

## The New Transport Regulation Authority in Italy: Structure, Competencies, and First Regulatory Decisions

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The framework for the independent, economic regulation of public services was rounded out in Italy with the establishment, in 2013, of the Transport Regulation Authority. The Authority is in charge of transport regulation – including access to infrastructure, service regime and, based on a more recent entrustment, passengers' rights – across all transport segments including railways, airports, ports, toll highways, and public local transport. Created as a body fully independent from government and regulated businesses, and answerable to Parliament, the Authority became fully operational on 15 January 2014. Just over one year on, this article, first, illustrates the powers of the new Authority, its governance, structure and operation. It then outlines the regulatory decisions adopted thus far, particularly with reference to the new charging models for airports and the remedies adopted in order to spur market liberalisation in the railway market, which in Italy includes the liberalised high-speed connections.

### Governance and Decision-Making

The Italian transport regulation authority (in what follows, 'the Authority') was established on 17 September 2013 upon the government's designation of the president and the other two members of the council, their endorsement by the competent parliamentary committees and nomination with a decree of the President of the Republic. The role and operation of the Authority are codified in decree-law 6 December 2011 n. 201 converted, with amendments, into Law 22 December 2011, n. 214, as later amended. A later ruling of the Constitutional Court from March 2013 ruled that it sets the framework of

economic regulation within which policy decisions are taken at the appropriate level of government.

Under consideration for some twenty years, and the object of extensive debate, the establishment of the Authority rounded out the framework for the independent *ex ante* economic regulation of public services that, in Italy, had begun to be provided for under Law 14 July 1995 n. 481. This law set off the creation of regulators in energy and telecommunications, the competencies of which have later been extended to, respectively, water and postal services. Reflecting the distinctive nature of the industries and markets concerned, at present, the three authorities – the energy, telecoms and transport regulators – maintain specificities in their mandate. In all cases, they operate alongside the Italian antitrust authority that is in charge of *ex post* regulation on individual cases.

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**Disclaimer:** The views and opinions expressed in this article are those of the authors and do not necessarily reflect the official policy or position of the Italian Transport Regulation Authority.

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In exercising its role, the Authority is fully independent from government, regulated businesses and infrastructure operators. The requisite of independence extends to: the institution as a whole; the president and the other two members of the council; and the staff, that are all bound by a strict regime of incompatibility with any other activity. The president and members of the council, in particular, have a seven-year non-renewable mandate, may not be nominated members of the board of other independent authorities for at least five years, and are bound to a cooling-off period of two years. As a wholly independent body, the Authority is answerable to Parliament, to which it reports both within the framework of *ad hoc*, thematic hearings and with a dedicated, yearly report of activities. The measures – regulatory or individual – that it adopts are subject to administrative law and controls, including judicial oversight.

The council is the sole decision-making body of the Authority and operates collegially. Regulatory measures and acts are instructed by offices which are overseen by the Secretary General who, in its turn, reports to the President. This being the set-up established under the law, upon taking office, the council began its work by framing the organisation. In this regard, besides four units in charge of administration, ICT, legal affairs and economic affairs, the organisation of the Authority is structured horizontally, by main functions (access, services, rights and sanctions) rather than by industry. This choice reflects both the orientation of the council and the vision, embedded in the law, to entrust a single authority with competencies spanning different transport modes and industries.

### **Resources and Financing**

The Authority began its activity by adopting the mandatory organisational acts necessary to become operational. It also undertook its recruitment process. When it is complete, the Authority will have up to one-hundred and sixty staff; comprising permanent employees (up to ninety), personnel recruited on a temporary basis (up to sixty), and experts (up to ten). The permanent staff is partly (up to fifty) recruited on the basis of a public call amongst civil servants already employed by national, regional, local and independent administrations; the remaining part and the temporary staff will be recruited by public competition on a national basis. While the former phase of recruitment is nearly complete, the latter is, at the time of writing (March 2015) about to be launched.

Concerning its financing, except for an initial endowment from the State to enable the start-up (€1.5 million for 2013 and €2.5 million for 2014), the Authority raises its funding exclusively through fees

from regulated businesses and based on yearly decisions of the Authority which are submitted for endorsement to the Presidency of the Council of Ministers in accordance with the Ministry of the Economy and Finance. These decisions may set the contribution at a rate up to one per thousand of the business's turnover in the previous year. The two decisions adopted thus-far by the Authority concerning its financing, respectively, for the years 2014 and 2015, provide for a maximum rate of 0.4 per thousand of the previous years' turnover. In both cases, the decisions include *de minimis* provisions and minimum thresholds of applicability.

