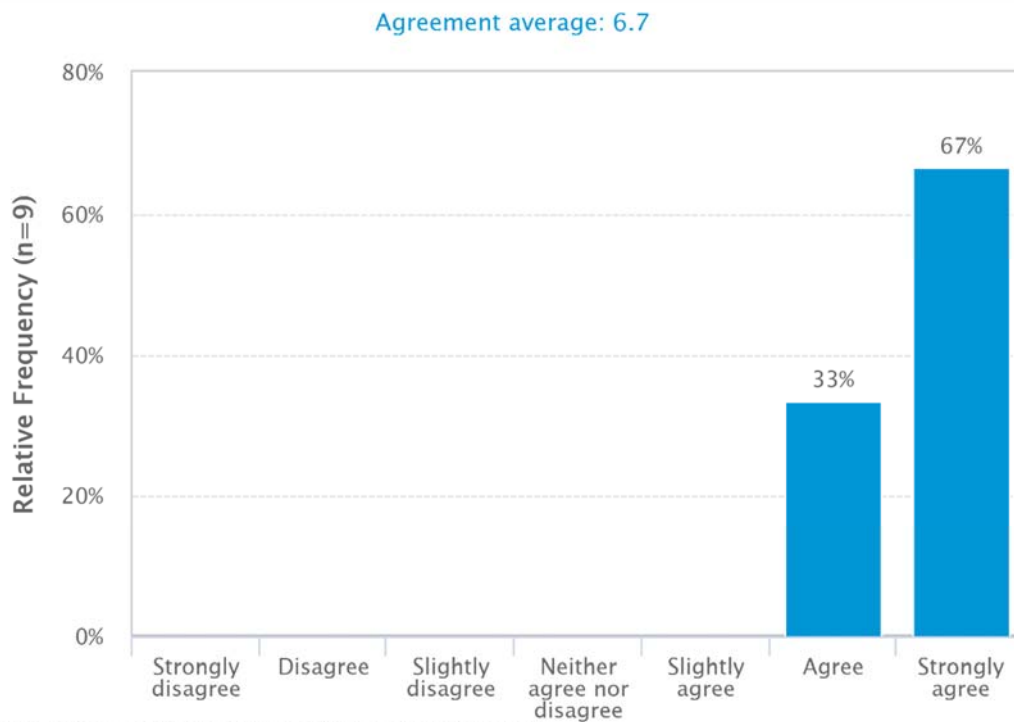
If the CCP could only perform one of the tasks (above), which should it be?
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer Challenge Panel (CCP)

Figure 28 As was the case with AER respondents, CCP respondents were not unanimous in their view of what the single most important role of CCP was



25. This task creates great consumer value
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer Challenge Panel (CCP)

Figure 29 CCP responses to the task "Providing the AER with advice on lateral issues which affect all network businesses"

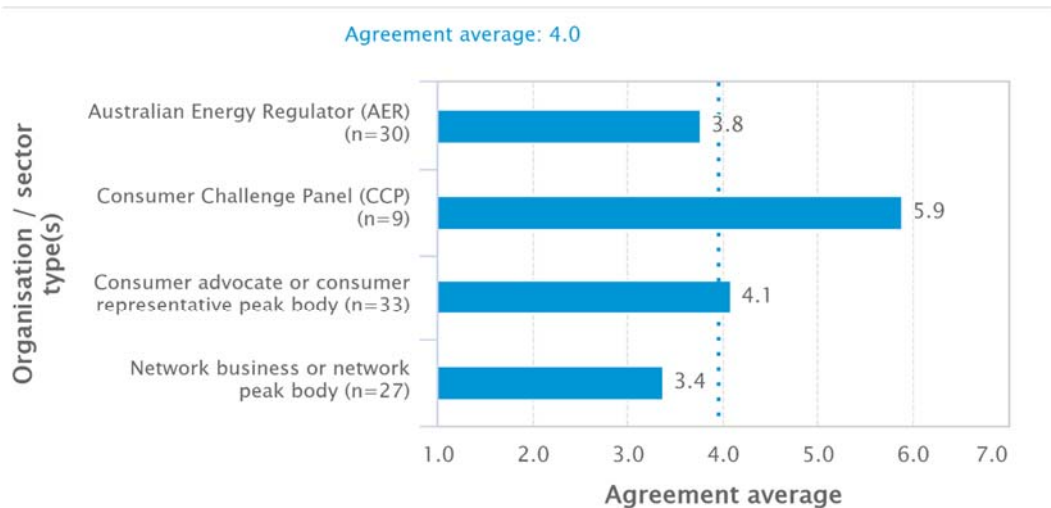


24. The need for this task is becoming increasingly important
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer Challenge Panel (CCP)

Figure 30 CCP responses to the task "Providing the AER with advice on lateral issues which affect all network businesses"

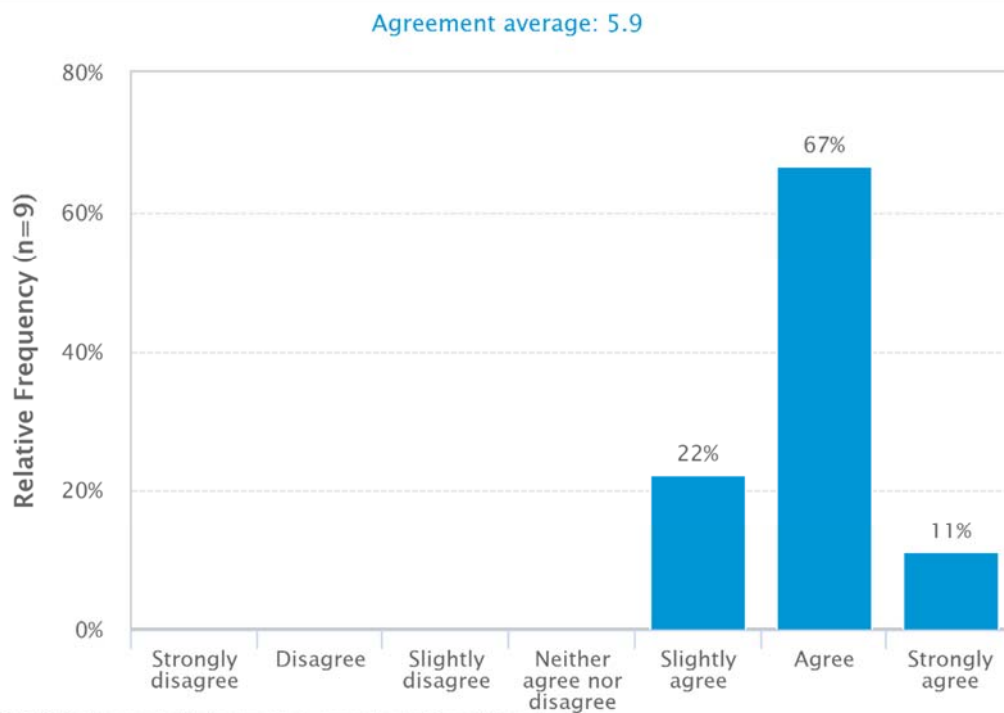
Seven options for future roles were presented to survey respondents. For each option, the question was asked whether CCP is the best body to perform the task.

On all seven possible roles, CCP members rated more highly than the three other groups on whether they were the most able/competent group to perform the task. The chart below relates to lateral sub panels:



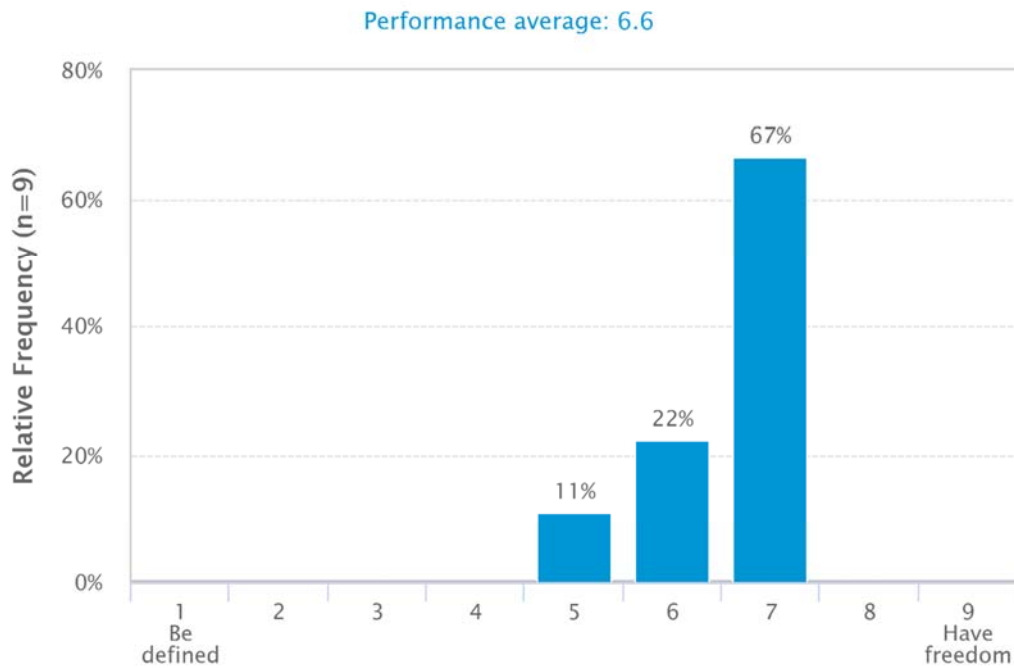
23. CCP is the most able/competent group to perform this task
 Date period: Invited 9 Sep 2019 – 24 Sep 2019
 Response filter: All responses

Figure 31 All responses to the task "Providing the AER with advice on lateral issues which affect all network business"



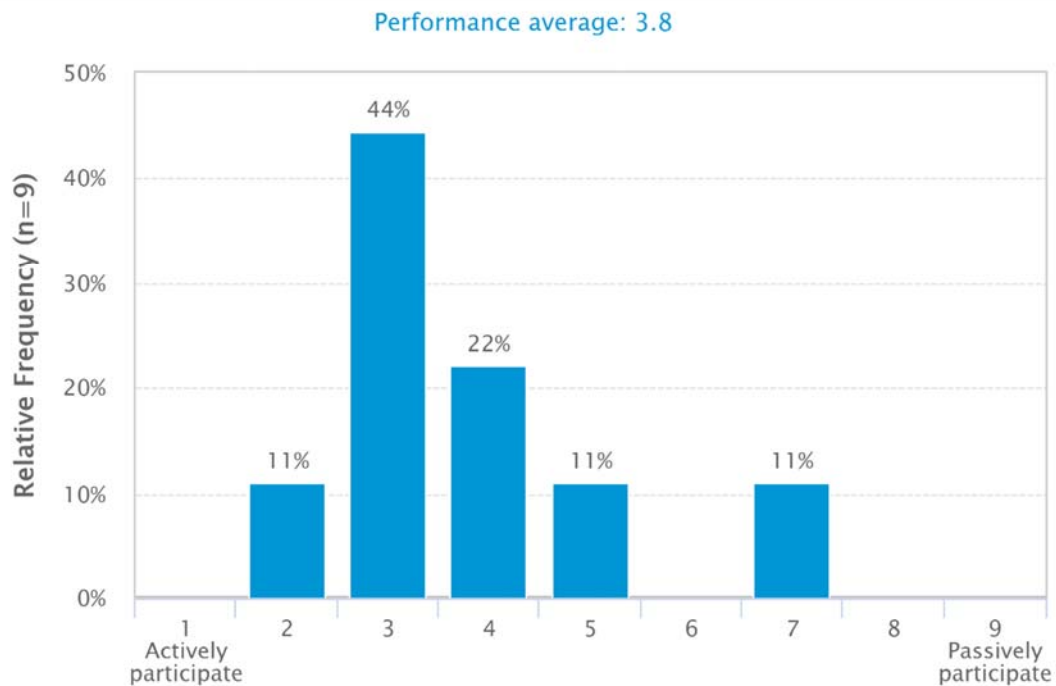
23. CCP is the most able/competent group to perform this task
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer Challenge Panel (CCP)

Figure 32 CCP responses to the task "Providing the AER with advice on lateral issues which affect all network businesses"



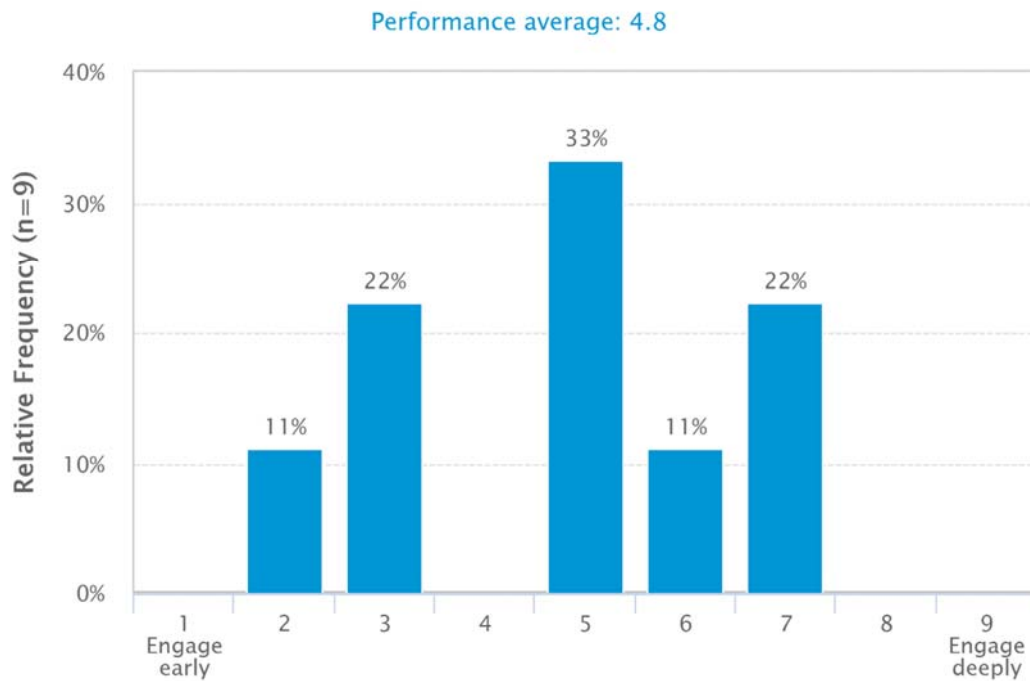
The role of the CCP should be...
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer Challenge Panel (CCP)

