

# Ring-fencing Guideline Electricity Transmission Issues Paper

## Attachment 1 Stakeholder feedback template

The template below has been developed to enable stakeholders to provide their feedback on the questions posed in the Ring-fencing Guideline Electricity Transmission Issues Paper and any other issues that they would like to provide feedback on. The AER encourages stakeholders to use this template and to provide reasons for stakeholders' views to assist the AER in considering the views expressed by stakeholders on each issue. Stakeholders should not feel obliged to answer each question, but rather address those issues of particular interest or concern. Further context for the questions can be found in the issues paper.

### Submitter details

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### Section 2.1 – Preventing cross-subsidies – Activities versus services

AER Question	Stakeholder feedback
1. What are the potential harms and benefits of the guideline referring to services, rather than activities?	

### Section 2.2.2 – Legal separation – Scope of services

AER Question	Stakeholder feedback
2. What are the potential harms and benefits for consumers, the market and TNSPs of requiring TNSPs to legally separate transmission and non-transmission services?	Efficient allocation of resources, including appropriate investment decisions, are best driven by market forces such as demand, supply, and competition. Contestable market services should therefore only be provided by market participants subject to these forces, rather than regulated monopoly TNSPs. Costs of a failed market investment are borne by the investor, while failed investment by a TNSP will be borne by the consumer. Any encroachment by a TNSP in a contestable market will therefore decrease efficiency in that market or an associated market to the detriment of the consumer. We therefore suggest TNSPs should not be able to provide contestable electricity services.
3. How would the definitions for transmission services set out in Chapter 10 of the NER cover these new and emerging electricity services?	
4. What is the appropriate range of services TNSPs should be able to	Batteries and syncons (which provide system services in competition with synchronous plant, and newer batteries, for

<p>provide without legal separation? For example:</p> <ul style="list-style-type: none"> <li>a) Distribution services;</li> <li>b) Contestable electricity services; and</li> <li>c) Non-electricity services.</li> </ul> <p>What are the possible harms and benefits to consumers and the market from TNSPs offering these services?</p>	<p>which new contestable markets are emerging) are key examples of plant that would be better driven by contestable market signals rather than being provided by a TNSP. A contestable market is most likely to ensure the provision of these plant at the efficient level, whereas TNSP provision is more likely to lead to an inefficient over or under supply of these plant. The unpredictable investment considerations applicable to TNSPs, which may drive investment even in the absence of market signals, raises barriers to entry for other investors who will be unsure if any planned investment will be subject to competition, or oversupply conditions, even if market forces suggest new supply would be unlikely.</p>
<p>5. In the case of TNSP-owned batteries, should TNSPs be able to lease excess capacity to third parties? What are the potential harms and benefits to consumers, the market and TNSPs of this?</p>	<p>TNSPs without appropriate ringfencing may also of course favour their assets in the operation of the network, reducing market efficiency, increasing costs for consumers, and raising barriers to entry for potential new entrants who might otherwise respond to demand signals.</p>

### Section 2.2.4 – Legal separation – Exceptions to legal separation

AER Question	Stakeholder feedback
<p>6. In relation to non-transmission services, what would be the harms and benefits to consumers, the market and TNSPs of moving to a waiver approach rather than a revenue cap?</p>	<p>We support the AER administered waiver approach rather than a 5% revenue cap which currently allows significant participation by TNSPs in non-transmission services. As TNSP revenues grow due to the massive investment in transmission networks underway, a 5% revenue cap will become an even more generous allowance. The market was founded with the intention that monopoly network service providers be separate to the contestable markets of generation and retail and we consider a reduction in scope for TNSPs to participate in contestable activities preferable to an expansion.</p>
<p>7. If a revenue cap approach was maintained, what would be the appropriate form and magnitude of that cap?</p>	<p>We consider the smaller the cap the better for market efficiency and for the benefit of consumers.</p>

### Section 2.2.5 – Legal separation – Grandfathering arrangements

AER Question	Stakeholder feedback
<p>8. If legal separation is applied, how should existing services be treated?</p>	<p>Existing services should also be subject to legal separation since the problems of monopoly participation are not limited to the threat of participation but include the participation itself. Grandfathering arrangements are not necessary given the waiver approach.</p>

### Section 3.1 – Preventing discrimination – Obligation not to discriminate

AER Question	Stakeholder feedback
<p>9. What are the key potential harms and risks that an obligation not to discriminate should target?</p>	<p>We support an expansion on the obligation of TNSPs not to discriminate as doing so can undermine the efficient functioning of markets to the detriment of competition, supply signals, and ultimately the consumer. Restrictions on information sharing and the encouragement of transparency where appropriate should be targeted, since without equal access to information barriers to entry in a market will be high.</p>
<p>10. What are the potential harms and benefits to consumers, the market</p>	

and TNSPs of strengthening the obligation not to discriminate?	
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### Section 3.2 – Preventing discrimination – Functional separation

AER Question	Stakeholder feedback
11. What are the potential harms and benefits to consumers, the market and TNSPs of introducing additional functional separation obligations for: <ul style="list-style-type: none"> <li>a) staff sharing;</li> <li>b) office sharing; and</li> <li>c) branding and cross-promotion?</li> </ul>	
12. Should any new functional separation obligations apply to all contestable services? Should any exceptions apply, and if so, why?	Yes. Functional separation obligation should apply to all contestable services.

### Section 3.3 – Preventing discrimination – Information access and disclosure

AER Question	Stakeholder feedback
13. What are the potential harms and benefits to consumers, the market and TNSPs of aligning the transmission and <a href="#">distribution guidelines</a> in relation to information access and disclosure?	
14. Are there any potential inconsistencies with the <a href="#">Transmission Connections and Planning Arrangements</a> rule change we need to consider?	

### Section 3.4 – Preventing discrimination – Requirement for service providers to comply

AER Question	Stakeholder feedback
15. What are the potential harms and benefits to consumers, the market and TNSPs of aligning the transmission and distribution guidelines in relation to obligations on third party service providers that support the provision of prescribed transmission services?	

### Section 4 – Compliance

AER Question	Stakeholder feedback
16. What are the potential harms and benefits to consumers, the market	

and TNSPs of expanding the scope of compliance reporting?	
17. Should the timeframe for reporting all breaches be extended to 15 days?	

### Section 5.1 – Other issues - Waivers

AER Question	Stakeholder feedback
18. Would there be benefit in the AER providing more clarity on the application and assessment process for waivers?	
19. Do you agree with the AER's initial views that certain clauses should not be subject to waivers (e.g. the obligation not to discriminate and information access and sharing)? Please explain your reasons.	
20. Which elements of the assessment criteria used to assess waiver applications by DNSPs would be appropriate for transmission?	
21. What factors should we take into account in considering the duration of waivers?	
22. Are there any circumstances where class waivers may be appropriate for transmission?	

### Section 5.3 – Other issues – Additional ring-fencing obligations

AER Question	Stakeholder feedback
23. What are the potential harms and benefits to consumers, the market and TNSPs of removing the ability of the AER to impose additional obligations on a TNSP (clauses 9 and 10 of the guideline)?	
24. Are there any other issues in relation to this review that you would like the AER to consider?	