The Authority is head-quartered in the northern city of Turin where, by law, at least seventy per cent of the staff must operate. It also has offices in the capital. Established at a time of fiscal discipline and public-sector spending review, both the main seat and the offices are hosted in publicly-owned buildings: the Politecnico in Turin and the Ministry of the Economy and Finance in Rome. This enables the Authority to contain its operating costs which are limited to those relating to personnel and services.

### **Functions and Powers**

As mentioned above, the Authority's main mission is the *ex ante* economic regulation in the area of transport, covering both access to infrastructure and services. More particularly, its mandate includes:

- concerning infrastructures, ensuring the equitable and non-discriminatory access of businesses to rail, toll highways, airports, ports as well as local and regional transport;
- as concerns services, setting the criteria on which basis to fix tariffs in all transport modes and industries, and both at the national and local levels; contributing to defining public sector obligations (with reinforced powers in this area concerning rail and road transport); setting quality standards in areas where public sector obligations apply;
- as concerns passengers' rights, the definition of minimum rights and entitlements (including compensation) that may be claimed by passengers *vis-a-vis* transport operators.

In all these areas, action by the Authority depends on the degrees of liberalisation and exposure to public sector obligations of the different sectors falling under its competence. Concerning tariff regulation, in particular, the Authority is not in charge of unilaterally setting price levels; rather, in all the instances in which this competence recurs, the Authority identifies the criteria on which basis transport operators – be it infrastructure managers or concessionaires – determine, according to procedures which vary from industry to industry, the actual absolute value of the tariffs. Moreover, these being horizontal areas of

activity, the law also entrusts the Authority with specific competencies and/or reinforced powers in some of them. It is the case, for instance, for the setting up of guidelines in the area of taxi licensing or the definition of tender schemes for new highway concessions.

The set of powers conferred upon the Authority to carry out these responsibilities includes:

1. the power to issue sanctions in three cases:
  - a) the faulty implementation or non-implementation of a decision of the Authority, in which case the amount of the sanction may be up to ten per cent of turnover;
  - b) the refusal to provide, or the faulty provision of, information requested by the Authority. The amount of the sanction in this case is up to one per cent of the turnover;
  - c) special sanctioning powers entrusted to the Authority in application of European legislation concerning passengers' rights enacted in Italy after its establishment;In all cases, the sanctions do not accrue to the Authority and are transferred to designated accounts of the central government.
2. the power to signal to the competent authorities the opportunity to terminate contracts, concessions and other forms of agreements;
3. the power to set and demand the application of criteria for the corporate separation and accounting separation of regulated businesses;
4. the power to stimulate and contribute to the definition of public sector obligations and the methods for financing them;
5. the carrying out of investigations and on-site inspections;
6. the treatment of passengers' claims and complaints.

With the conferment of powers as above goes the submission of the regulatory measures and individual decisions adopted by the Authority to scrutiny and review by the judiciary which, in the Italian system, are administrative courts.

Part of the functions of economic regulation attributed to the Authority are entirely novel. Other parts were previously conferred upon existing central administrations, namely the Ministry for Infrastructure and Transport, including ENAC (Italian Civil Aviation Authority) and the Ministry for Economic Development. A straightforward take-over of responsibilities was, in particular, provided for concerning the functions previously attributed to URSF (Ufficio di regolazione dei servizi ferroviari): the Unit within the Ministry for Infrastructure and Transport that was previously designated as the Italian Railway Regulator. Other elements of the

hand-over of responsibilities required coordination with the relevant administrations.

### **Early Activities and Operating Method**

Based on the set-up of competencies as sketched out above, upon becoming operational on 15 January 2014, the Authority launched two investigations, respectively, in the areas of: passenger transport services, beginning with a focus on local and regional public transport services, as well as transport services aimed at guaranteeing territorial continuity; and access to infrastructure, beginning with a focus on railways and airports. In particular, the investigation on passenger transport services hinged upon analysing economic conditions, quality of services and users' rights, including the definition of limits on public service and standard models and formats for tenders for transport service contracts.

Both investigations were conceived as umbrella proceedings from which stemmed later regulatory initiatives, some of which are further described below.<sup>1</sup> Features common to all of them are: the application of the method of notice and comment; an extensive recourse to consultation with all interested parties and stakeholders; the holding of hearings; and the adoption of decisions reflecting which, whether and how the contributions received from participants in the consultation informed the final deliberations of the council.

### **Regulatory Measures: A Selection**

Based on the proceedings mentioned above, in the first year of activity, the Authority has taken several significant decisions aimed at improving efficiency and competition in the different transport areas. These include the adoption of regulatory measures: on the equitable and non-discriminatory access to railway and airport infrastructures; on infringement proceedings for the violation of passengers' rights as provided for under European law; and on the tendering proceedings for the allocation of contracts in the area of local public transport, whereupon a final consultation is under way at the time of writing. Further decisions are under way concerning access to the highway infrastructure and taxis. Among these decisions, the ones related to access to railway and airport infrastructure are described below in more detail.