Figure 33 CCP responses to the statement "The role of the CCP should be defined" vs "The role of the CCP should have freedom"



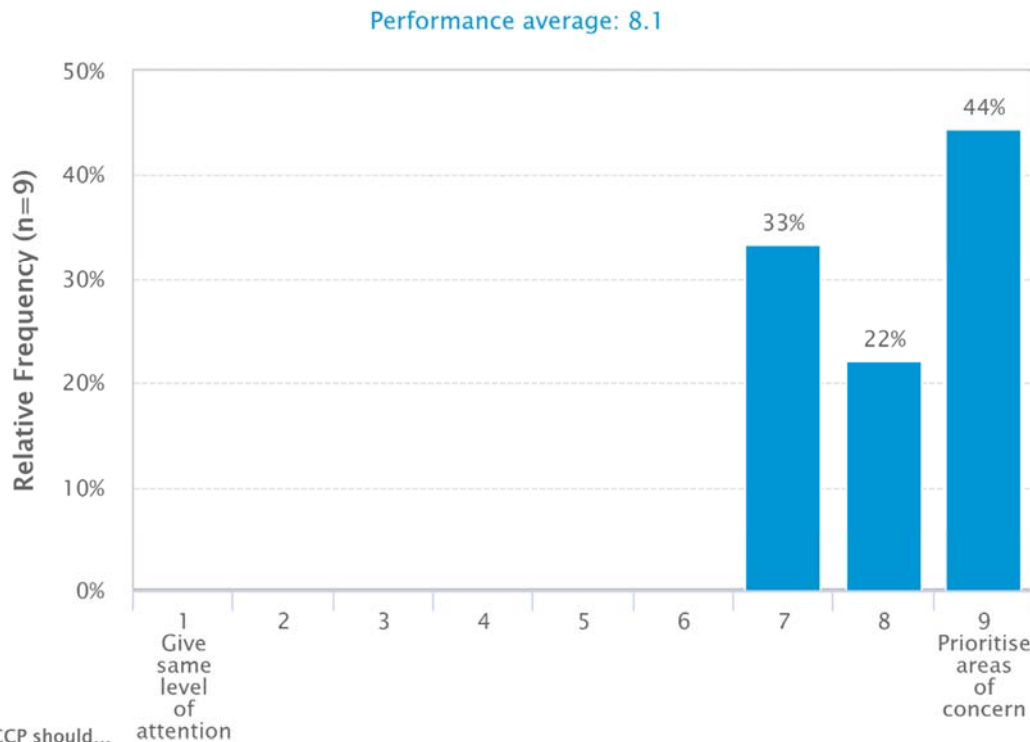
When going through the reset process, the CCP should...
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer Challenge Panel (CCP)

Figure 34 CCP responses to the statement "When going through the reset process, the CCP should actively participate" vs "When going through the reset process, the CCP should passively participate"



The CCP should focus on engaging...
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer Challenge Panel (CCP)

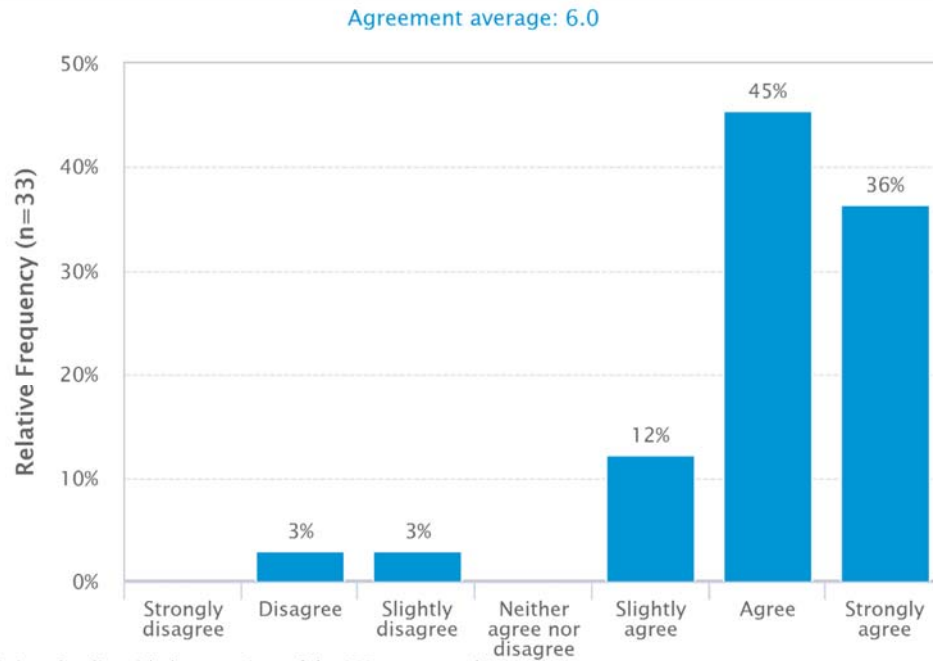
Figure 35 CCP responses to the statement "The CCP should focus on engaging early" vs "The CCP should focus on engaging deeply"



CCP should... attention
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer Challenge Panel (CCP)

Figure 36 CCP responses to the statement "CCP should give same level of attention" vs "Prioritise areas of concern"

Survey feedback from consumer advocate and consumer representative bodies



1. I am familiar with the operations of the CCP on a network reset
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer advocate or consumer representative peak body

Figure 37 Almost all respondents were familiar with CCP operations on resets

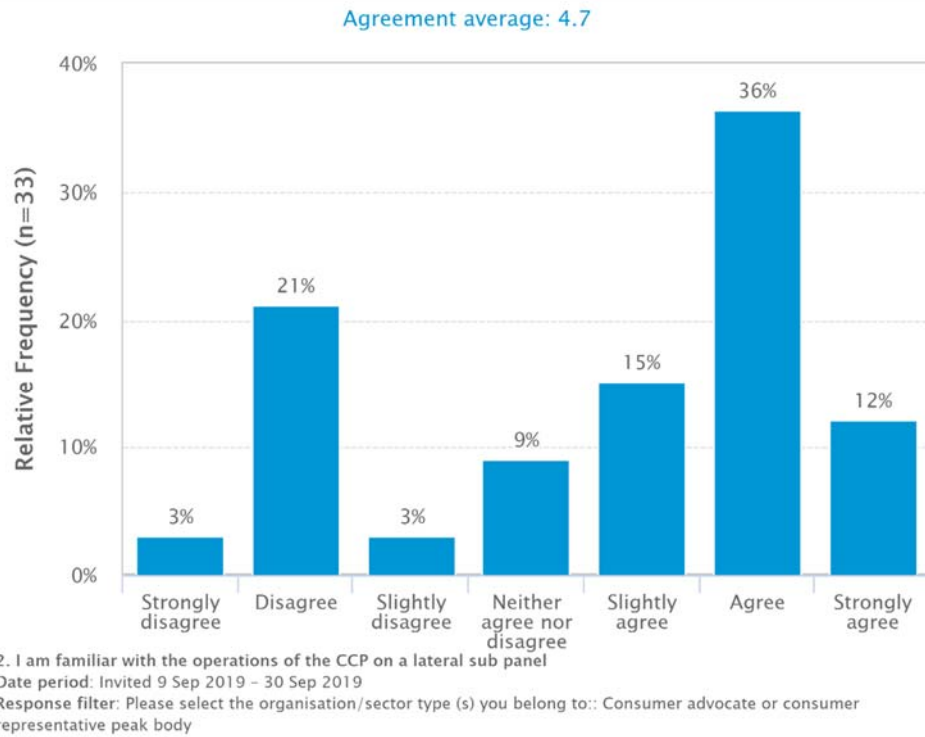
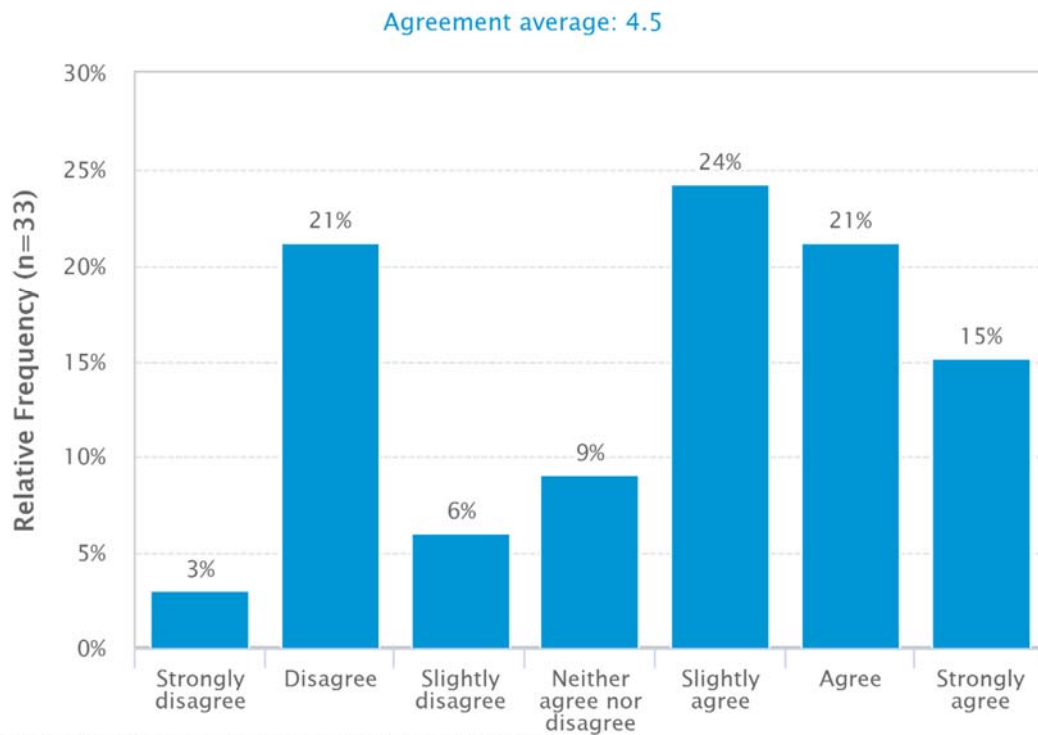


Figure 38 Many respondents were unfamiliar with CCP work on lateral sub panels.

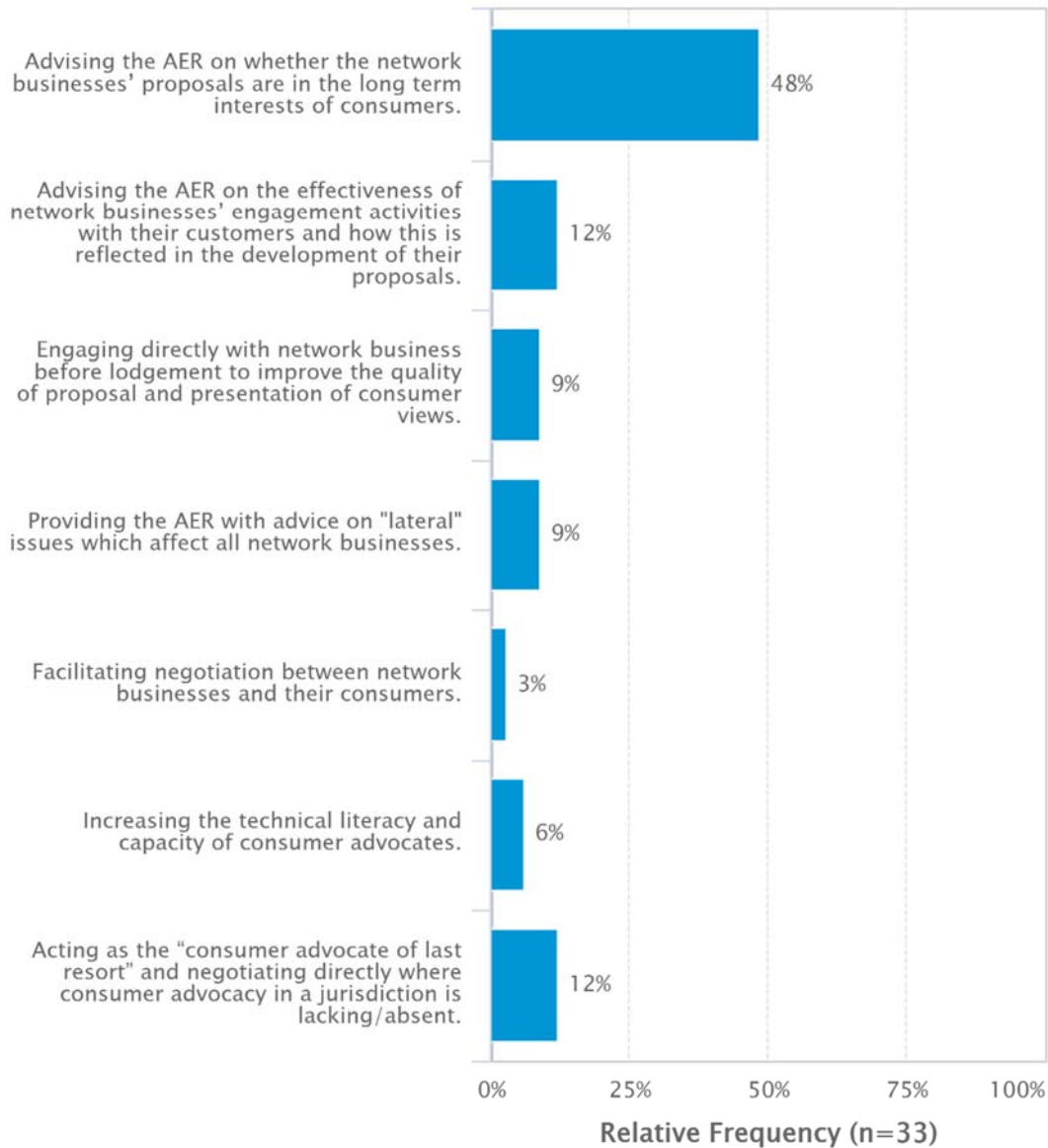


3. I am familiar with the governance arrangements of the CCP

Date period: Invited 9 Sep 2019 – 30 Sep 2019

Response filter: Please select the organisation/sector type (s) you belong to:: Consumer advocate or consumer representative peak body

Figure 39 Some respondents were very familiar with CCP governance arrangements, others were not



If the CCP could only perform one of the tasks (above), which should it be?

