

9 December 2021

To all stakeholders

Publication of Better Resets Handbook

The purpose of this letter is to announce the publication of the Better Resets Handbook – Towards consumer-centric network proposals (Handbook) following consultation on the draft Handbook, published on 21 September 2021. This letter provides an overview of the feedback we received during consultation and changes to the Handbook we have made in response. We also outline how we intend to select which businesses will be given access to the early signal pathway for regulatory proposals due in January 2023.

There was significant stakeholder interest in the draft Handbook. Over 90 participants attended the online stakeholder forum held on the 6 October 2021 and we received 24 submissions.¹ We would like to thank all stakeholders who participated in the consultation process and took the time to respond. We have greatly valued the feedback from stakeholders and this is reflected in the changes we have made to the Handbook from the draft.

The Handbook aims to put consumers in the centre of the regulatory process, by encouraging networks to better engage and have customer preferences drive the development of their regulatory proposals. This should increase the quality of regulatory proposals which we receive. High quality regulatory proposals increase the likelihood that we are able to substantially or completely accept proposals at the draft decision stage. This should create a more efficient regulatory process for all stakeholders. The Handbook represents an evolution in our approach to network regulation, drawing on our learnings since the 2013 Better Regulation reform program.

Overview of key feedback from stakeholders

We have reviewed all feedback and submissions we received on the draft Handbook. An overview of the key feedback from stakeholders and how it has influenced the final Handbook is provided below. As it is an overview, this is not intended to be comprehensive and cover all issues raised by stakeholders.

The key feedback received from stakeholders during the course of consultation was:

- **Support for Handbook objectives:** The majority of stakeholders supported the objectives of the Handbook in seeking to promote high quality regulatory proposals developed through genuine engagement with customers, and a more efficient regulatory process.

¹ Minutes of the stakeholder forum and non-confidential submissions are available at: <https://www.aer.gov.au/networks-pipelines/guidelines-schemes-models-reviews/better-resets-handbook-towards-consumer-centric-network-proposals/draft>.

- **Early signal pathway and targeted review:** Many submissions sought clarification on whether only networks that access the early signal pathway would be eligible to receive a targeted review. This may have been due in part to the use of the terms ‘targeted review’ and ‘targeted review stream’ in the draft Handbook. We have clarified in the Handbook that all networks which meet our expectations are eligible for targeted review. We have renamed the ‘targeted review stream’ to the ‘early signal pathway’ to distinguish between the processes for an early signal and targeted review. The early signal pathway provides additional benefits in the form of reputational and procedural incentives, and additional feedback from AER staff during the development of a proposal.
- **Views on strength of procedural and reputational incentives:** Many networks showed strong interest in accessing the early signal pathway based on the procedural and reputational incentives offered in the draft Handbook. Based on this level of interest, we consider the early signal pathway will contribute to improving the quality of proposals and have not made any changes to the early signal pathway incentives.
- **Criteria for accessing the early signal pathway:** Stakeholders suggested criteria such as:
 - a strong commitment from the executive level of the network business,
 - the quality of customer engagement proposed and/or being undertaken, and
 - the extent to which the network have previously met expectations.

We have included the first two suggestions in the Handbook. We believe that if there is a genuine commitment from a network business, then it should not be precluded from accessing the early signal pathway based on its historical performance. Other access criteria that we have included are various commitments from a network business which we consider are necessary to make the early signal pathway work.

- **First implementation of the early signal pathway:** Most stakeholders who provided views on implementation supported first application of the early signal pathway to the regulatory proposals due in January 2023. We have adopted this approach. There was limited support for a partial application of the early signal pathway to proposals due prior to January 2023. On this basis, and due to resourcing constraints, we do not intend to undertake a partial application of any proposals due prior to January 2023. However this will not preclude these proposals from receiving a targeted review where they meet our expectations.
- **Role of AER and CCP in the early signal pathway:** A number of stakeholders sought further clarity on the roles the AER and CCP would play in the early signal pathway pre-lodgement process. We have updated the Handbook to emphasise that our primary role in pre-lodgement process is to support the engagement between networks and consumers and provide feedback on the development of the proposal topics covered in the Handbook. To provide certainty in relation to the role of the CCP, the Handbook now clarifies that we will outline the role we envisage the CCP would play in a particular process as part of the open letter to the network business confirming their entry into the early signal pathway process.
- **Feedback on consumer engagement expectations:** Submissions sought further clarity on the authorship and contents of the independent consumer report. We have included further guidance in the Handbook on what principles should be applied to ensure an author is independent and what the independent consumer report should cover. Feedback also emphasised the importance of direct engagement with customers (in addition to indirect engagement through customer advocates and representatives). We agree with this and have included this as a consumer engagement expectation.