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<sup>1</sup> Regulatory measures and other decisions of the Authority are made public on its website at the internet address [www.autorita-trasporti.it](http://www.autorita-trasporti.it) (English section under construction).

## **Railways**

The Italian railway network includes about 20000 kilometres of conventional rail and 1350 kilometres of high-speed rail. Concerning the latter, in 2013, the incumbent Trenitalia held an eighty per cent market shares in terms of passengers transported, while the new entrant NTV held the remaining twenty per cent. Interestingly, besides some limited experience in Spain, Italy is the only EU country to have competition in the market for high-speed connections.

The adoption by the Authority of regulatory measures concerning the equitable and non-discriminatory access to railway infrastructures begun with a consultation extended to all stakeholders and including 32 questions on eleven thematic areas. The outcome of the consultation, followed by a detailed analysis of the answers, served as a basis for devising regulatory decision n. 70/2014. A selection of the measures adopted, articulated in five main clusters, is outlined below.

**Framework agreements.** The network statement must indicate per each line segment and per each operating hour a detail of: maximum capacity which can be allocated to framework agreements; the capacity currently allocated to framework agreements; and the total amount of spare capacity per operating hour. A new ceiling of 85 per cent is introduced for the capacity which can be allocated to Framework agreements per line segment and operating hour.

**Capacity allocation.** Regulatory measures have been adopted to achieve a higher level of transparency in the process of capacity allocation. They include the following: the flexibility margin used by the Infrastructure Manager (IM) to allocate requested capacity within peak hours to competitors 'in the market' has been reduced by one third, from 15 to 10 minutes; the daily time intervals during which operators of public service obligations have priority have been extended; and the coordination process has been improved by providing for the disclosure to interested parties of information on the paths requested by all other applicants on the same itineraries, on the preliminary allocation thereof and the operational details of the allocation procedure.

**Access charges.** The criteria to be applied to determine access charges for 'empty runs' of high-speed trains led to a significant reduction thereof. Equally, the criteria to be applied to the determination of charges to be paid by High-Speed Railways businesses during 2015 led to a reduction of approximately thirty per cent compared to the previous year, to a level of some € 8.2 train/km.

**Performance regime.** The regulatory measures introduced in this area are aimed at: improving the detection of delays also in intermediary check-points and/or stations situated along the itineraries; eliminating the tolerance threshold for delays; and increasing the penalties per minute of delay (with further increase of penalties per minute of delay above 60 and 120 minutes of total delay). For each train cancelled, a two-hour forfeit delay has to be attributed to the railway undertaking responsible. Overall, the transparency has increased through: availability of traffic data on the web; the detailed description of causes of delays; a more transparent allocation of responsibilities for delays; and a dedicated dispute resolution system.

**Other regulatory measures.** A number of other regulatory measures were also introduced which are based on the underlying principle that all railways undertaking operating passenger services must have the same degree of visibility and accessibility *vis-à-vis* the customers. To this aim, the Authority laid down a specific measure according to which railway undertakings must have a reasonably comparable degree of accessibility to services and facilities at stations for ticketing, advertising, and providing information to customers. *Ad hoc* regulatory measures were also adopted concerning persons with reduced mobility, with the aim of improving their ability to access the infrastructure and the overall quality of assistance provided to customers.

In addition to those illustrated above, with the later Decision n. 76/2014, the Authority complemented the measures already adopted with twenty-two further prescriptions on the network statement to be applied in 2015. These prescriptions too concerned measures to increase transparency requirements of the infrastructure manager.

The implementation of both sets of measures is being monitored; should the non-implementation or defaulting implementation of some of them be ascertained in the course of proceedings which are currently under way,<sup>2</sup> they will be sanctioned as described above.

Furthermore, in December 2014 the Authority addressed a call to all interested stakeholders aimed at receiving inputs with a view to an overall revision of the criteria to be applied by the infrastructure manager for calculating access charges in all

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<sup>2</sup> In the lack of evidence to confirm the full implementation by the infrastructure manager of some sections of the decisions n. 70/2014 and 76/2014, procedures for the assessment of compliance have been initiated with decisions n. 24 and 25 of 12 March 2015.

segments of railway operation. This is set to be finalised by the end of September 2015.

### **Airports**

Italy has a complex and articulated airport system with eleven airports classified by the Italian Ministry of Transport as 'strategic' (such as Milan, Venice, Rome, Bologna, Florence/Pisa, Naples) and twenty-six other airports of national interest with lower volumes of traffic in terms of passengers per year.

