

Consumer Challenge Panel (CCP) — Governance Handbook

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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 handbook is a manual for both AER staff and CCP members in their interactions.

1 Objective of the CCP

- 1.1 The CCP was established in July 2013 as part of the AER's Better Regulation reform program to enhance engagement with consumers and their representatives. The second iteration of the CCP began in mid-2016 following a comprehensive independent review of the CCP. The independent review was conducted by NOUS Group and released in May 2016.
- 1.2 The purpose of the CCP program is to assist the AER to make better regulatory determinations by CCP members advising on issues that are important to consumers.
- 1.3 The objective of the CCP is to:
 - advise the AER on whether the network businesses' proposals are in the long term interests of consumers; and
 - advise the AER on the effectiveness of network businesses' engagement activities with their customers and how this is reflected in the development of the network businesses' proposals.

2 Role of the CCP

- 2.1 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.
- 2.2 The CCP is required to understand the AER's approach to assessing businesses' proposal and to provide "wise counsel", insights and ideas which can only come from a consumer perspective.
- 2.3 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 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.

- 2.4 The CCP is required to develop an understanding of business, market and industry trends, and the consumer engagement that has been undertaken in relation to proposals.
- 2.5 The CCP is 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.
- 2.6 To assist the CCP in understanding the AER's approach CCP members will have access to AER staff.
- 2.7 The CCP will provide its advice through:
 - presentations to the AER Board
 - written statements of advice
 - presentations to public forums in the regulatory process
- 2.8 The CCP will also have the ability to influence AER positions through interaction with AER staff.
- 2.9 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.

3 Sub-panels

- 3.1 Members of the CCP are formed into sub-panels. Sub-panels have between 2-4 members who work together to provide advice to the AER on a network determination process. The number of members in a sub-panel is determined by the AER. Factors that the AER have regard to include the size and complexity of the reset, and the number of regulatory proposals to be assessed by the sub-panel.
- 3.2 Sub-panels are made up of members with a variety of skills, backgrounds and experience. Members' skills and experience are matched to resets so that each sub-panel has a variety of skills and experience on which to draw.
- 3.3 A "Request for Advice" assigns the CCP member to a particular sub-panel and provides the terms and conditions of work undertaken by the sub-panel.

4 Sub-panel Chairperson

- 4.1 Each sub-panel has a Chairperson selected by the AER. The Chairperson's role is to:
- coordinate sub-panel member's work
 - work with sub-panel members to support one piece of coordinated and timely advice
 - facilitate communication between sub-panels about the work that has been completed and outcomes from engaging with Network Service Providers (NSPs) and consumer interest groups
 - facilitate collegiality within the sub-panel and communication between sub-panels.
- 4.2 Sub-panel Chair is not an administrative role.
- Sub-panels should come to their own agreed protocols as to how they coordinate their activities, including engagement with businesses, consumer groups, the AER and the AER Board, having regard to guidance provided in the CCP Governance Handbook.
 - This extends to which panel members lead engagement with an organisation. (i.e. it may be that different sub-panel members take the lead with different groups.)
 - The sub-panel chairperson should not direct the work or working hours of sub-panel members.
- 4.3 Not a representative or spokesperson.
- The sub-panel chairperson has no responsibility or authority outside of the sub-panel. That is they do not represent the sub-panel - or act as spokesperson.

5 Stages of Activity

- 5.1 The AER has created a process map showing the stages of activity for both the AER and the CCP throughout the network determination process. This map should be used to guide the CCP as to the interactions that are to occur at each stage of the network determination.
- Different network determinations will have different timeframes and legislative requirements, (e.g. time frames for gas resets are shorter than for electricity

resets). The sub-panel Coordination Director will provide guidance as to the actual timing and milestones for each phase of the network determination.

5.2 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)
- draft decision to final decision (estimated 30% of CCP time).