Date period: Invited 9 Sep 2019 – 24 Sep 2019

Response filter: Please select the organisation/sector type (s) you belong to:: Consumer advocate or consumer representative peak body

Figure 40 Similar to AER and CCP respondents, there was great diversity of views about the most vital role of the CCP, although the first original role of the CCP garnered the support of almost half of respondents.

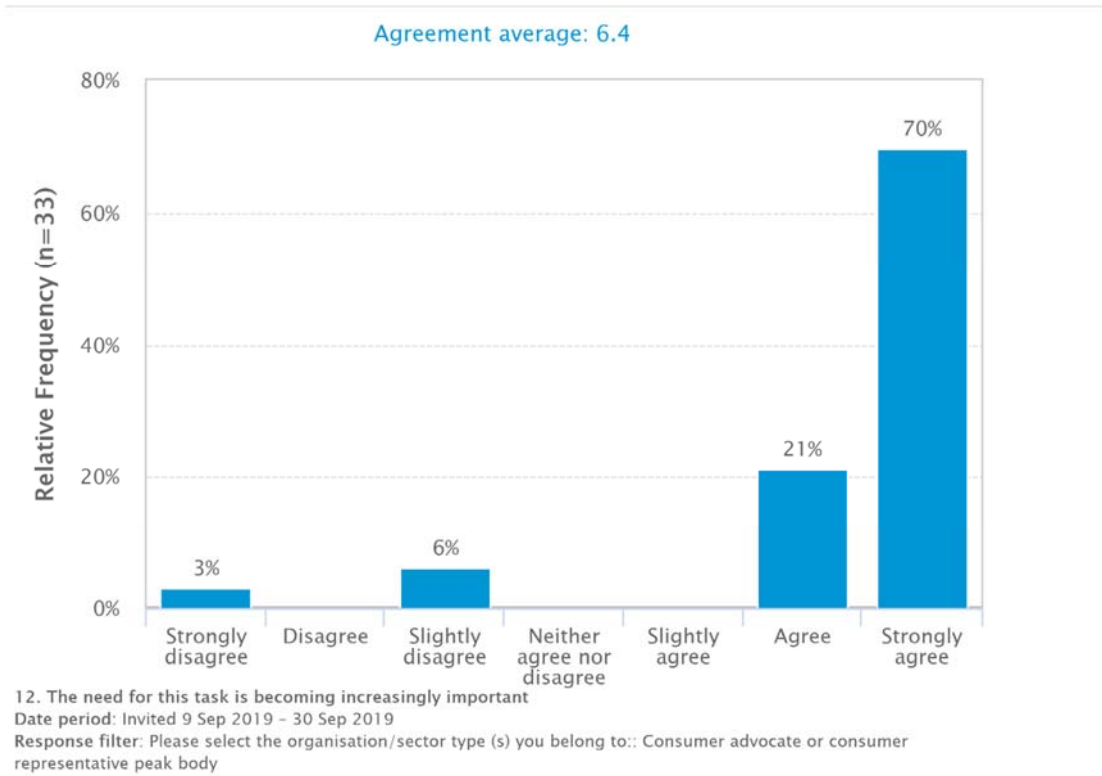


Figure 41 Consumer advocate responses to the task "Advising the AER on whether the network businesses' proposals are in the long term interests of consumers"

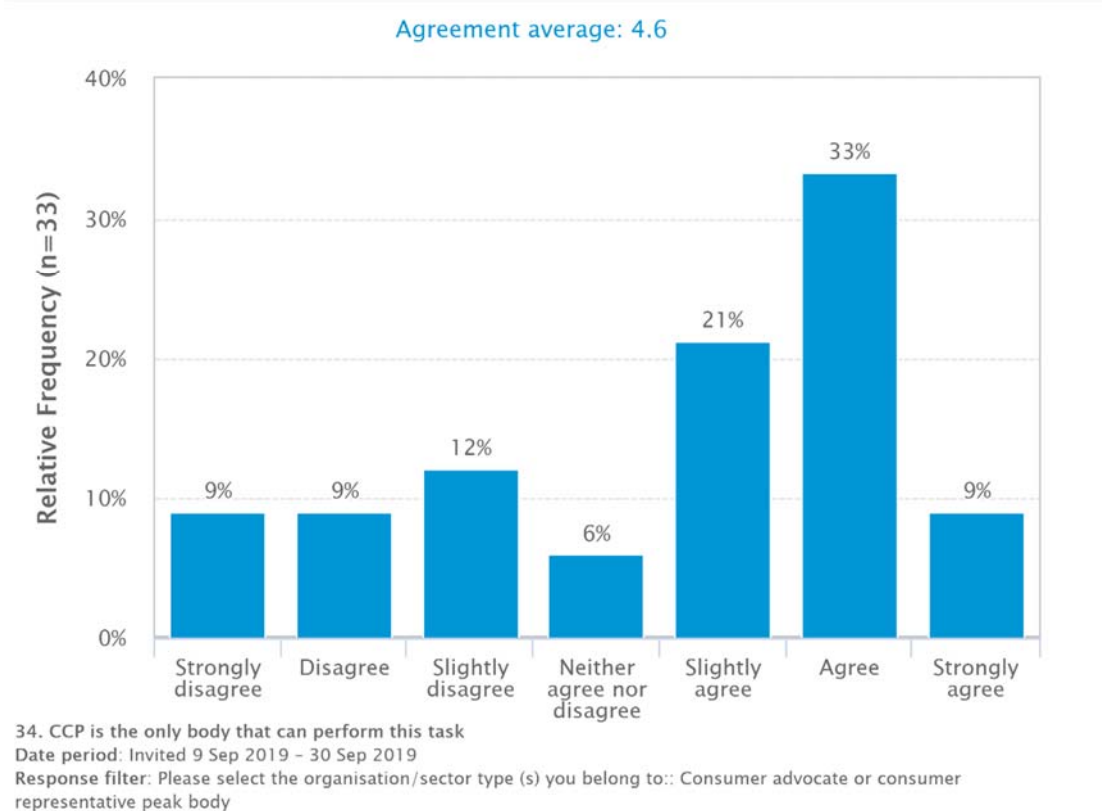
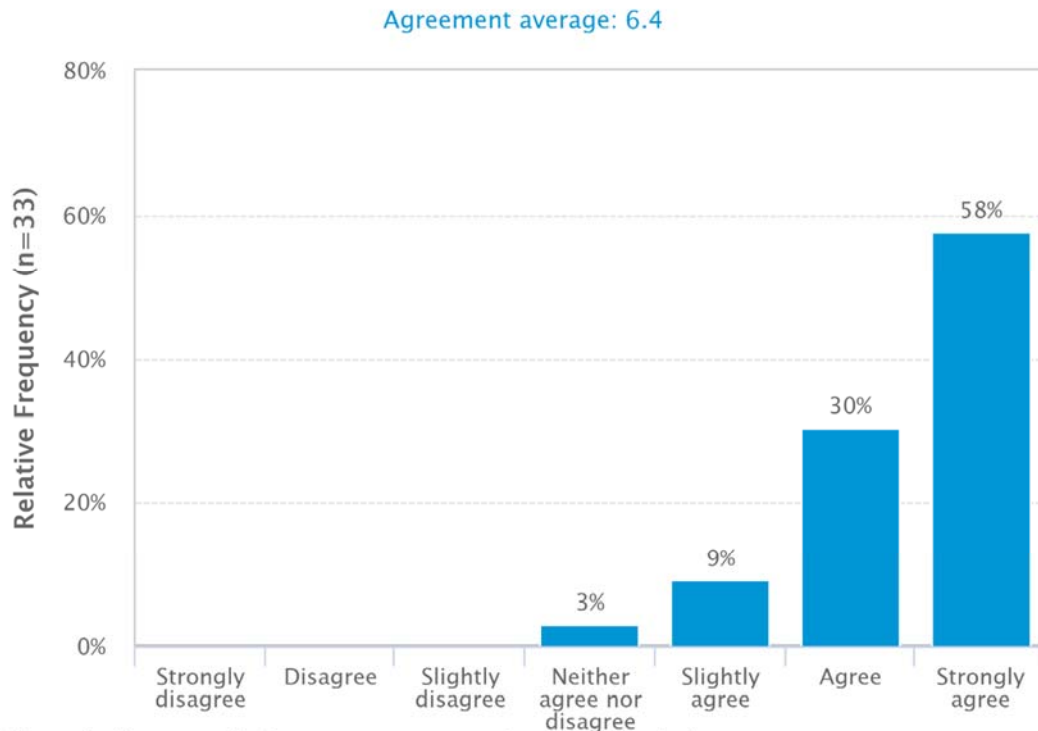
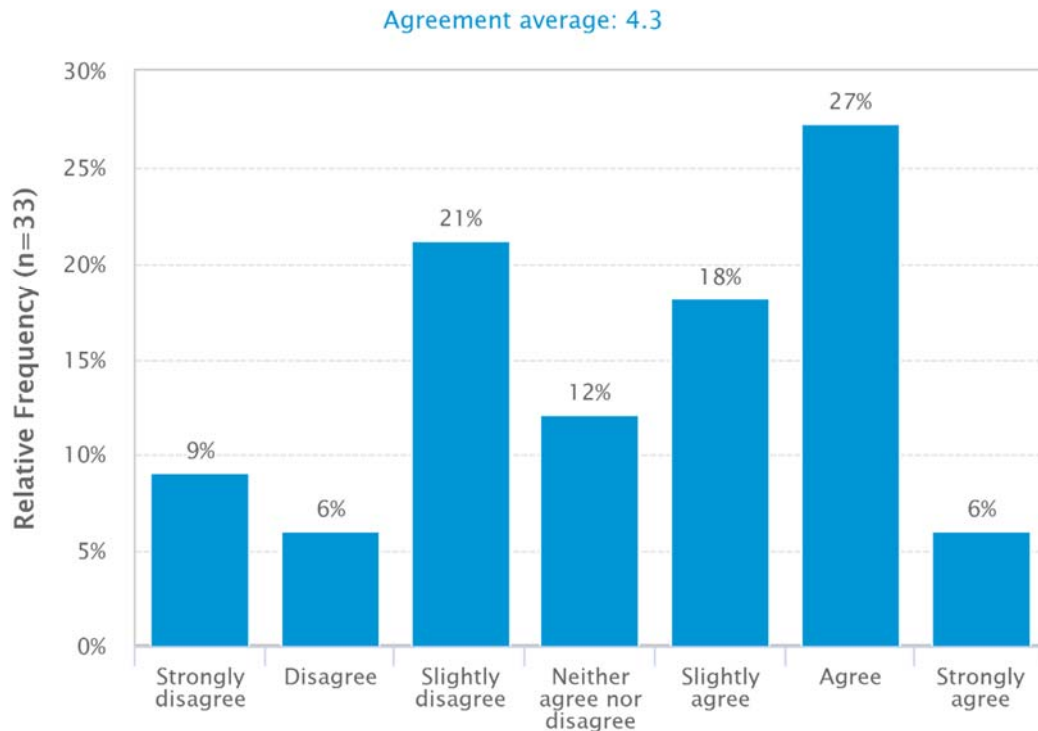


Figure 42 Consumer advocate responses to the task "Acting as the consumer advocate of last resort and negotiating directly where consumer advocacy is lacking/absent in a jurisdiction"



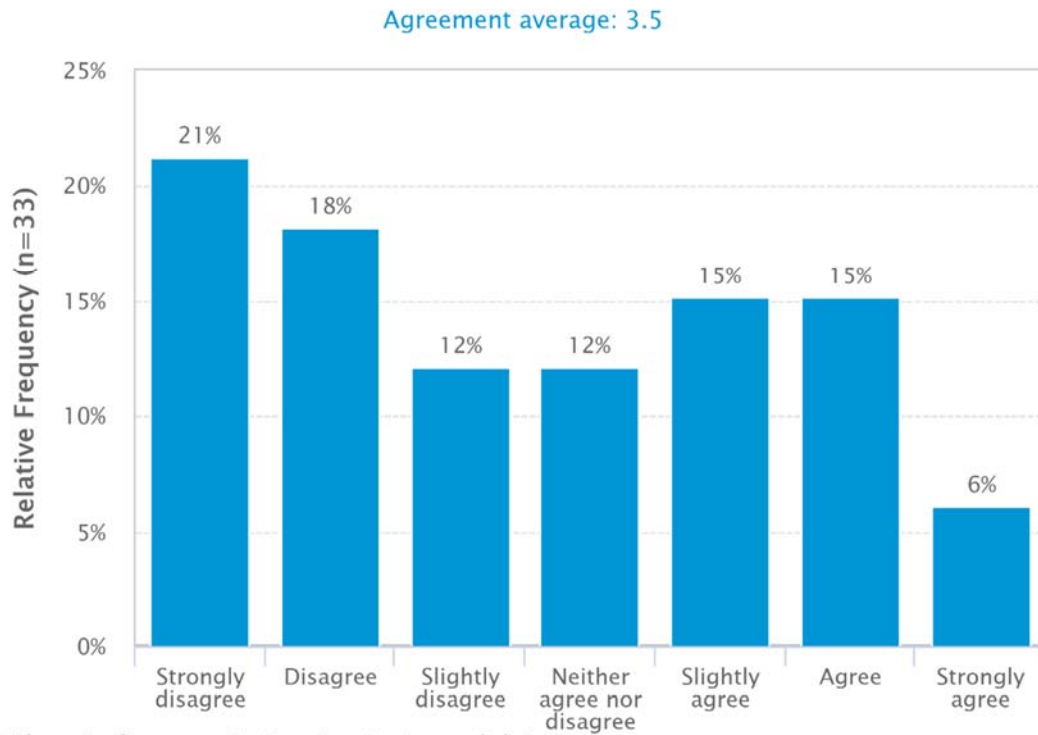
6. I have significant expertise in consumer engagement / representation / advocacy
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer advocate or consumer representative peak body

Figure 43 Unsurprisingly, advocates and peak body representatives had high levels of expertise in consumer engagement



4. I have significant expertise in relevant law and/or regulatory economics
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer advocate or consumer representative peak body

Figure 44 Only around half of consumer advocates/peak body representatives reported expertise in relevant law/economics.