The first regulatory decision of the Authority in this area reflects the reformed regulatory framework for the definition of airport charges in Europe provided for under EU Directive 2009/12/CE. This is characterised by the fact that the revision of the charges results from a process of negotiation between the airport manager and the users. Should the parties not reach an agreement on the revision of the charges, either one may resort to the independent surveillance authority to arbitrate the dispute: a role that in Italy is conferred upon the Authority.

In this regard, the Authority submitted to consultation and finally approved in September 2014 three models concerning airport charges which are articulated based on the volumes of passenger traffic per year: above 5 million, between 3 and 5 million, and below 3 million. Each model defines the procedures to be followed by airport managers for calculating access charges, for consulting the users, for solving disputes and for ensuring transparency in the flow of information to and from airport users. Regulatory constraints and procedural onuses bearing on the airport managing company decrease with traffic volumes.

Since the EU Directive mentioned above does not contain any prescriptions as to which method to apply – whether the 'single-till', the 'dual-till' or the 'hybrid-till' – the Authority considered it appropriate, in the early phases of application of the models, to allow for the 'dual-till' system to be put in place. Accordingly, in the course of the negotiating process with the users, airport managing businesses are free to assess whether and to what extent to take account of revenues resulting from commercial activities. As part of its supervisory activities, however, the Authority reserves the right to apply the corrective measures that it deems necessary to: promote competition with due attention to costs and profitability of the sector; ensure adequate access to infrastructures; and encourage the productive efficiency of airport-managing businesses and the containment of the charges for airport users where the commercial policies adopted by the managers are regarded as being inadequate.

The need to enforce corrections of the charging system proposed by airport managers is assessed by means of a detailed analysis of the documentation to be submitted to the Authority concerning cost accounting on commercial activities in accordance with the prescribed format, investment plans and trade policy. The thrust of the measures adopted is summarised below:

*Airports above 5 million passengers per year.* A price-cap mechanism is adopted with productivity return on opex. The tariff and its dynamic are defined for each aviation service (for example, passengers' rights, handling services, take-off and landing fees). The regulatory control period is four years. The tariff depends on: admissible opex and capex (with reference to the base year); the retail price index; a rebalancing effect (so that the flow of revenues is equal to the flow of costs); a pass-through term for new investments and unexpected changes in legal/regulatory framework; and quality and environmental targets. The evaluation of the efficiency level is obtained through a simplified approach with respect to previous methods. Opex evolves in function of the expected growth in traffic, of the estimated cost elasticity per cost category and taking into account a parameter for incentives, negotiated between users and the airport manager and representing the estimated productivity growth. Capex is the regulatory asset base multiplied by WACC. The approach allows profit sharing for productivity return in excess of the negotiated values (according to a threshold defined in the consultation process). A procedure is included to mitigate the traffic risk; based on a threshold which is negotiated during the consultation.

*Airports with traffic between 3 and 5 million passengers per year.* The tariff dynamic is simplified and the opex dynamic applies an incentive parameter equal to 70 per cent of the inflation rate for the first regulatory period. The approach allows profit sharing for productivity return in excess of the negotiated values. The value of WACC is obtained as for airports with above 5 million passengers per year, with benchmarking for notional leverage (that is, Debt/Equity ratio) based on national businesses belonging to the same traffic range. For the first regulatory period, the values of debt and equity are set at a notional level defined with the use of and international benchmarking and are set at, respectively, 30 per cent and 70 per cent.

*Airports below 3 million passengers per year.* For airports in this range a simplified dynamic for Opex is adopted, where the opex evolves with the inflation rate. Also the WACC uses a simplified formula, where the cost of debt is set equal to 3.9 per cent

with the possibility to raise it by no more than 2 per cent in case of high cost of debt. ERP is 5 per cent. The notional beta equity is *ex ante* set at 0.6, obtained by using a benchmarking of Italian publicly traded airports and other comparable airport managers. The notional leverage is obtained through benchmarking on national businesses belonging to similar traffic range. For the first regulatory period both debt and equity levels are set at 50 per cent. The costs for quality and environmental targets pass through the tariff and are negotiated with users.

The table below summarises the parameters used for the estimation of WACC in the three models.