6 Schedule of Work

- 6.1 Soon after formation of the sub-panel, members should meet to discuss the Schedule of Work. The Schedule of Work sets out the issues and activities the sub-panel will focus on during the network determination process.
- 6.2 There are two stages to the Schedule of Work:
1. In the **pre-lodgement phase** the Schedule of Work provides a brief outline of the sub-panel's activities before the regulatory proposal is submitted.
 - The AER will provide comments on the proposed activities.
 2. Once the **regulatory proposal is published**, the sub-panel will detail, in the Schedule of Work, the issues arising from the proposal that the sub-panel will focus their advice on.
 - Coordination Directors, after consideration with technical streams and Technical Advisory Group (TAG), will provide feedback on the Schedule of Work as to the issues the AER would find the most value to have advice on.
 - Where the AER disagrees with the CCP focusing on a particular issue, it will explain the reasoning. The CCP sub-panel members will then decide whether or not they revise their schedule of work given the feedback.
 - If at any time during the network determination process, the sub-panel wishes to amend their Schedule of Work, they should advise the AER with the reasons as to why. The AER will provide feedback on the proposed changes.

7 Engagement

- 7.1 Sub-panels will engage with external stakeholders: NSPs and consumer groups and internal stakeholders: the AER. The format, purpose and frequency of engagement will depend on the stage of the network determination process. The main phases of engagement activities will be: pre-lodgement; after submission of the regulatory proposal and after submission of the revised regulatory proposal.
- 7.2 Table 1 describes the process of engagement at each major stage of the network determination process for external stakeholders. It is important to note that the timeframes for each stage, and therefore the actual engagement that occurs, will vary according to the nature of the network determination. CCP sub-panel members should seek guidance from AER staff regarding the timing and circumstances for each determination and the recommended time allocated to each stage
- In situations where the CCP is invited to attend consultation forums / workshops being conducted by the NSP, sub-panel members are encouraged to limit comment on detail discussed at such forums. The primary function of the CCP in these situations is to assess the usefulness of engagement. However, the CCP may contribute by facilitating links between the NSP and stakeholder interests.
- 7.3 Table 2 describes engagement for each stage of the process with the AER. Interaction between CCP sub-panels and AER staff serve a number of functions.
- Sub-panels obtain information, context and feedback regarding the network determinations they are working on. Including insight into the issues the AER would find the most value to have advice on.
 - Sub-panels have an opportunity to provide effective challenge to the AER by identifying issues early in the process, increasing the effectiveness of CCP advice.
 - Provide advice for consideration in the AER's determination process.
- 7.4 Initial contact with TAG and technical work streams within the AER will be made by the Coordination Director, on behalf of the CCP. Ongoing access to the relevant technical expert(s) will be balanced given time pressures and availability of AER technical staff.

Table 1: Engagement with external stakeholders at the major stages of each network determination

External Stakeholders			
	Pre-lodgement stage	After submission of regulatory proposal	After release of draft decision/submission of revised regulatory proposal
NSPs	<p>Timing</p> <ul style="list-style-type: none"> Up to 6 months before proposal submission <p>Purpose</p> <ul style="list-style-type: none"> To understand the NSP's consumer engagement approach and issues the business is likely to raise in the proposal. Assess the extent to which the NSP's consumer engagement will influence their network proposal. 	<p>Purpose</p> <ul style="list-style-type: none"> Deepen the sub-panel's understanding of the major issues raised within the proposal. Assess whether the information obtained through the NSP's consumer engagement is reflected in its proposal. Assess how well consumers have been served by the process. 	<p>Purpose</p> <ul style="list-style-type: none"> Focus on key points of difference between AER draft decision and revised proposal – determine which issues to focus on.
Consumer Groups	<p>Purpose</p> <ul style="list-style-type: none"> To understand potential consumer issues. Assess business engagement from the consumer group perspective. Identify key issues and areas of concern to be presented at the public forum. <p>Attendance and monitoring of pre-lodgement workshops</p> <ul style="list-style-type: none"> Observe and consider the usefulness of engagement and subsequent response by NSP. 	<p>Presentation at Public Forum – Purpose</p> <ul style="list-style-type: none"> CCP presents its view of the effectiveness of NSP's customer engagement activities and how this has been reflected in the regulatory proposal. An assessment of whether the regulatory proposal is in the long term interests of consumers. Identifies issues for consideration in the AER decision making process. 	<p>Purpose</p> <ul style="list-style-type: none"> Assess whether issues and concerns raised by consumer groups have been reflected in the revised regulatory proposal and AER draft decision.

