

Transmission Ring-Fencing Guideline Review

Stakeholder Information Session
June 2022

Overview

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Context

- The transmission ring-fencing guideline imposes obligations on transmission business to prevent them from:
 - discriminating in favour of their related parties to disadvantage competitors
 - using revenue earned from regulated services to cross-subsidise contestable services
- The current guideline has not been substantially updated since 2002. Since then:
 - Greater investment in technologies operate at the boundary between regulated and unregulated electricity markets.
 - TNSPs investing in the network at unprecedented levels to facilitate the uptake of large-scale renewable generation.
 - New electricity services and areas of competition have emerged.
 - Increasing potential for common ownership of transmission and generation.
 - The distribution ring-fencing guidelines have been substantially revised

Context

- Existing ring-fencing guidelines are relatively light handed, raising several risks:
 - **Market risks:** TNSPs have significant advantages (e.g. information asymmetry, managing congestion) in some contestable markets as a result of providing prescribed services
 - **Regulatory risks:** the AER has limited information on how TNSPs comply with guidelines
 - **Consumer risks:** higher costs due to cross-subsidisation of contestable services and/or lack of competition due to TNSP discrimination in favour of affiliates
- On the other hand:
 - clearer guidelines will give TNSPs and other stakeholders confidence and regulatory certainty to operate in markets
 - TNSPs have a role facilitating renewables which may require some flexibility
- We are reviewing the guideline to ensure that ring-fencing remains fit-for-purpose for the future

Scope of the review

Focus of issues paper

- Issues paper is focused on interrogating key questions:
 - Which services should TNSPs be able to provide?
 - What is the appropriate approach to batteries and other technologies that can provide both regulated and contestable services?
 - What are the benefits v costs to consumers of requiring separation of offices, branding and staff to prevent discriminatory behaviour?
 - What are the benefits v costs to consumers of increased reporting to improve transparency?

Focus area 1: Legal separation

- The purpose of legal separation is to improve transparency over how costs are allocated within a TNSP and mitigate risk of cross-subsidies.
- Currently, TNSPs must not carry on generation, distribution or retail activities unless the activities attract $\leq 5\%$ of annual revenue
 - DNSPs are only permitted to provide distribution and transmission services without a waiver
- Key concerns and questions include:
 - What is the appropriate scope of services that TNSPs should be able to provide? Are there benefits to consumers from TNSPs providing services other than transmission services?
 - Does a revenue cap approach remain appropriate or are waivers better?

Focus area 2: Functional separation

- Functional separation helps prevent discriminatory behaviour by requiring separation of staff, offices and branding between contestable services and non-contestable parts of a business.
 - Separation ensures that the TNSP system operational functions cannot be used to discriminate in favour of related businesses.
- Current non-discrimination and functional separation obligations are lighter-handed than for DNSPs
- Key concerns and questions include:
 - Are TNSPs currently able to favour their own or an affiliated business providing contestable activities? What are the associated harms?
 - What are the harms and benefits to consumers, the market and TNSPs of introducing additional functional separation obligations?
 - Which services should functional separation apply to?

Focus area 3: Treatment of batteries

- Batteries can provide multiple services. Benefits to consumers will be maximised where multiple value streams that batteries offer can be utilised.
- However, this must be weighed against the risks of cross-subsidisation and discrimination when a battery that is being used for network purposes could also provide a contestable service.
 - DNSPs may own a battery if it is used only for providing network services. Any other service, including leasing a battery, requires a waiver.
- Key concerns and questions include:
 - What are the benefits of allowing TNSPs to provide services other than network services via a battery?
 - Is there a risk that consumers will subsidise contestable services without a commensurate benefit? Is there a risk of TNSPs behaving in a way that will favour contestable services provided via their own battery?
 - Should contestable services be permitted up to a cap, or should they require a waiver?
- The AER has established a streamlined process for waivers from the Distribution Ring-fencing Guideline in relation to batteries that sit outside of the RAB.

Other issues

- **Compliance and reporting:** Monitoring of compliance is becoming more important with the increasing size and scope of TNSPs and the markets that they or their affiliates may operate in.
 - Initial view is to strengthen these requirements
- **Waivers:** Waivers provide flexibility in applying ring-fencing provisions and are useful for assessing activities on a case-by-case basis
 - Initial view is to provide greater clarity about how waivers will be assessed and applied
- **Transitionals:** The transitional period will depend on the final guideline and the time required to comply with new obligations on TNSPs.
 - Initial view is to require a relatively short transition period, and waivers could be considered for any longer term transitional activities

Next steps

Timeline for full review

Milestone	Date
Issues paper	31 May 2022
Stakeholder workshops	June/July 2022
Submissions close	22 July 2022
* Release draft guideline	November 2022
Stakeholder workshops	November 2022
Stakeholder comments close	December 2022
Release final guideline 80 business days from release of draft guidelines	March 2023

* Note: timeframes assume no complex issues raised in issues paper submissions, that could require a subsequent technical consultation paper, which could delay the release of the draft guideline.

Submissions

- We are seeking submissions from interested stakeholders by COB 22 July.
- Please use our stakeholder [submission template](#) when you provide your submission.

Questions?