	Above 5 mln pass/y	3-5 Mln pass/y	Below 3 Mln pass/y
<b>Risk free rate</b>	3.9%	3.9%	3.9%
<b>Cost of debt</b>	3.9% + max 2%	3.9% + max 2%	3.9% + max 2%
<b>ERPn</b>	5%	5%	5%
<b>D/E relevering</b>	Notional (50/50)	Notional (30/70)	Notional (50/50)
<b>Tax shield</b>	IRES (27.5%)	IRES (27.5%)	IRES (27.5%)
<b>Tax rate</b>	IRES+IRAP (31.3%)	IRES+IRAP (31.3%)	IRES+IRAP (31.3%)
<b>Gearing (D/D+E)</b>	Book value (gross debt and market equity if traded company)	Book value (gross debt and market equity if traded company)	50%

In the face of ongoing redefinition of the relevant legal framework, the models described above are: being applied; the procedural requirement provided therein are being complied with by airport managing companies; and the Authority is implementing the schemes. At the time of writing, one case in which charges to be applied in an airport with a traffic between three and five million passengers per year have been revised and set according to the criteria established in the model has been approved by the Authority, conditional upon the provision of correctives to be adopted by the airport-managing business. Monitoring of the execution of the decision is under way. Further cases are also being examined.

## Conclusion

Prior to January 2014, agencies, ministries, intergovernmental committees, and local governments were in charge of taking regulatory decisions, setting tariffs and imposing quality standards applicable to the Italian transport sector. This was at a time when, at the European level and in several European countries, policies were beginning to be adopted with the aim of raising efficiency and quality of services while, at the same time, spurring infrastructure investments. In order to improve the regulation of utility services and prevent potential conflicts of interest between the government and state-owned utilities, national governments had begun to confer regulatory competencies upon authorities independent of the executive branch. The establishment of the Transport Regulation Authority marks a step in this same direction and reflects the expectation of a significant change of course in the domestic policy of transport regulation at both the national and local levels.

Within Europe, the combination of extensive powers and a wide range of transport modes made subject to independent economic regulation constitutes, at present, a feature unique of the Italian Regulation Authority. The approach chosen at the time of its creation is one aimed at: facilitating competition whenever possible; limiting the regulatory burdens on regulated businesses; and, ultimately, ameliorating the provision of services to the benefit of users and passengers. Concerning prices, in particular, the Authority defines the economic criteria for the evolution of tariffs, such as the: tariff dynamics; the length of regulatory periods; the definition of allowed costs; and the WACC. However, it does not fix the final level of prices charged by transport operators, be it infrastructure managers or concessionaires. We expect that the new approach will generate more efficiency and more benefits for both businesses and consumers.

## Critical Issues in Regulation – From the Journals

**Modern Economic Regulation: An Introduction to Theory and Practice**, Chris Decker, Cambridge University Press, December 2014.

This book is written by Dr Christopher Decker from the University of Oxford. It aims to introduce readers to the main principles of economic regulation of 'utilities' and examines how economic regulation is applied in four key utility areas – electricity, gas, water and telecommunications. It is written for students and practitioners with little prior knowledge of economic regulation, with the aim of being an accessible, non-technical entry point to the subject area. Reviewers claim that it is the first comprehensive treatment of economic regulation of infrastructure for over twenty years.

There are twelve chapters in the book: introduction; the recurring question: why regulate utilities; alternatives to traditional regulation; principles of regulation for core network activities; forms of price regulation; regulation in the presence of competition; the institutions of regulation; electricity regulation; gas regulation; telecommunications regulation; water and wastewater regulation; and conclusion. There is a comprehensive reference list containing more than 900 items.

The book explores the following fundamental questions: Why does regulation occur? What are the alternatives to regulation? Which institutions are involved in regulation? What have been the impacts of regulation? It is aimed that readers will gain a clear understanding of the basic principles that apply to all regulated areas, and to appreciate the regulatory choices that reflect the specific economic and physical characteristics of different infrastructure areas. Case studies (drawn from Europe, the United Kingdom, the United States of America, Australia and New Zealand) demonstrate connections between regulatory theory and practice, and an extensive reference list provides readers with resources for more in-depth study.

**Click here for information about how to acquire this book**

**Corporate Governance and the State**, Dennis Mueller, *Competition and Regulation in Network Industries*, 15, 2, 2014, pp. 177-192.

This article is about how principal-agent problems (including 'rational ignorance' on the part of voters) can result in inefficient outcomes. The first section of the paper is titled 'corporate governance problems in

private sector firms', which refers to the work of Averch and Johnson, Williamson, Marris, Baumol, and others. It focuses on inefficient over-investment, and its measurement by 'marginal q' – the ratio of the return on investment to the cost of capital. The second section is titled 'corporate governance problems in state-controlled companies', and identifies 'operating inefficiency' as the most pressing problem for state-owned producers. The third section is titled corporate governance problem in regulated industries, and it covers ideas of 'capture', 'log-rolling' and 'rational ignorance'. There are 33 references to the professional literature, including many of the classic articles.

This article can be purchased online or by subscription to the journal.

**Pipeline Congestion and Basis Differentials**, M E Oliver, C F Mason and D Finnoff, *Journal of Regulatory Economics*, 46, December 2014, pp. 261-291.