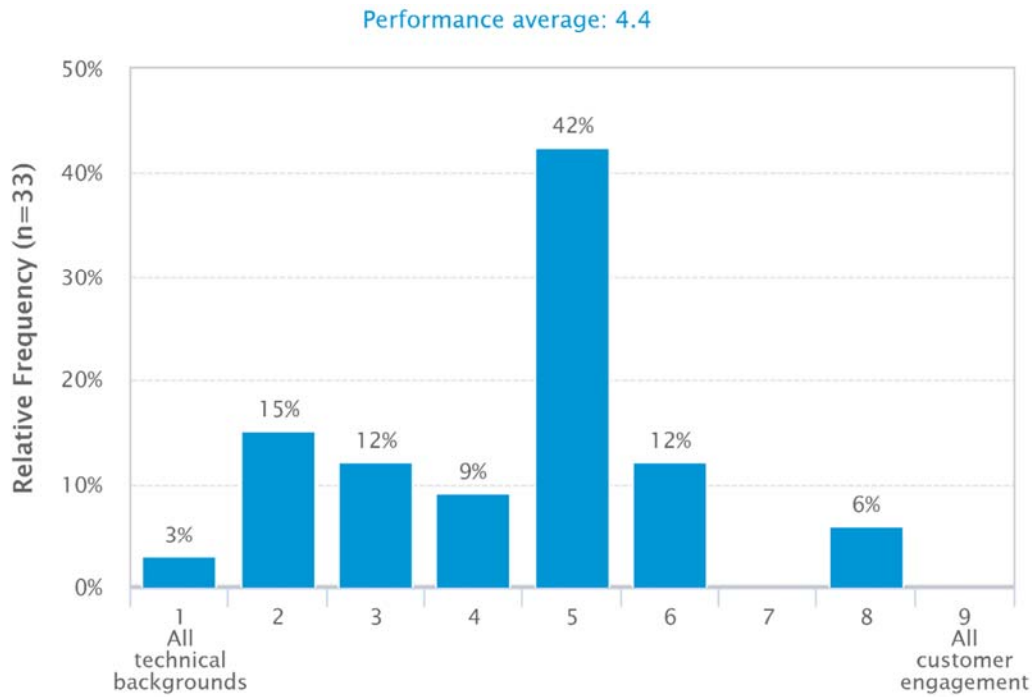


5. I have significant expertise in engineering / network design

Date period: Invited 9 Sep 2019 – 30 Sep 2019

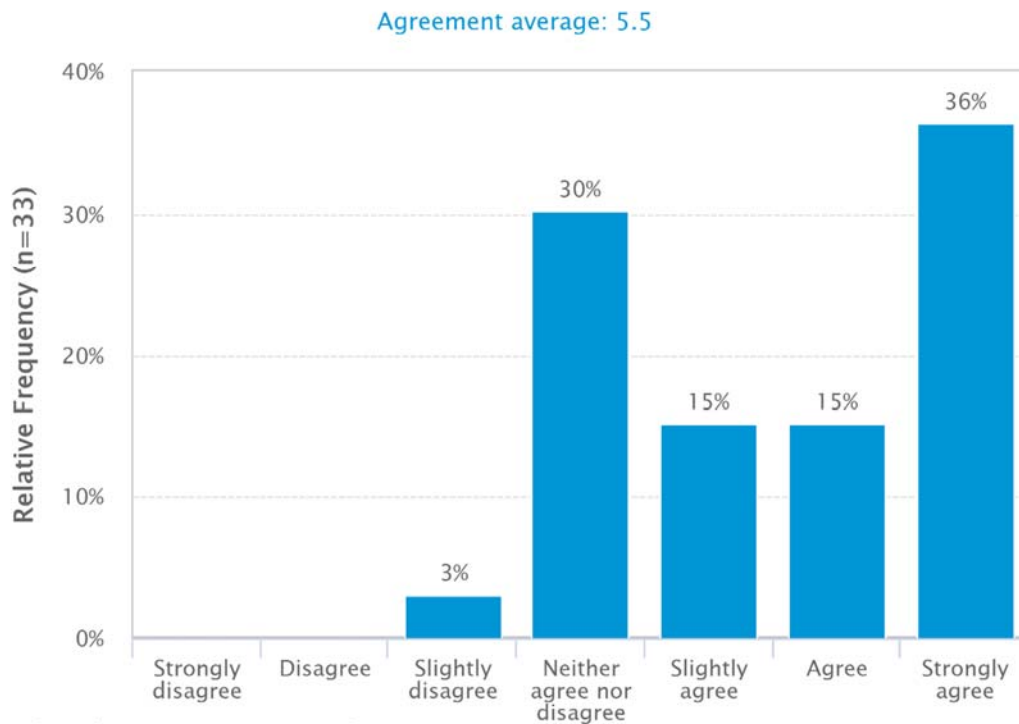
Response filter: Please select the organisation/sector type (s) you belong to:: Consumer advocate or consumer representative peak body

Figure 45 No pattern is apparent among this group's engineering/network design experience



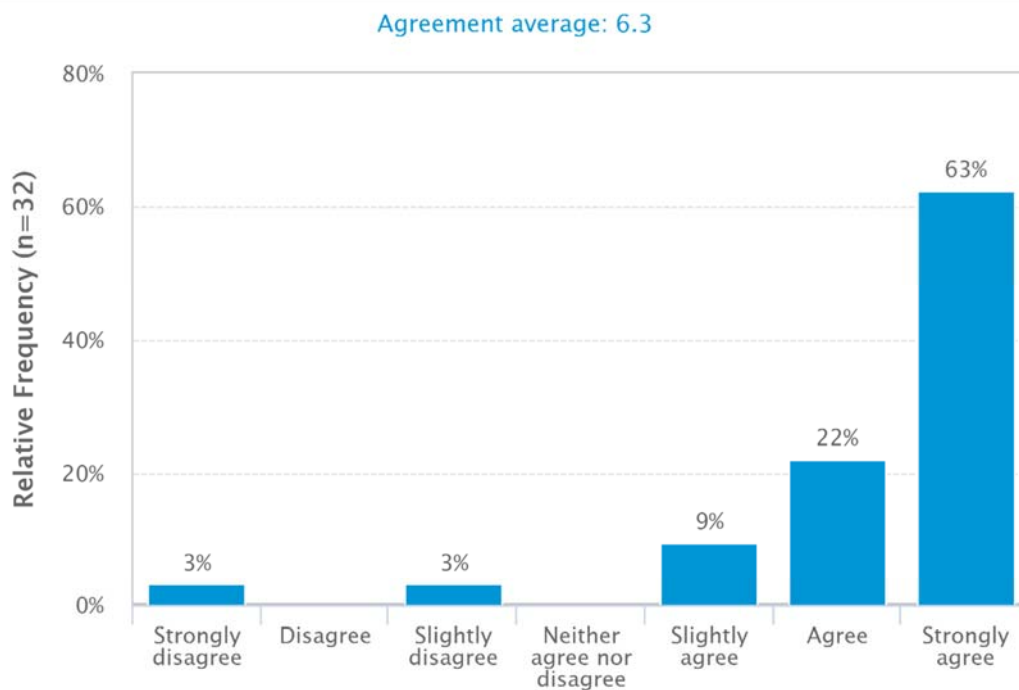
The CCP should comprise of members with...
 Date period: Invited 9 Sep 2019 – 25 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer advocate or consumer representative peak body

Figure 46 Consumer stakeholder responses to the statement "The CCP should comprise of members with all technical backgrounds" vs "The CCP should comprise of members with all customer engagement backgrounds"



25. This task creates great consumer value
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer advocate or consumer representative peak body

Figure 47 Consumer advocate responses to the task "Providing the AER with advice on lateral issues which affect all network businesses"



41. Even though network businesses are getting better at consumer engagement, in the future there will still be an important role for a group to provide assurance that the engagement was authentic and of appropriate depth
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer advocate or consumer representative peak body

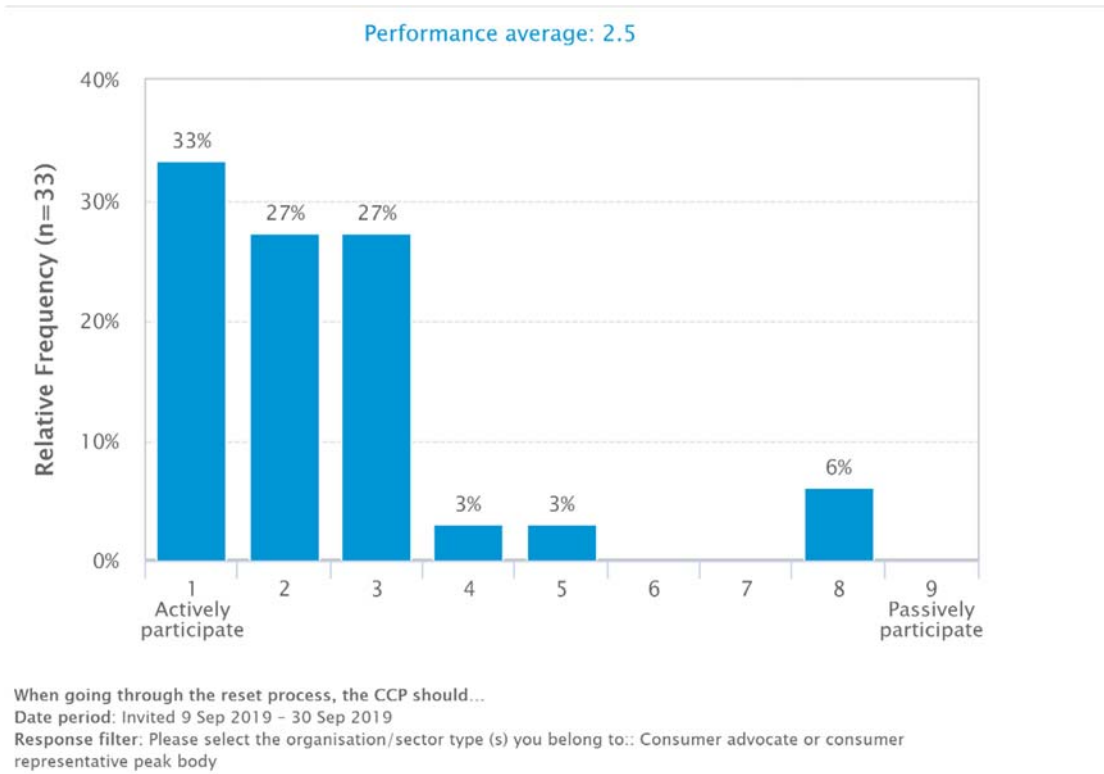


Figure 48 Consumer advocate responses to the statement "When going through the reset process, the CCP should actively participate" vs "When going through the reset process, the CCP should passively participate"

