

Summary of Meeting

Consumer Reference Group (CRG) Meeting No. 3

24 April 2013

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

Apologies: Belinda Sandilands, Sue Fraser, Alexandra Geddes, Matt Helme, Peter Strong, Angus Nardi, Jonathan Pavetto, Tanja Warre

Attendees: Tennant Reed, Gareth Shaw, Bruce Mountain, Deanna Foong, Damian Sullivan, Heather I'Anson, Mark Henley, Siwei Goo, Ro Evans, Katrina Lee, Caroline Hodge, Helen Scott, Graham Mawer, Carly Allen, Luke Berry, David Headberry, Janine Rayner.

AER: Robyn Lowien, Dale Johansen, Moston Neck, John Skinner, Warwick Anderson, Lawrence Irlam, Blair Burkitt, Andrew Ley, Adam Petersen, Kurt Stevens, Jeevika Makani
Andrew Reeves, Shalini Prasad

On 24 April 2013, the AER held the third meeting of the CRG. The meeting was chaired by AER Chairman, Andrew Reeves, and was attended by AER staff members and CRG members who represent various consumer groups.

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

1 Welcome and update

The AER Chairman, Andrew Reeves, welcomed CRG members to the third CRG meeting.

The Chairman noted that the AER would like to encourage CRG members to lead these discussions. Accordingly, the agenda for the CRG will not be based on presentations from AER directors. Rather, the CRG discussions will be based on the reports from the various subgroup meetings.

The Chairman provided a brief update on each of the work streams.

The next CRG meeting on 23 May is an important peak in consumer engagement for the Better Regulation program. Following that meeting, AER staff will focus on writing our draft guidelines for most work streams. In many ways, the draft guideline is the most important part of this process as it provides the direction, based on a vast amount of consultation, that the AER expects to head. The Chairman stressed that to ensure the views of CRG members

are incorporated in the guideline development, the 23 May meeting will be an important opportunity.

2 Introduction of Luke Berry

The Consumer Advocacy Panel (CAP) has engaged consultant Luke Berry to help facilitate and co-ordinate consumer input into the Better Regulation program.

Luke outlined that as part of his work, he would like to:

- set up a Google space (including discussion threads for the different work streams)
- summarise and distribute consultancy reports
- summarise issues and write meeting minutes

3 AER Presentation: Shared assets

Moston Neck, the AER director in charge of this work stream, gave a presentation on shared assets.

Shared assets are the assets paid for by electricity customers but also used for other purposes such as holding up public lights or stringing optic fibre cables. This guideline will cover how consumers can share the benefit if the use of a shared asset generates revenue for a network business.

The rules impose some constraints on the guideline. For example, the benefit to customers cannot be more than the initial cost to customers. The shared asset guideline has no say on access agreements, just on how the revenues should be shared. It should be a simple regulation scheme; an onerous regulatory burden is not appropriate given the low value amounts being discussed.

The guideline would only be applied if the revenue generated is 'material' which is generally considered to be around one per cent of an NSP's revenue allowance (although this is not specified). Currently shared assets generate an average of 0.5 per cent of an NSP's revenue. This may increase as the NBN rolls out.

Moston clarified that calculations will be applied to an asset class, not an individual asset (so an asset will never be fully depreciated). It will be capped at the absolute value in the regulatory control period (not based on the written down value each year).

CRG members raised the following concerns:

- Uncertainty exists around whether calculations are made when the revenue is paid or when the asset is commissioned? A large payment for a shared asset use paid out in one go might be greater than the original capex value (and therefore will not be shared with customers). The AER will consider alternative approaches for dealing with lump sum payments
- Demand for non-regulated use could provide an incentive to put up extra poles and wires (paid for by electricity customers). AER staff noted the AER already has a Cost Allocation Method to make sure NSPs only receive allowance to cover costs of delivering regulated distribution/transmission services.
- Commercial confidence may inhibit the AER getting the necessary information. AER staff noted that the AER has strong powers to obtain information under the NEL.

From a consumer's perspective, a lower threshold is desirable as it would provide more opportunities to share the cost of providing services.

Most members agreed that, at present, this area does not have a large impact on consumers. Accordingly, some consumer groups may consider it better to focus their resources on other work streams.

4 Subgroup report: Expenditure Incentives

AER director, Blair Burkitt, provided an update on the Expenditure Incentives work stream. Blair noted upcoming dates and deadlines. Further, the AER will provide the models for the efficiency benefit sharing scheme (EBSS) and capex efficiency sharing scheme (CESS) once they are finalised.

The Chairman noted that the two main issues for expenditure incentives are:

- NSPs defer capex until late in the regulatory control period
- The incentive to discourage capex overspending is not strong

These issues arise because all capex overspend is rolled into RAB at the start of the next regulatory control period. This means they only bear the cost of overspending for a maximum of five years. The longer that NSPs defer spending capex, the shorter amount of time they are penalised. It is a low incentive to stick to the allowance.