This paper is about natural gas transport in the United States of America, which has undergone a series of deregulatory actions over the past several decades. In this paper the authors explore the relationship between congestion and spot prices using a simple network model, paying particular attention to the influence of storage. There are 45 references listed at the end of the paper.

Owners of gas-transport capacity in the United States operate in an unregulated secondary market, completing transactions in which the scarcity value of pipeline transport is either explicitly known (in the case of the formal capacity-release market), or is tacitly built into the commodity pricing agreement (in the case of legal buy-sell transactions). The underlying motive for a series of deregulatory actions has been the presumption that removing 'regulatory frictions' would facilitate spot-price arbitrage, and this would help to integrate prices across geographic locations and improve economic efficiency. Yet certain frictions, specifically the effect of congestion on transportation costs, inhibit the realisation of positive deregulatory impacts on economic efficiency.

The authors expect that the increase in domestic production and consumption of natural gas expected over coming decades will result in both upward pressure on the demand for transport and an increased occurrence of persistently congested pipeline routes. The authors find that, as congestion between two hubs increases, the scarcity value of

transmission capacity rises, driving a wedge between spot prices.

The authors empirically quantify this effect over a specific pipeline route in the Rocky Mountain region that closely resembles their structural design. Although the results in this paper paint a 'stark picture' of the impact that congestion can have on economic efficiency, the authors also find evidence that the availability of storage mitigates the price effects of congestion through facilitating the intertemporal substitution of transmission services.

Finally, the authors hope to understand how the current regulatory environment – price controls in the primary market for capacity juxtaposed against a deregulated secondary market – affects behaviour in both the short-run and in the long-run. They refer to research that is underway that supports the idea that the rate-of-return regulatory framework imposed by the Federal Energy Regulatory Commission may reduce investment in capacity relative to what is socially optimal. The authors note that, if the regulatory environment does stifle investment in capacity, then the congestion effects on prices outlined in this paper would, as a consequence, be exacerbated.

Available by subscription to the Journal of Regulatory Economics or **full text available here**.

**Are Queensland Residents Willing and Able to Respond to Time-Varying Electricity Prices?**, Energex and Ergon Energy, *Australian Economic Review*, September 2014, pp. 324-346.

This article is about whether residential electricity users are responsive to peak pricing. Three key contributors (Joanne Hamer, Vanessa Swinson and Ric Ardo) and nine others are listed in the authors' footnote. These are the section headings of the article: introduction; review of literature; experimental data and design; results; and conclusion. There are 24 references in the list, including references to seminal articles by Boiteux and Houthakker, and references to more contemporary works by Faruqui and Simshauser.

The fundamental question asked in this study is: Are Queensland residents willing and able to respond to varying electricity prices to reduce demand in peak times? To answer this question, Energex and Ergon Energy conducted what they describe as 'one of the largest tariff trials in Australia'. The trial investigated: time of use; dynamic peak pricing; and load capacity tariffs across three climatic regions. The article presents empirical and participant survey results from the 27-month trial. Results show participants across all regions achieved approximately a 19 per cent reduction in consumption during peak times on event

days. The authors believe that the trial findings shed light on, and challenge, some long-held views regarding pricing structures.

This article can be accessed by subscription to the *Australian Economic Review* or can be purchased on-line.

**When Does Electricity Price Cap Regulation Become Distortionary?**, Paul Simshauser, *Australian Economic Review*, 47 (3) 2014, pp. 304-323.

In this article, Paul Simshauser contends that asymmetric information and the complexity of energy markets mean that a regulator, 'no matter how wise and well resourced', could never be expected to produce reliable estimates of competitive prices. The sections of the paper are: introduction; the cost and structure of residential electricity tariffs; the use of short-run wholesale prices; the use of long-run marginal cost in setting price caps; and policy implications and concluding remarks. The article has a comprehensive reference list with references to the work of leading economists such as Mark Armstrong, Severin Borenstein, Paul Joskow, David Newbery, and George Yarrow.

While Australia has a deregulated national wholesale electricity market and a national network regulatory framework, it has inconsistent state-based regulated retail price caps in workably competitive markets. If regulation represents a policy constraint, relying on long-run concepts rather than short-run prices is least damaging to the flow of capital and non-linear pricing. The final words of the article are that 'few outcomes in capital-intensive industries could be more damaging in the long run than dynamic inconsistency'.

This article can be accessed by subscription to the *Australian Economic Review* or can be purchased on-line.

**The Ladder of Investment in Europe, in Retrospect and Prospect**, Martin Cave, *Telecommunications Policy*, 38, September 2014, pp. 674-683.