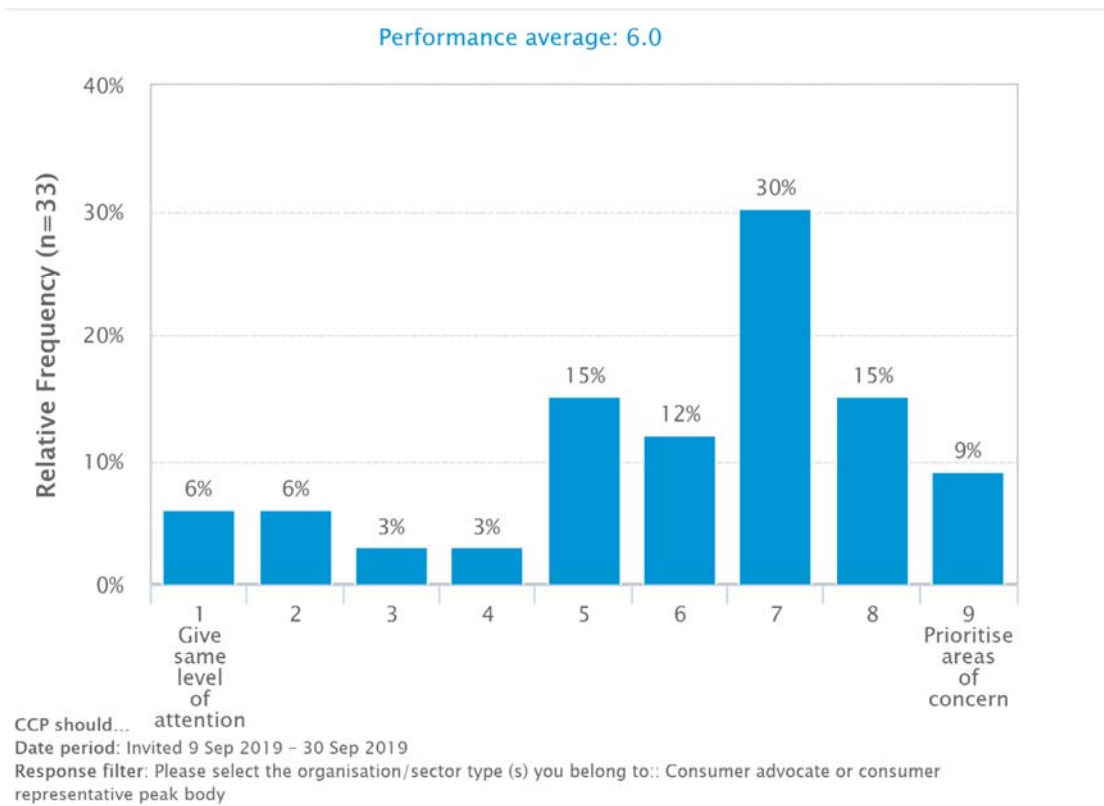
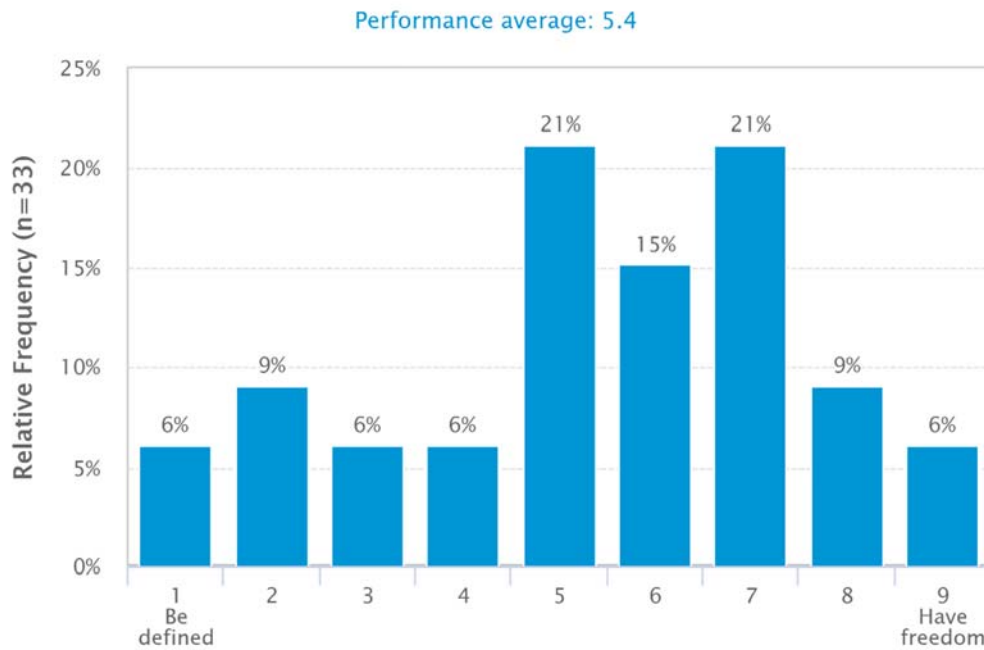
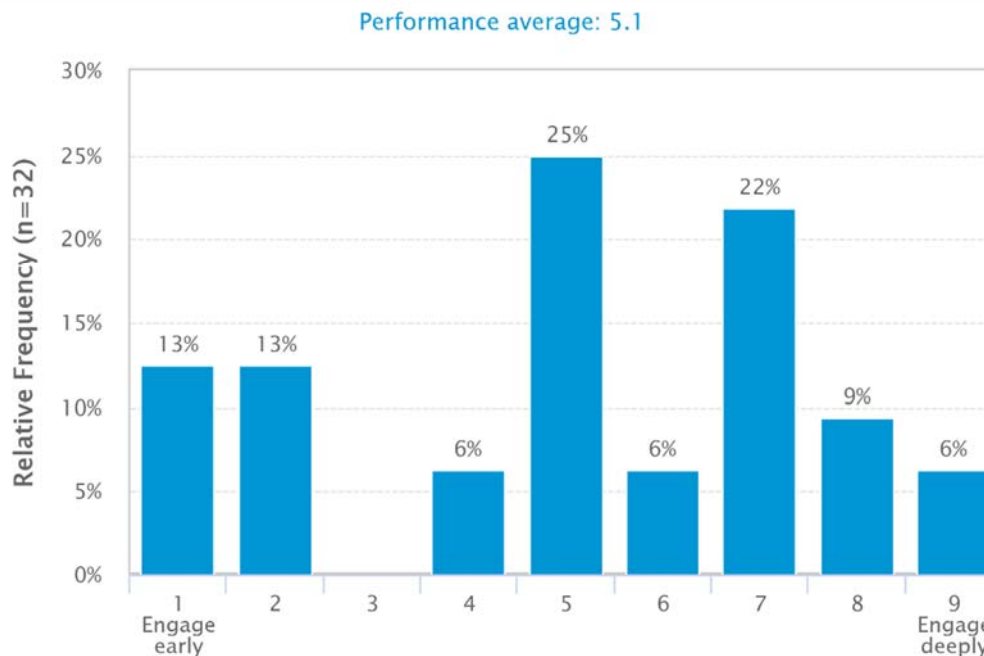


Figure 49 Consumer advocate responses to the statement "CCP should give same level of attention" vs "Prioritise areas of concern"



The role of the CCP should be...
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer advocate or consumer representative peak body

Figure 50 Consumer advocate responses to the statement "The role of the CCP should be defined" vs "The role of the CCP should have freedom"



The CCP should focus on engaging...
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Consumer advocate or consumer representative peak body

Figure 51 Consumer advocate responses to the statement "The CCP should focus on engaging early" vs "The CCP should focus on engaging deeply"

Survey feedback from network businesses

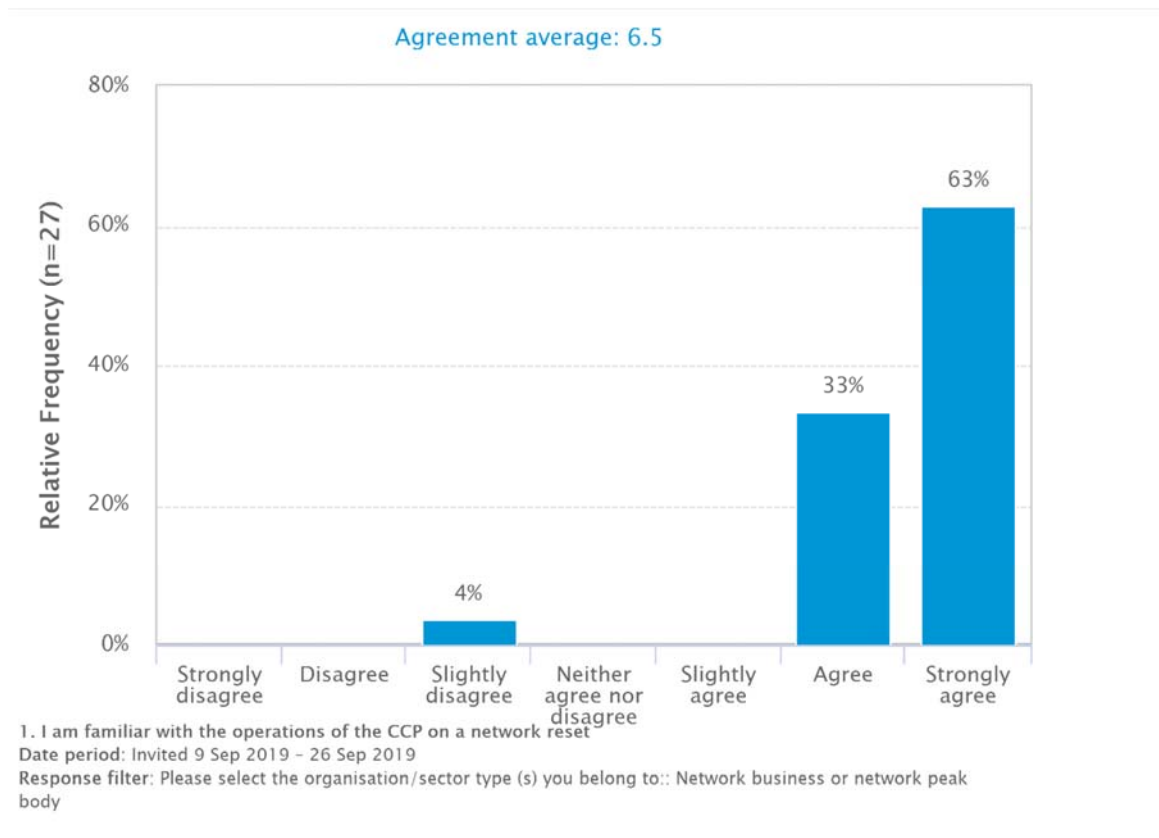


Figure 52 Almost all respondents were familiar with the CCP's operations on a reset

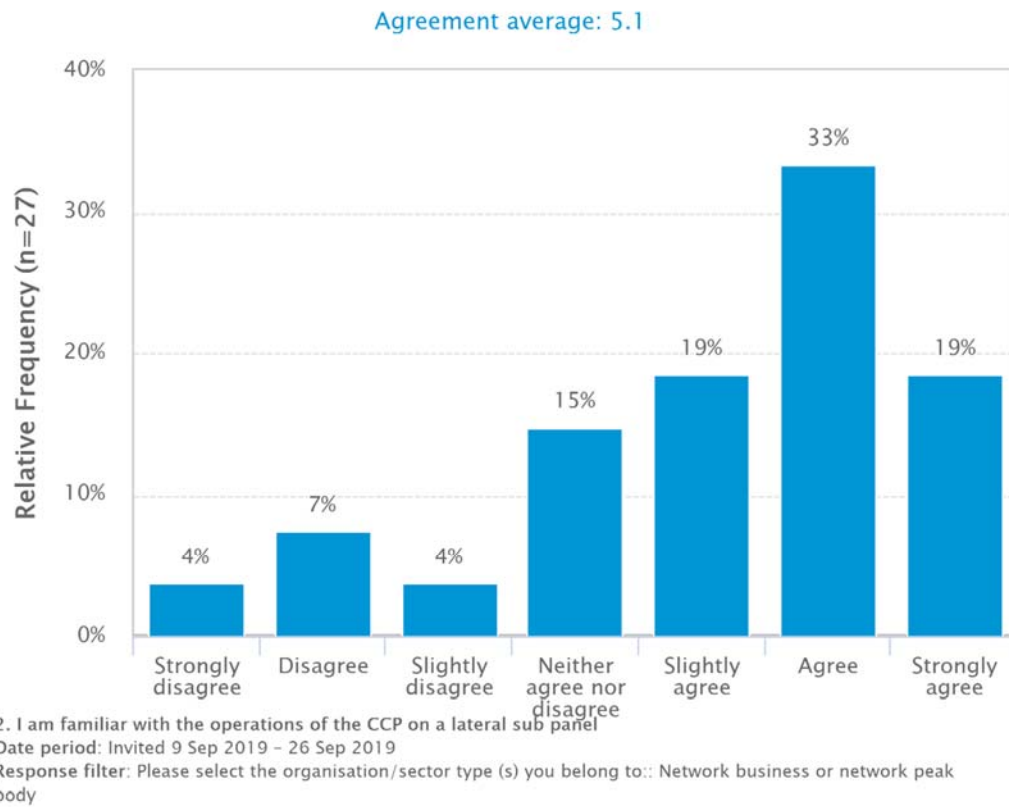
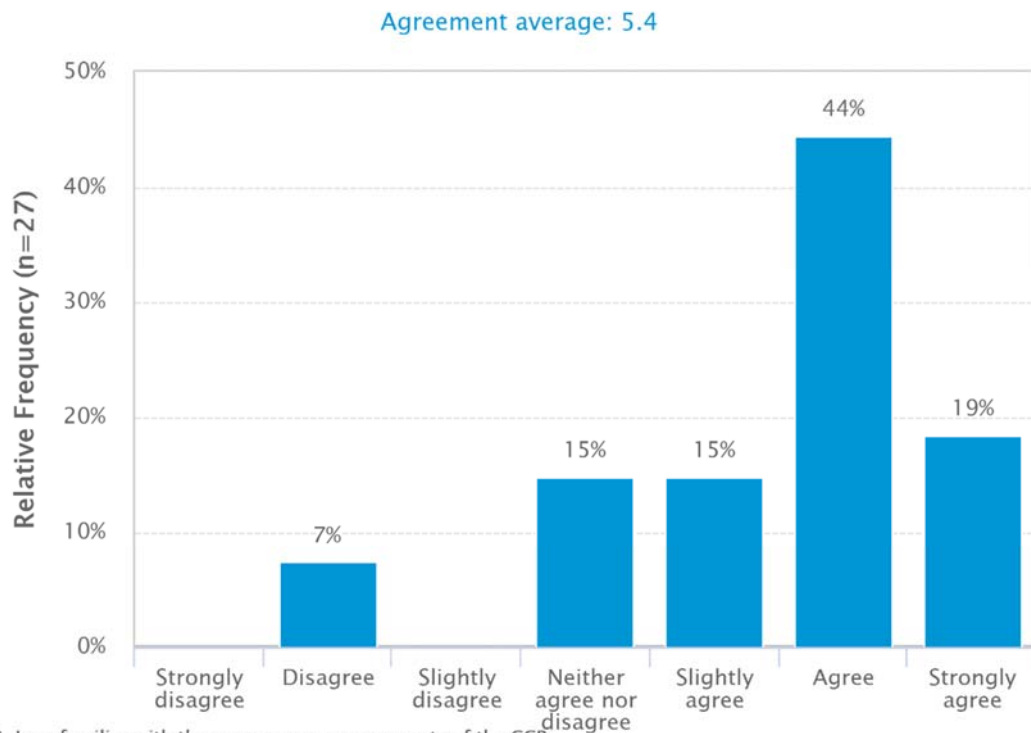
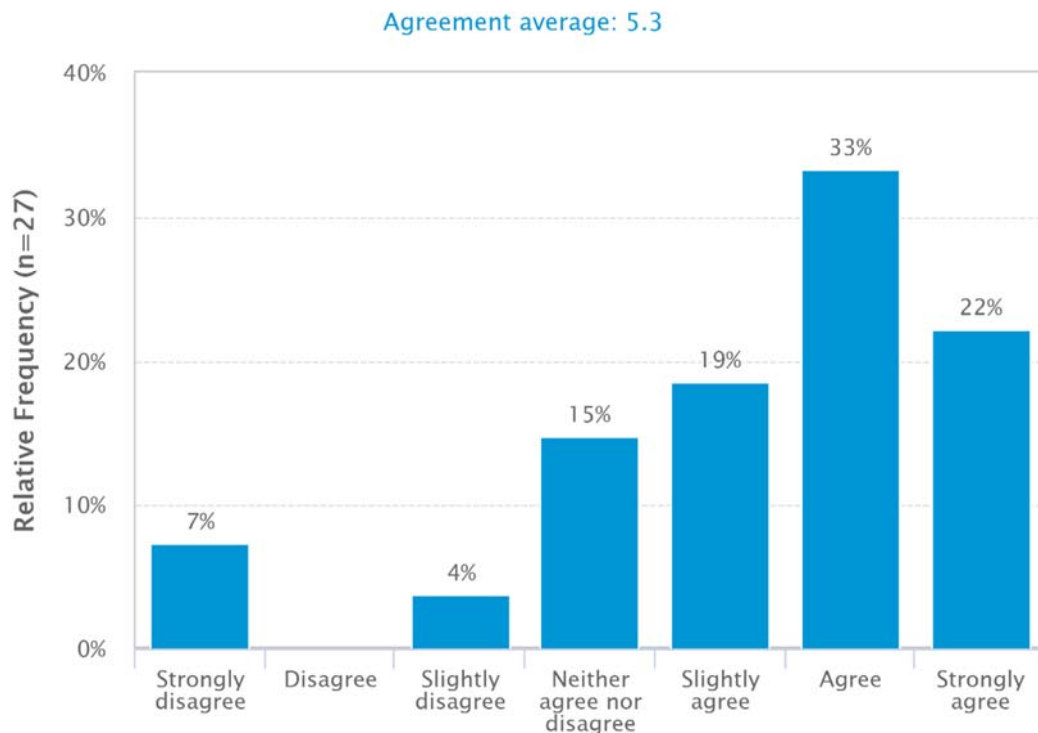


Figure 53 Far fewer respondents were familiar with CCP operations on a lateral sub panel.