The AER's objective is to minimise the potential for NSPs to be rewarded for any inefficient overspend.

Possible solutions being considered by the AER include:

- CESS
 - this will operate like the EBSS for opex.
 - several CRG members supported a continuous, asymmetric scheme that would stop the current declining incentive that NSPs face, and would penalise overspend more strongly than underspends are rewarded
- not allowing NSPs to roll overspends into the RAB, or not allowing 100 per cent of overspends to be rolled into the RAB.
 - ex post reviews to allow only efficient capex to be rolled into the RAB
 - the AER considers that the ex post capex review will complement the ex ante CESS incentives regime. The preference is to get the ex ante incentive scheme right (not to rely on ex post review)
- implementing stronger incentive schemes for an overspend, rather than an underspend.

The following issues were also raised:

- the NER already allows NSPs to minimise risks through the use of pass throughs and contingent projects.
- the difference between actual and forecast WACC may affect capex incentives
- is it possible for NSPs to be given an allowance for base demand, and then to come back to the AER if demand is higher than forecast?
- CRG members stated a preference for more clarity and clear procedures to be outlined in the guideline, rather than relying on the AER's discretion at the time of resets, as consumers are not well resourced enough to challenge each reset.

5 Subgroup report: Expenditure Forecast Assessment

Lawrence Irlam noted that the current focus of this work stream is looking at data requirements and output measures.

CRG spokesperson, Tennant Reed, provided a summary of key points from the recent subgroup meeting:

- the more weight put on getting incentives accurate the more important it is to get expenditure forecast accurate
- NSPs are concerned that data requirements will be difficult and expensive to provide – but they should already be collecting the information
- the expenditure forecast assessment team needs to liaise with confidentiality work stream to ensure there are no roadblocks to obtaining the necessary information
- a difficulty with benchmarking is that not all businesses are the same. Differences include urban/rural, customer and energy density, climate factors. The AER needs to consider which differences are material.
- the AER is looking for feedback from consumers on the proposed outputs to be measured.
- benchmarking relies on data which NSPs provide which raises issues around the reliability of the data.

NSPs can always argue their revealed costs should be different going forward in a reset—comparison will be informative in this debate. Benchmarking is difficult and may not be perfect, but it is a good way forward to get competition by comparison. Currently, NSPs are rewarded for their performance relative to past performance but spending their allowance does not mean they are efficient.

The Chairman noted that the AER will place more weight on revealed costs if the starting point is considered efficient. If it is not considered to be efficient, then the AER will put more weight on benchmarking.

6 Subgroup report: Confidentiality

The confidentiality guideline is binding, and applies to both transmission and distribution businesses. There needs to be a balance between public accountability and business needs. Compared to the past, the AER expects more to be made public. The AER proposes to identify categories of information which will be either confidential or not confidential.

Graham Mawer, the CRG spokesperson, raised the following issues as being important to consumers:

- the guideline must consider impact on consumers when assessing confidentiality claims
- the burden of proof should be on the NSP (not the AER or consumers)
- consumers are wary of allowing broad categories that are per se confidential
- NSPs tend to hide behind outsourcing and related parties
- the AER needs to consider the timing of releasing information; consumers would prefer partial release early, rather than all of the information at the end of the process.

Consumers noted:

- a confidentiality claim must be supported with reasoning and evidence. If not, the AER should place less weight on that information.
- the AER may not always be best placed to decide the materiality of information from a consumer perspective.

7 Subgroup report: Power of Choice

AER director, John Skinner, provided an update on the Power of Choice work stream. The AER is currently in the process of developing RIT-D guidelines. The AER will be holding workshops related to this guideline.

This work stream is also responsible for reviewing incentives to increase demand side participating and pricing changes – but are awaiting AEMC rule changes.

CRG members raised the following issues:

- The current demand management incentives have not been effective so far.
- A key barrier to effective pricing reform is the inability to engage with retailers. Without appropriate pricing signals to customers, it will be ineffective in changing behaviour.
- Demand management requires an institutional/cultural shift and a change in the business model on the part of network businesses.

8 What's next?

Kurt Stevens provided an update on upcoming Better regulation meetings. The focus of the next CRG meeting will be to bring together views on key recommendations. It will be an opportunity to take stock of the Better Regulation program as a whole, and to examine how we are tracking to address the problems that brought about the need for rule changes.

Preparation is essential for a successful meeting on 23 May:

- the AER will be sending out one page documents with priority issues for each work stream
- CRG members suggested that all consumer representatives should think about two or three objectives for the 23 May meeting.

Next CRG meeting - 23 May