Table 2: Engagement with AER at each stage of network determination

Internal Stakeholder - AER			
	Pre-lodgement stage	After submission of regulatory proposal	After release of draft decision/submission of revised regulatory proposal
AER	<ul style="list-style-type: none"> • Circumstances permitting, the CCP may be offered an opportunity to provide comments on the Framework and Approach document. <p>Ongoing contact, throughout the reset, between AER staff and sub-panel includes:</p> <ul style="list-style-type: none"> • Coordination Directors – responsible for coordination of network determinations • Technical Advisors Group (TAG) – AER engineering advisors • Technical Workstreams • The AER Board – decision making powers. <p>Purpose</p> <ul style="list-style-type: none"> • Provide some context, including timing and NSP contact details. • Facilitate ongoing communication between the AER and the sub-panel. • TAG team and Technical advisors to provide technical assistance. • Sub-panel to provide the Schedule of Work (Stage 1) for pre-lodgement phase <p>Sub-panels are to keep the AER advised regarding their engagement activities with NSPs and consumer groups, including the dates and timing of engagement.</p>	<p>Schedule of Work</p> <ul style="list-style-type: none"> • Sub-panel to provide Stage 2 of Schedule of Work, outlining the issues the sub-panel proposes to provide advice to the AER on. <p>Sub-panel meeting with AER staff</p> <ul style="list-style-type: none"> • Discuss the Schedule of Work, providing feedback as to the issues the AER would find most valuable to have advice on. <p>The CCP and the AER Board meet while the AER develops its draft decision</p> <p>Purpose</p> <ul style="list-style-type: none"> • CCP to present their advice and views to the Board while the Board its forming its view. <p>The CCP will present its views at the public forum and pre-determination conference.</p>	<p>Sub-panel meeting with AER Board – purpose</p> <ul style="list-style-type: none"> • Discuss the advice provided by the sub-panel and whether it has been reflected in the revised regulatory proposal and AER draft decision. <p>After the draft decision has been released</p> <ul style="list-style-type: none"> • The AER will provide verbal debrief to the CCP. • The AER will keep the CCP informed regarding outcomes arising from network determination processes.

7.5 Media

- CCP members may make public comment on resets if they wish to do so, subject to any confidentiality requirements. However, it must be made clear to media that all public comments are made on behalf of the individual and not on behalf of members of the CCP or on behalf of the AER.
- Members of the CCP are not, by virtue of their appointment, or for any purpose, an employee or agent of the ACCC or AER, and must not represent themselves as such. CCP members making public comments should notify the AER via the CCP Work Program to assist the AER in keeping abreast of public communications.

8 Provision of CCP Advice

- 8.1 CCP involvement in the reset process can provide the most value and be most effective before the AER has made its draft decision. This should serve as a guide to where the CCP should expend the majority of its efforts.
- 8.2 CCP should consider the impact of their engagement with AER staff. AER staff, including Coordination Directors, TAG and Technical Streams provide important inputs into the AER decision making process.
- 8.3 CCP members should seek to provide advice that is within the jurisdiction of the AER in the context of network regulation. This will assist the CCP in providing advice that is relevant and material to the AER.
- CCP members are not to provide advice which is only of personal interest or advice which does not relate to the determination being made by the AER. If CCP members are unsure about whether a particular subject area is within the scope of the AER's role this should be discussed with AER staff.
- 8.4 CCP advice is considered useful and therefore more persuasive where conclusions are supported by the available data or other evidence.
- 8.5 Sub-panel members will work with the sub-panel chair to provide one piece of advice for each regulatory proposal.
- Where possible, the advice submitted should be the considered joint view of the sub-panel.
 - All sub-panel members' considerations are to be taken into account when formulating the advice.
 - Where individual sub-panel members have different views, not shared by the sub-panel as a whole, these should be reflected in the "Other Views" section of the advice template.
- 8.6 The focus of CCP advice will be through:

- presentations to the AER board; and
- written statements of advice, using the templates provided.