This paper is about the 'ladder of investment' idea which was propounded by Martin Cave and Ingo Vogelsang, and had its 'heyday from about 2003 to 2011'. The paper covers both the theoretical and empirical treatment of the 'ladder' in both the copper and fibre contexts. The idea of the ladder is to 'promote successively higher levels of infrastructure investment by competitors and about the consequences of unbundling in general'. The article is primarily non-technical in exposition and contains 29 references, mainly to the professional literature.

The most prominent names of authors in the reference list are Martin Cave (seven), Marc Bourreau (five), Pinar Dogan (three), Carlo Cambini (two) and Ingo Vogelsang (two).

The main conclusions of the paper are: the greater prevalence of bitstream access led to a greater number of unbundled local loops; benefits accrue to broadband customers from end-to-end competition between a telecommunications company and a cable company; and access-based competition confers fewer benefits, although it is preferable to monopoly competition. Martin Cave also detects that there has been a shift of emphasis in the purpose of fibre developments from promoting competition to increasing coverage.

The article can be accessed by subscription to *Telecommunications Policy* or can be purchased on-line.

**What is the Magnitude of Fixed-Mobile Call Substitution? Empirical Evidence from 16 European Countries**, Anne-Kathrin Barth and Ulrich Heimeshoff, *Telecommunications Policy*, 38, September 2014, pp. 771-782.

This paper is about the amount of fixed-to-mobile call substitution observed in European countries – Austria, Belgium, Czech, Denmark, Finland, France, Germany, Greece, Hungary, Italy, Netherlands, Poland, Portugal, Spain, Sweden and UK. The article applies dynamic panel-data techniques to quarterly data from 2004 to 2010 to estimate own-price and cross-price elasticities for mobile and fixed-line demand. The article contains sixty references.

The main conclusions of the paper are: fixed-to-mobile call substitution is prevailing with time; regulatory obligations are quite different from one-another in the two markets; and fixed and mobile markets are still separate. The authors draw out both antitrust SMP consequences and merger consequences.

The article can be purchased on-line or accessed by subscription to *Telecommunications Policy*.

**Incorporating Marginal Costs in Water Supply Tariffs: Prospects for Change**, George Anstey and Tom Graham, NERA Insight in Economics, 18 November 2014.

**This paper** focuses on tariff-setting and the implications of marginal cost concepts for economic efficiency in water supply. The authors begin by outlining the need for long-run marginal costs in setting prices, and then go on to discuss how to calculate each of these approaches. Finally, they describe how these approaches have been

implemented in practice. The paper includes four expository diagrams and thirteen references.

Pressure on utilities' budgets has led to a growing acceptance of the need for Full Cost Recovery (FCR) and this has presented a new pricing challenge – not just ensuring that customers pay for the services they receive, but that customers consume an efficient quantity of water services. Utilities adopting more expensive technologies at the margin (such as the expansion of desalination plants in Australia) may have incremental costs exceeding their historical average costs of service and the prices they charge to customers. Moreover, increasing scrutiny of tariffs has resulted from: rising water scarcity; increasing bills; and economic pressures on the population as a whole.

Economic theory suggests that marginal cost pricing is the key to ensuring customers make efficient consumption decisions. In the water industry, which requires significant initial investments in long lived-assets, the marginal cost concepts can be difficult to apply. Two main methods for incorporating marginal cost signals into price-setting have emerged in the literature – the 'Turvey' approach (also known as the 'perturbation approach') and Average Incremental Cost (AIC) approach. These long-run marginal or incremental cost concepts are not just theoretical approaches for setting prices favoured by economists – regulators internationally have begun to adopt these concepts as a method for setting tariffs and to encourage efficient consumption. Although the Turvey approach has stronger theoretical underpinnings, regulators have most often implemented AIC approaches for reasons of computational simplicity. The forward-looking Turvey approach and the AIC approach may not be the only relevant cost standards – for example, in other contexts, specific legal standards may apply.

Originally **published** in *Water Utility Management International* in its September 2014 issue.

**Institutional Reforms to Enhance Urban Water Infrastructure with Climate Change Uncertainty**, Jayanath Ananda, *Economic Papers*, 33, 2, June 2014, pp. 123-136.

This paper considers the effect of current and proposed institutional settings on urban water infrastructure decisions. The coverage and scope of the paper can be assessed by the headings and sub-headings listed in order of appearance: introduction; infrastructure investment and regulation; the current state of play and institutional constraints on flexibility; clarity of roles and objectives; regulatory lags; water tariffs and demand management; risk allocation and water supply security; evaluation of risky

infrastructure projects; socio-political barriers; competency trap; policy implications; the governance charter; changes to bulk-water procurement; inter-sectoral water transfers; real options analysis and flexible decision rules; the customer engagement model; and concluding comments. There are 51 items in the reference list.

The article can be accessed by subscription to *Economic Papers*.