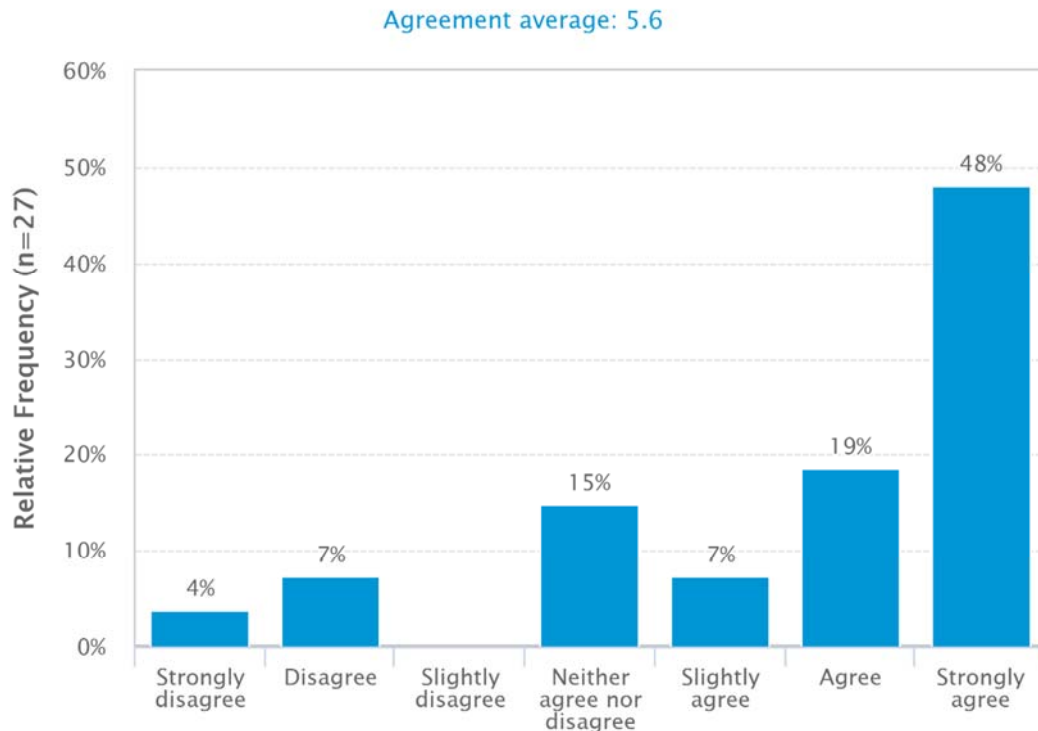
3. I am familiar with the governance arrangements of the CCP
 Date period: Invited 9 Sep 2019 – 26 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Network business or network peak body

Figure 2 Most network respondents had some degree of familiarity with the governance arrangements of the CCP



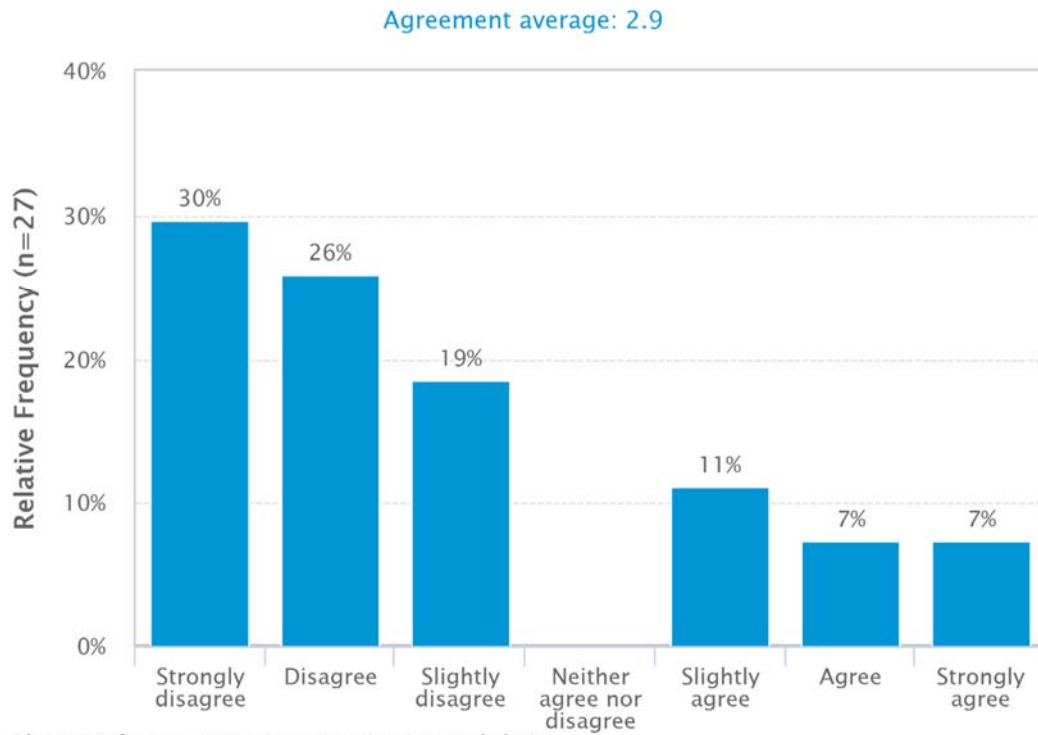
6. I have significant expertise in consumer engagement / representation / advocacy
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Network business or network peak body

Figure 55 A majority of the network business respondents had expertise in engagement



4. I have significant expertise in relevant law and/or regulatory economics
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Network business or network peak body

Figure 56 Most of the network business respondents had expertise in relevant aspects of law/economics

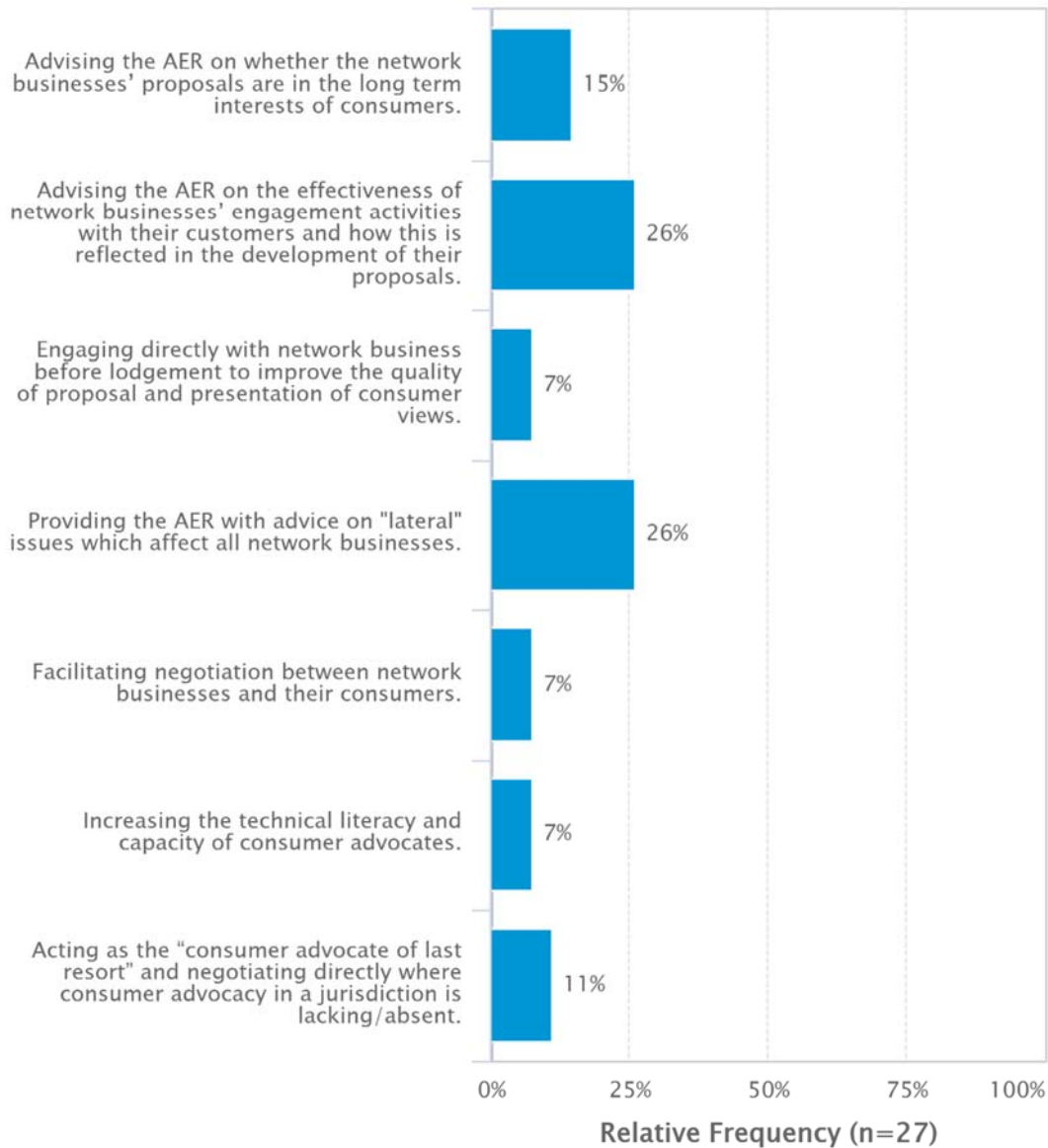


5. I have significant expertise in engineering / network design

Date period: Invited 9 Sep 2019 – 30 Sep 2019

Response filter: Please select the organisation/sector type (s) you belong to:: Network business or network peak body

Figure 57 Only a quarter of network business respondents had expertise in engineering/network design

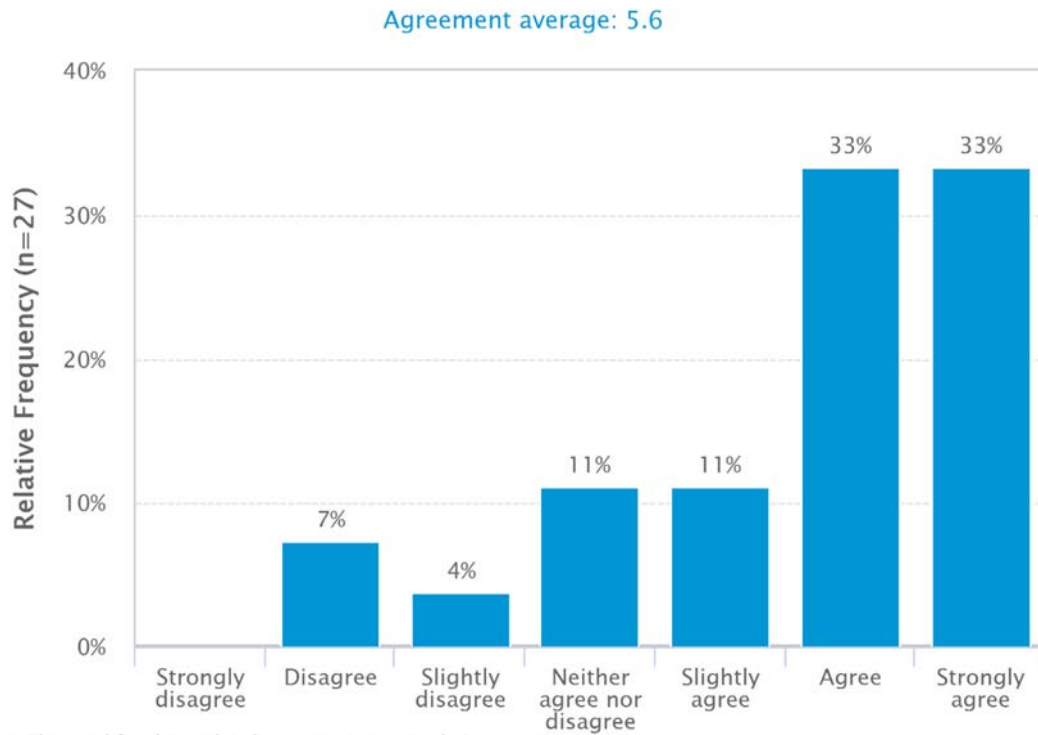


If the CCP could only perform one of the tasks (above), which should it be?