- **Focus on outcomes:** Submissions pointed out that the Handbook was largely focused on inputs and could be more focused on outcomes. While the regulatory framework is inputs focused, we agree it is important for networks to be focused on the outcomes valued by consumers. We have amended the Handbook to emphasise the need to deliver on the outcomes valued by consumers.
- **Feedback on building block expectations:** The primary feedback we received on the building block expectations was that some of them were too prescriptive. While we understand stakeholder concerns about the level of prescription, we consider that they reflect key learnings since the 2013 Better Regulation program and are often necessary to be able to undertake a targeted review. Further, we intend to apply the expectations for each topic holistically, rather than in strict 'checklist' type approach. Some stakeholders expressed related concerns that reliance on historical expenditure and benchmarks may not be appropriate in the current context and discourage a network from changing its practices or the outcomes it delivers. We consider our overall approach to expenditure assessments can appropriately consider change. However, our experience has shown that comparisons to historical expenditure and benchmarks serve as an appropriate starting point in our expenditure assessments.

Next steps – implementation of the early signal pathway for proposals due in January 2023

We will apply the first full application of the early signal pathway for regulatory proposals due in January 2023.² To determine which of the relevant network businesses are granted access to the early signal pathway, we will shortly commence an expression of interest (EOI) process on the AER website and reach out directly to businesses with proposals due in January 2023 to discuss any questions they have about the upcoming EOI process. Networks that want to access the early signal pathway should submit an EOI to us against the requirements set out in the Handbook in late January.³ A public version of the application should be submitted to the AER for publication on the AER website.

As set out in the Handbook, we see the primary role of the AER in pre-lodgement engagement as supporting the discussions between a network business and its customers – this could include providing feedback on issues or helping to inform and empower customers. Therefore, the nature of our involvement in each signal pathway process will vary depending on the customer engagement process undertaken by the network business, including factors such as when data and information can be provided to AER staff to facilitate feedback on the Handbook topics to the network business and consumers.

We have attached a timeline setting out the EOI process and an example of what the early signal pathway process could look like. The timeframes for provision of data are not intended to be fixed and we'd be open to alternative timelines and processes proposed by networks.

In the example outlined, AER staff would provide feedback quarterly to the network business and customers based on the engagement process to date and additional information they have been provided by the network business to date to review. The information provided would initially be high level information available to date on capital expenditure, operating expenditure and depreciation. This would enable us to provide feedback and contribute to engagement discussions. As the engagement process progresses, more detailed information provided to AER staff would help us provide more detailed feedback on specific issues or projects which may be of particular interest to networks and customers, and may

² These are proposals from Ausgrid, Endeavour Energy, Essential Energy, Evoenergy, the Power and Water Corporation and TasNetworks for the 2024-2029 regulatory control period.

³ Set out in section 2.2.4.1 of the Handbook.

help inform which positions a network business may want to take in the draft regulatory proposal.

Conclusion

We have a strong commitment to ensuring the Handbook will deliver on the intended benefits, and result in outcomes which support the long-term interest of consumers. I would like to again thank stakeholders for their ongoing and extensive involvement in the consultation process on the Handbook.

The publication of the Handbook is the beginning of our next step in how we approach regulation, and we will look to continue to make improvements to the Handbook and early signal pathway process with each application.

If you have any questions about the Handbook or anything covered in this open letter, please contact regulatoryinnovation@er.gov.au.

Yours sincerely

A handwritten signature in grey ink, appearing to be 'CS', with a long horizontal flourish extending to the right.

Clare Savage
Chair AER

Attachment – EOI process and example early signal pathway process (as applicable to businesses lodging on 1 Jan 2023)