Summary of CCP advice

Below is a general guide to advice and activity anticipated from the CCP sub-panels

1. written response to draft of framework and approach
2. presentation at a forum post lodgement of revenue proposal
3. written response to the revenue proposal and AER issues paper
4. verbal presentation to AER board
5. written response to draft determination
6. presentation at any forum held post draft determination
7. written response to revised revenue proposal
8. verbal presentation to AER board.

9 Timeliness

- 9.1 Submissions must be submitted by the date specified by the AER for stakeholder submissions under the National Electricity Rules / National Gas Rules.
- The timeframes/due dates for submission will vary, with sub-panels being notified of submission due dates by the relevant Coordination Director.
- 9.2 If submissions are late, the CCP's ability to influence the AER decision is compromised.

10 Evaluation

- 10.1 The AER will provide feedback to the CCP in two stages: after the draft determination and then once the final determination has been released.
- The purpose is to assess the effectiveness of the advice provided by the CCP.
 - In assessing CCP advice, the AER will have regard to the Schedule of Work and sub-panel's engagement activities.
 - This will assist the CCP and the AER in working collaboratively together and providing constructive feedback to the CCP on the strengths of their advice and where improvements could be made.
- 10.2 Timeliness of advice will also be considered for evaluation purposes.

11 Treatment of CCP Advice in AER Network Determinations

- 11.1 The AER will clearly indicate in its determinations and access arrangements where CCP advice has been relied on.

12 Greater Collaboration between Sub-panels

- 12.1 The AER encourages greater collaboration between CCP sub-panels. This will be achieved through:
- face-to-face meetings between members

- a sub-panel chairperson
- mechanism for communication between members
- mechanism for confidential communication between sub-panel members
- mechanism to share previous CCP advice and learnings

13 Template Documents

13.1 The AER has created a number of template documents for CCP members to use. Members should use the templates when drafting their advice to keep the formatting and style of the advice provided to the AER consistent.

- The following templates have been created:
 - Advice to the AER
 - Schedule of Work
 - Invoicing

14 Face-to-Face Meetings

14.1 The CCP members will have a number of opportunities throughout the year to facilitate greater collaboration. There will be at least 1 face-to-face meeting and 2 meetings over the Video Conferencing Unit (VCU). These meetings will be organised by the CCP Work Program team and details provided to each member. These meetings are an opportunity for CCP members to discuss their experiences and insights with each other.

14.2 The AER proposes that these sessions will include some time with AER executives and staff and some CCP only time.

- To assist in scheduling, CCP members and sub-panels are encouraged to use a web-based scheduling application such as “Doodle”, or similar applications that facilitate the easy coordination for meeting schedules.

15 CCP Support and Administration

15.1 There are two avenues for support:

- **CCP Work Program** – for issues and queries which cut across sub-panels, including administrative queries.

- **Sub-panel Coordination Director** – for operational matters arising from a particular network determination.

15.2 CCP Support

- The CCP Work Program area within the AER administers and supports the work of the CCP and its sub-panels. The CCP Work Program will:
 - Develop the governance framework for the operation of the CCP
 - Deal with broader operational issues relating to:
 - Media;
 - conflict of interest;
 - confidentiality.
 - Provide general administrative support to CCP members
 - Prepare and distribute material required for CCP meetings and input into the AER determination process
 - Organise payment for services to CCP members.
 - Members should liaise with the CCP Work Program if they need clarification or support as part of their CCP member activities.
 - The AER Director of the CCP Work Program as at October 2016 is:

Tanja Warre
Director
Tel: (02) 6243 1103
Tanja.Warre@aer.gov.au

15.3 Operational Matters

- Once a sub-panel has been issued with the Request for Advice and is operating, the Coordination Director is the first point of contact for operational matters including engagement with AER staff, the AER Board and regulated businesses. The Coordination Director and General Manager responsible for each sub-panel are listed in the contact section of the Request for Advice.

15.4 Teleconferencing using Vantage

- CCP members can use AER facilities for their CCP related activities. AER facilities can be booked through the CCP Work Program team.
 - AER Teleconferencing facilities are available for sub-panel only meetings, meetings with AER staff, regulated businesses or consumer groups.