Date period: Invited 9 Sep 2019 – 24 Sep 2019

Response filter: Please select the organisation/sector type (s) you belong to:: Network business or network peak body

Figure 58 Far fewer network business respondents expressed the view that providing advice to the AER on the extent to which proposals are in the LTIC than responses from any other cohort



20. The need for this task is becoming increasingly important
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Network business or network peak body

Figure 59 Network business responses to the task "Engaging directly with network businesses before lodgement to improve the quality of proposal and presentation of consumer views"

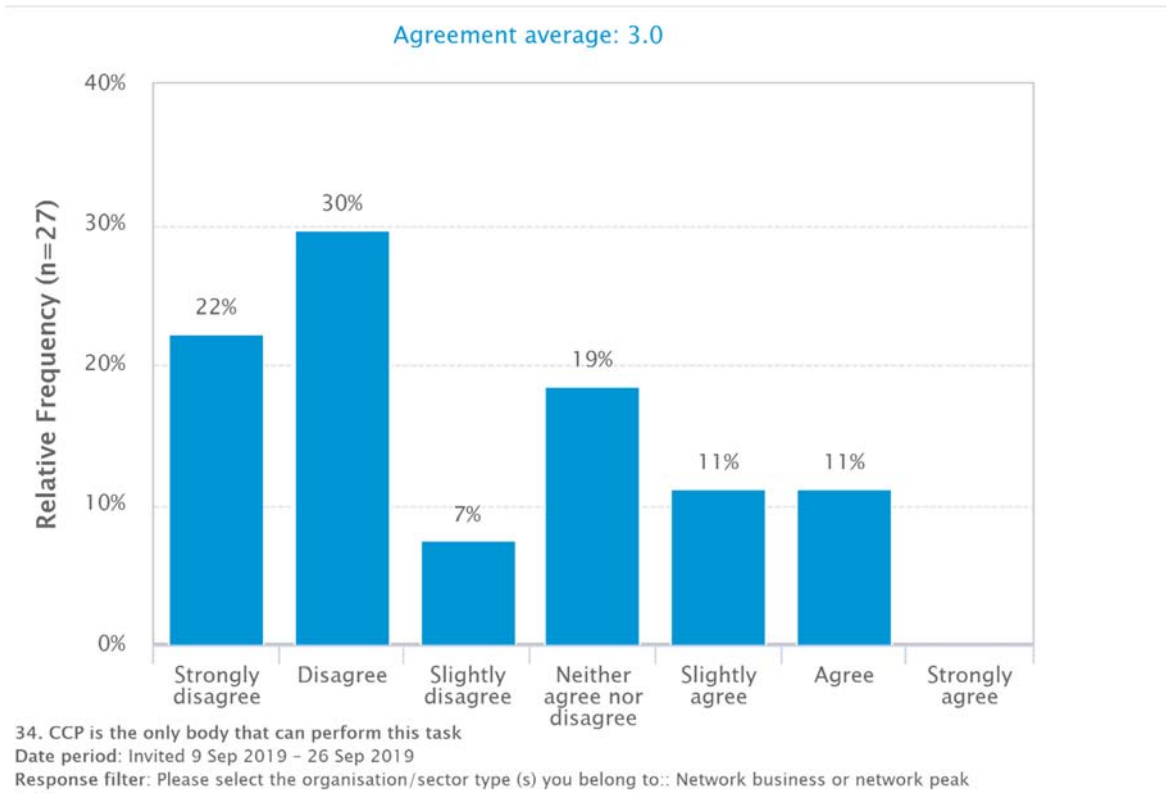


Figure 60 Network business responses to the task “Acting as the consumer advocate of last resort and negotiating directly where customer advocacy is lacking/absent in a jurisdiction”

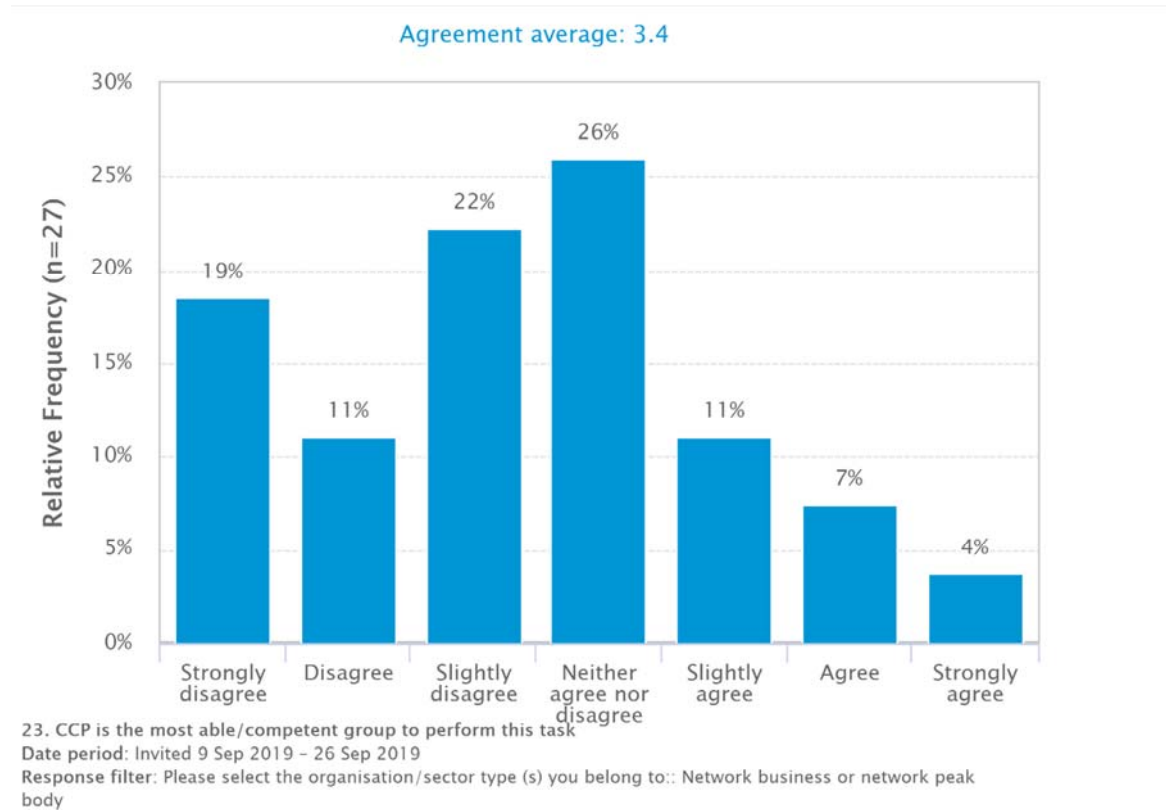
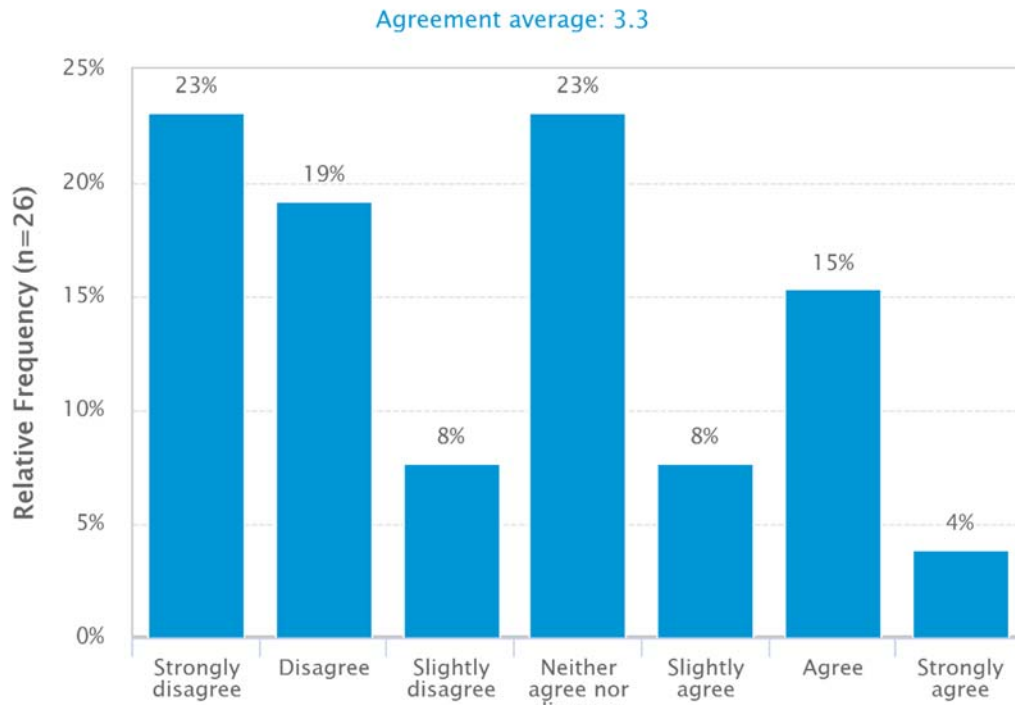
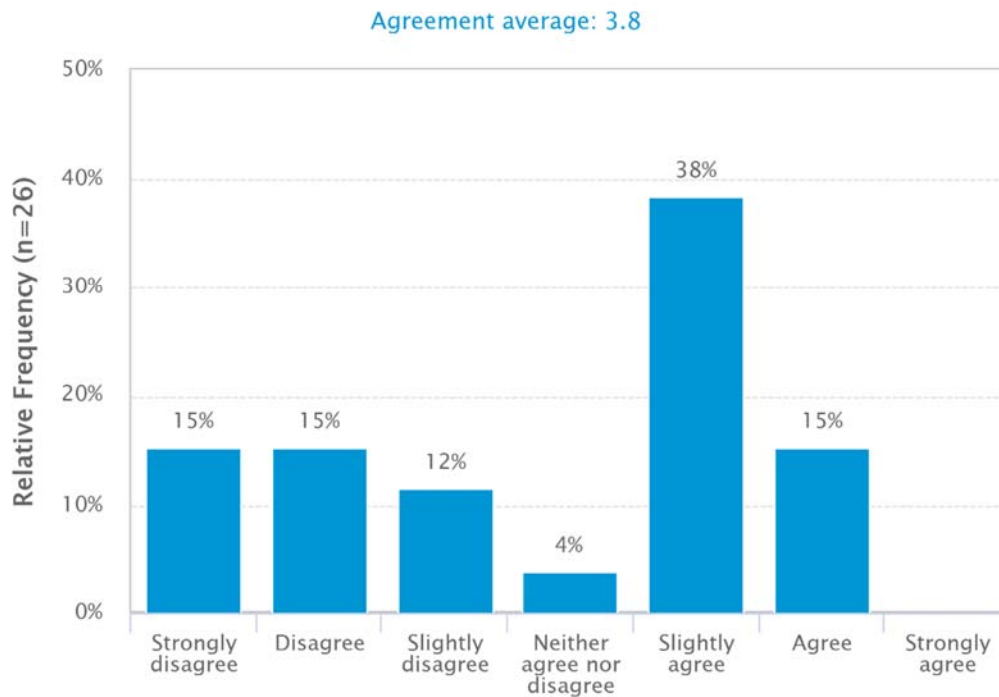


Figure 61 Network business responses to the task “Providing the AER with advice on lateral issues which affect all network businesses”



57. The sub panel brought an appropriate mix of local knowledge and national best practice
 Date period: Invited 9 Sep 2019 – 26 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to: Network business or network peak body

Figure 62 Network businesses had a variety of reactions to the CCP's mix of local and national knowledge



56. Sub panel members had a deep appreciation for the values and priorities of the consumers that were to be affected by the network reset
 Date period: Invited 9 Sep 2019 – 26 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Network business or network peak body

Figure 63 None of the network business respondents Strongly Agreed with this statement.

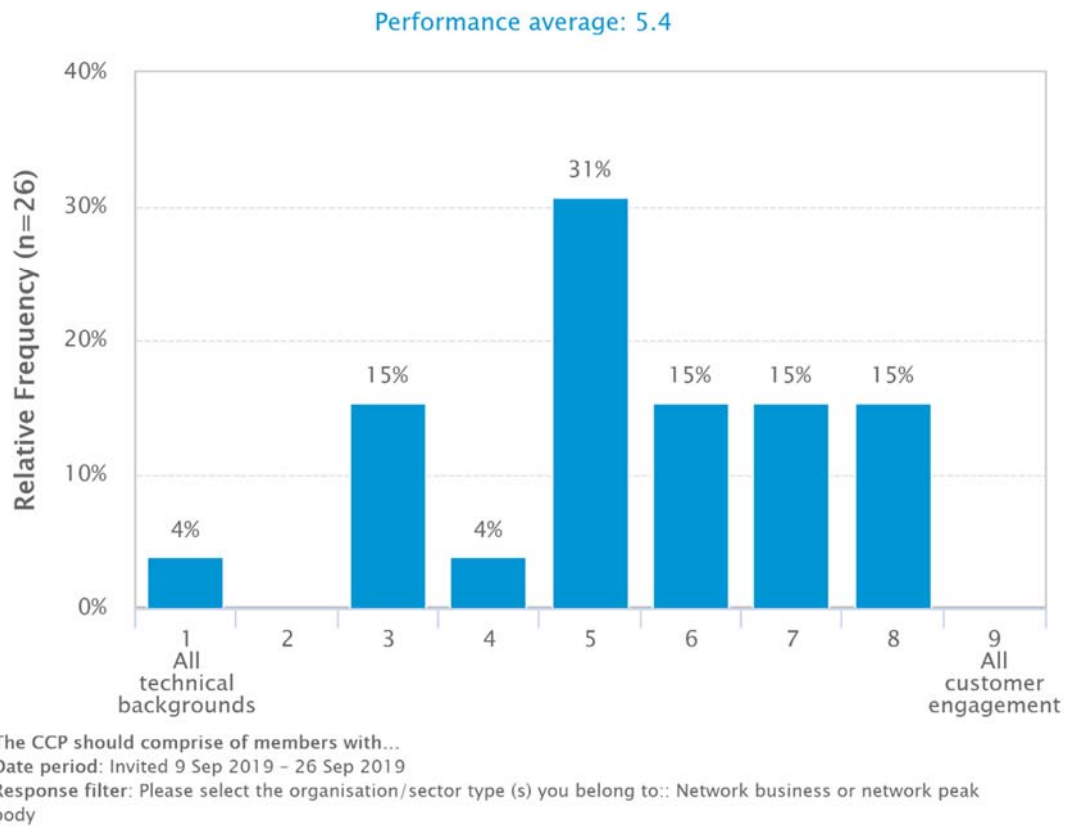
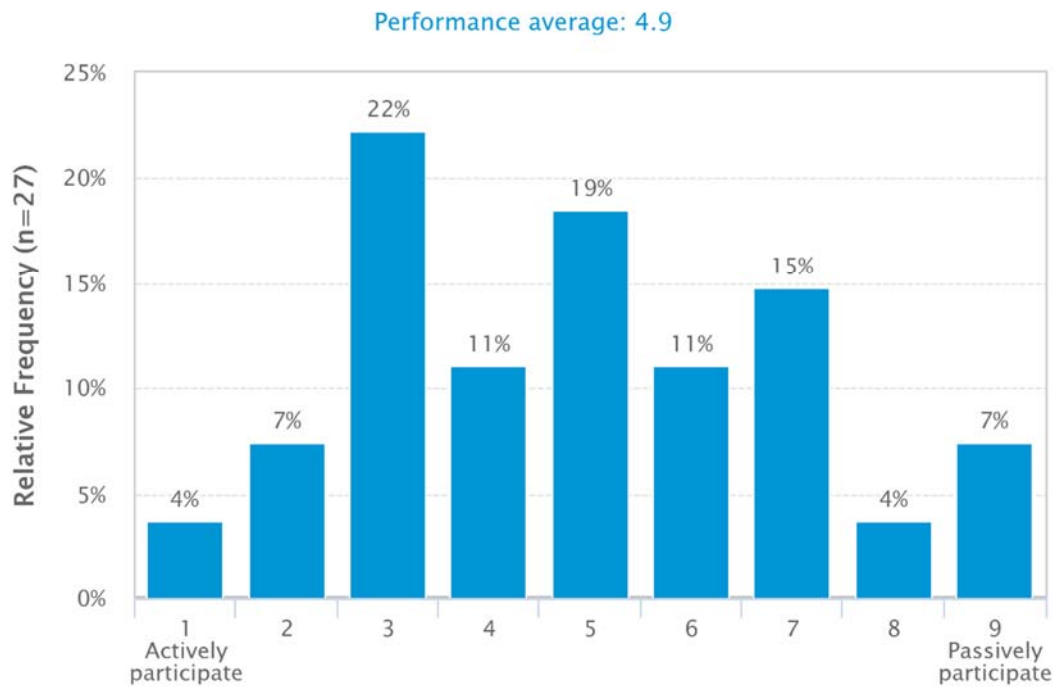
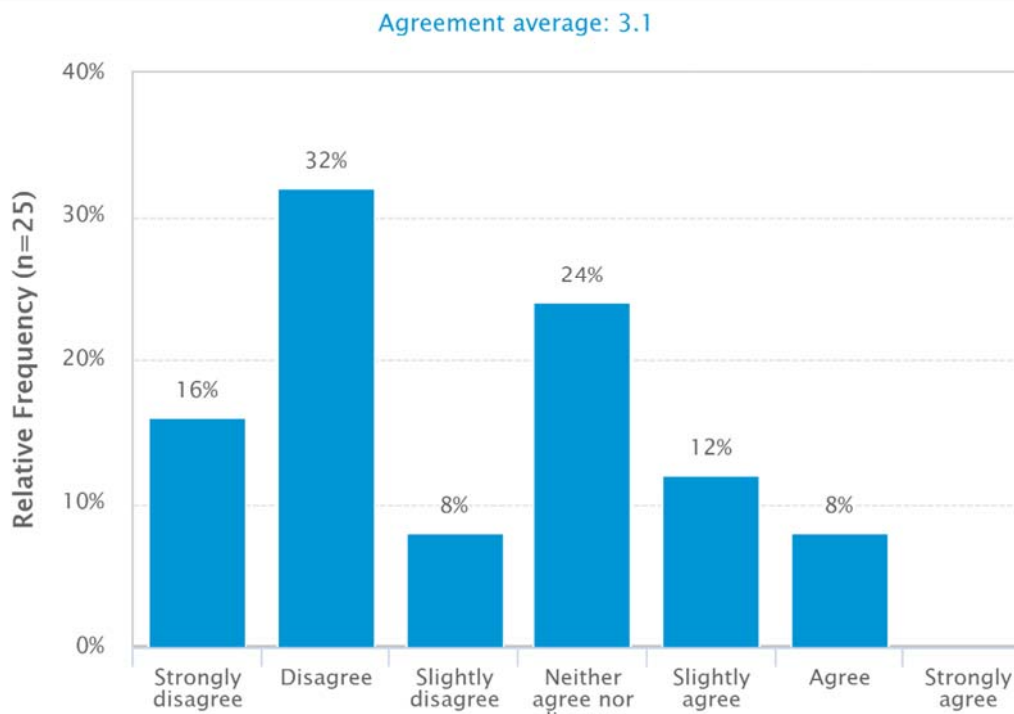


Figure 64 Network business responses to the statement "The CCP should comprise of members with all technical backgrounds" vs "The CCP should comprise of members with all customer engagement backgrounds"



When going through the reset process, the CCP should...
 Date period: Invited 9 Sep 2019 – 30 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Network business or network peak body

Figure 65 Network business responses to the statement "When going through the reset process, the CCP should actively participate" vs "When going through the reset process, the CCP should passively participate"



48. The sub panel should have taken a more active role than they did on this reset
 Date period: Invited 9 Sep 2019 – 26 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Network business or network peak body

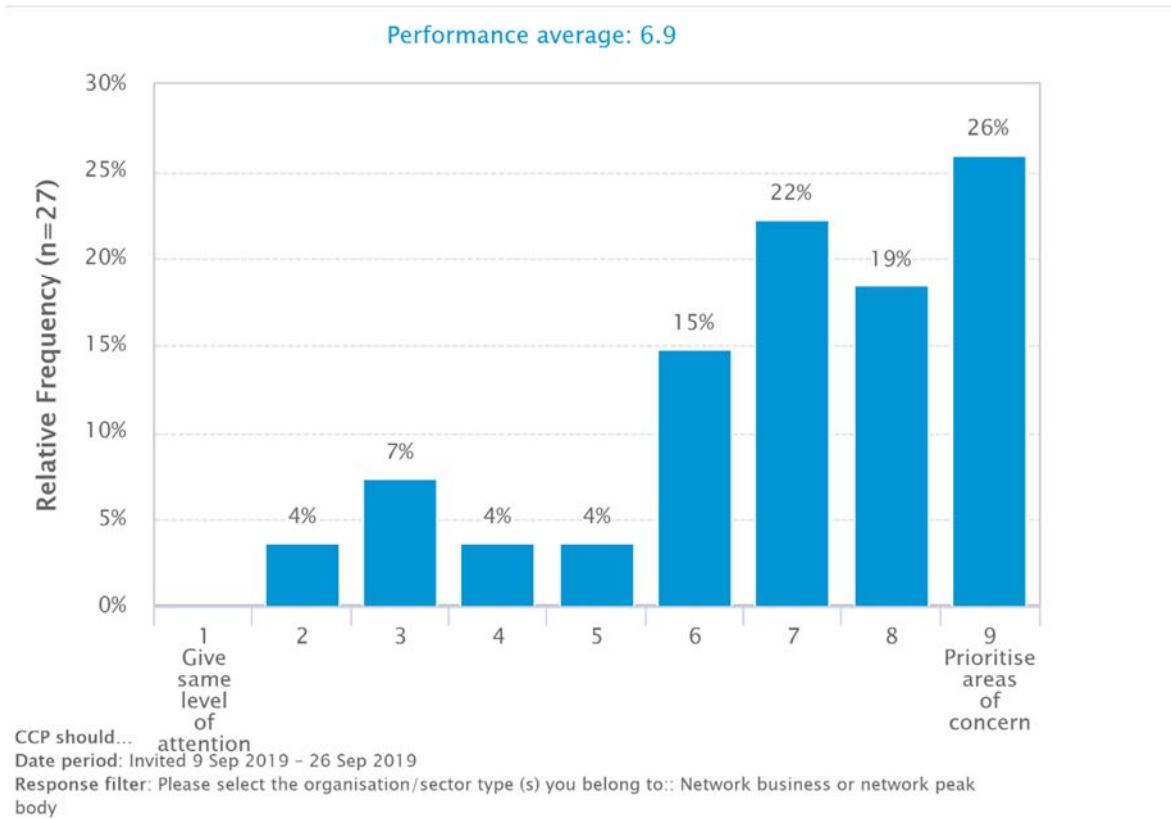


Figure 66 Network business responses to the statement "CCP should give same level of attention" vs "CCP should prioritise areas of concern"

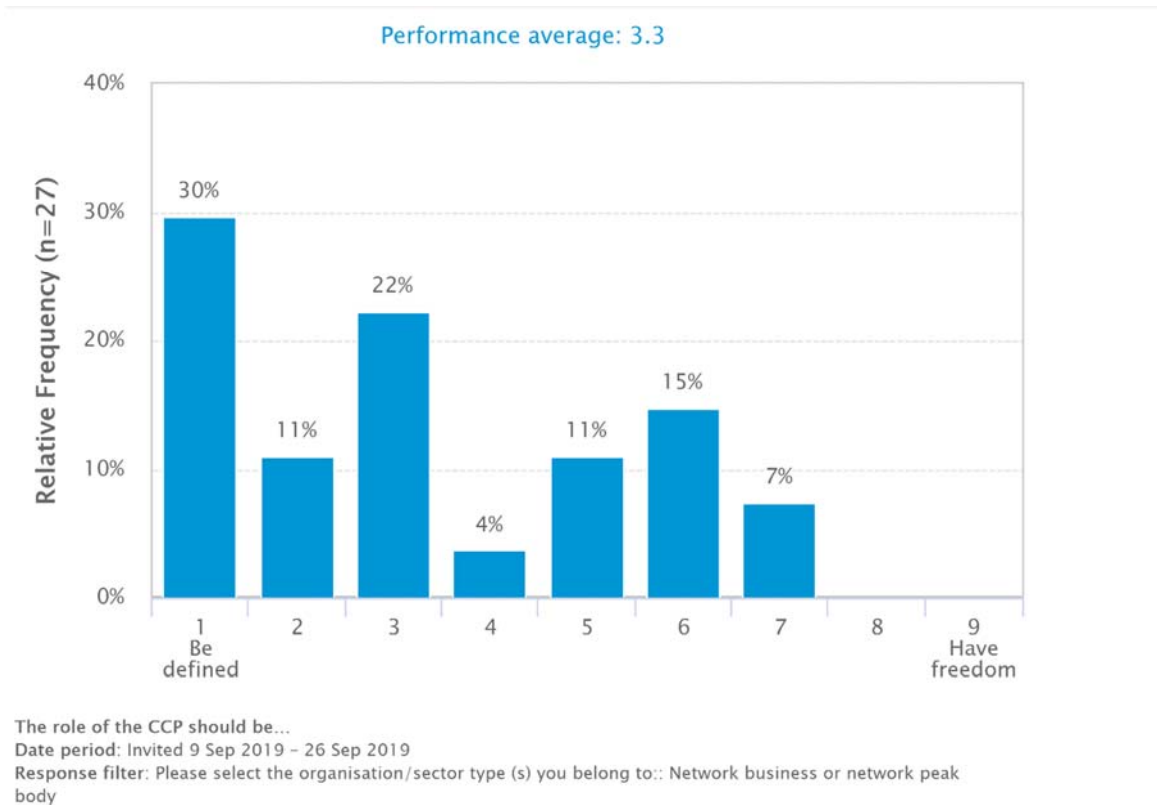
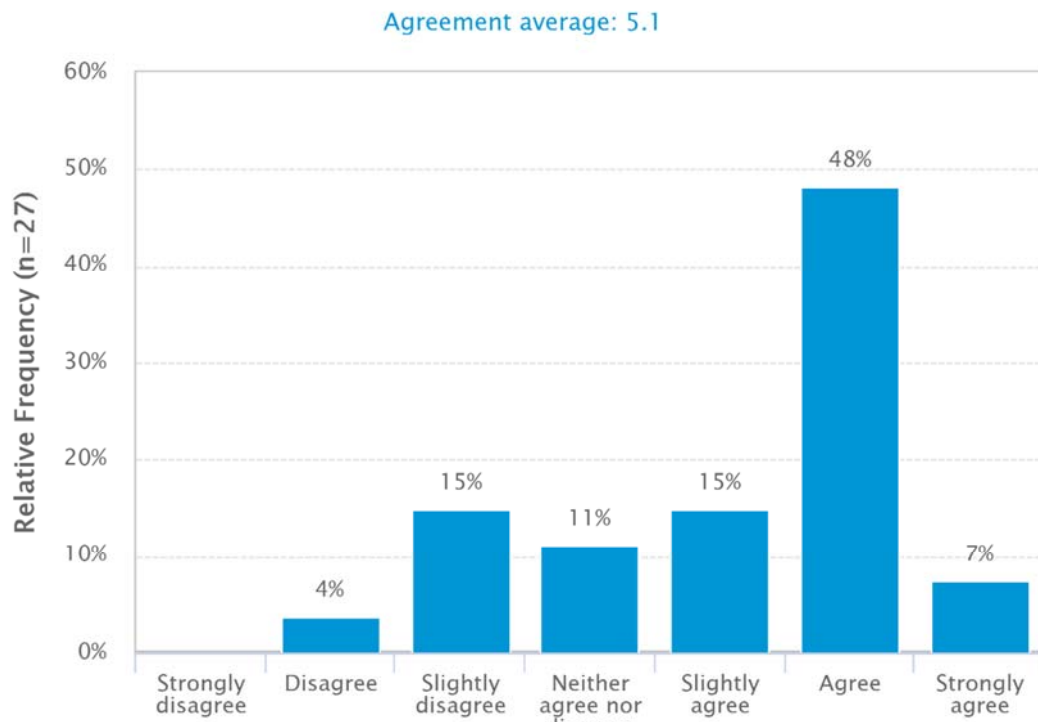


Figure 67 Network business responses to the statement "The role of the CCP should be defined" vs "The role of the CCP should have freedom"



53. Sub panel members were respectful in style and constructive in tone
 Date period: Invited 9 Sep 2019 – 26 Sep 2019
 Response filter: Please select the organisation/sector type (s) you belong to:: Network business or network peak body

Figure 68 Most respondents were positive about the tone and style of CCP members



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