**La Rémunération du Risque, enjeu clef de la Régulation Economique des Concessions Autoroutières en France (Risk Compensation, A Key Issue for the Economic Regulation of Motorways in France)**, Jeanne Lubek and Stéphane Wakeford, NERA Insight in Economics, 4 December 2014.

This NERA Insight in Economics **paper** is written in the French language by Jeanne Lubek and Stéphane Wakeford. The paper is about the economic regulation of transport in France. Specifically, it is about the extension of the responsibility of the French rail regulator (ARAF) to include the supervision of toll roads. This extension is aimed at addressing the lack of effective economic regulation of French toll roads that was identified by both the French Competition Authority and the State Auditor. The authors see the challenge as one of developing a regulatory doctrine accommodating the legislative and contractual legacy, while articulating a balanced view of economic regulation that protects users without harming operators and also maintains sufficient investment incentives. This will include formalising the assessment of the opportunity cost to be taken into account to determine the appropriate return on new investments, while trying to reconcile the diverging regulatory and investment time horizons with any discrepancies, resulting ultimately in the perception of a regulatory risk by investors.

The authors argue that the perception of uncertainty regarding the regulatory framework results in a higher cost of capital for both motorway businesses and other French regulated infrastructure assets (such as airports), with the resulting cost being borne by users (through higher tolls and fees) and by the state (through a lower valuation of assets which are to be privatised). A combined economic and financial approach to these issues is thus necessary to ensure that the endogenous nature of regulation on tariffs is taken into account when setting a price cap.

## Regulatory Decisions in Australia and New Zealand

### Australia

#### Australian Competition and Consumer Commission (ACCC)

##### Fixed-Line Access Pricing: Draft Decision Released

On 15 March 2015 the ACCC issued its draft decision on the prices that other operators pay Telstra to use its copper network to provide voice and broadband telecommunications services to their consumers. The draft decision covering 1 July 2015 to 30 June 2019 is for a one-off uniform decrease in access prices of 0.7 per cent for the seven access services. [MR here](#)

##### First Quarterly Petrol Report Released

On 26 February 2015 the ACCC released the first quarterly report into the Australian petroleum industry for 2015, covering the period from June to December 2014 with some additional information to the end of January 2015. [Access report through MR](#)

##### NBN Co's Long Term Revenue Constraint Methodology Draft Determination Released

On 19 February 2015 the ACCC issued a draft determination on NBN Co's Long Term Revenue Constraint Methodology (LTRCM). [Access through here](#)

##### Regulation of Victorian Wheat Port Terminals – Views Sought

On 12 December 2014 the ACCC sought views on whether to reduce regulation at Victorian wheat port terminals under the new mandatory Code on bulk wheat terminal access. The Code commenced on 30 September 2014 replacing the previous access undertakings regime. [MR and link to DP here](#)

#### Australian Energy Regulator (AER)

##### Retail Energy Market Update – Second Quarter

On 16 March 2015 the AER published its retail energy market update for Quarter 2, 2014-15. [Access Q2 update here](#)

##### Revised Electricity Post-Tax Revenue Models Released

On 29 January 2015 the AER released its revised post-tax revenue models (PTRMs) that apply to

future electricity distribution and transmission determinations. [PTRM models here](#)

##### Hardship Policies and Practices – Report Released

On 28 January 2015 the AER released its report on its targeted review of energy retailers' hardship policies and practices. [Follow for report](#)

##### Retail Energy Market Update – First Quarter

On 22 January 2015 the AER published its retail energy market update for Quarter 1, 2014-15. [Access to Update](#)

##### Victorian Electricity Network Tariffs Approved

On 19 December 2014 the AER announced it had approved electricity network tariffs for the Victorian distributors CitiPower, Powercor, Jemena Electricity Networks, AusNet Services, and United Energy for 2015. [Click here for details](#)

##### State of the Energy Market 2014

On 19 December 2014 the AER released its *State of the Energy Market Report* for 2014. [To access report](#)

##### Victorian Gas Distribution and Transmission Tariffs Approved

On 1 December 2014 the AER announced it had approved the Victorian gas transmission and distribution tariffs for 2015. [More here](#)

#### Australian Energy Market Commission (AEMC)

##### Optional Firm Access Model – Draft Report Released

On 12 March 2015 the AEMC released its draft report on the proposed optional firm access model. The draft report recommends against implementing the model in the current environment. [Access here](#)

##### Review of the Victorian Declared Wholesale Gas Market – Terms of Reference Announced

On 12 March 2015 the AEMC announced the terms of reference for a specific Review of the Victorian Declared Wholesale Gas Market. This is in addition to the work the AEMC is carrying out for the COAG Energy Council in the East Coast Wholesale Gas Market and Pipeline Frameworks Review. [Access ToR here](#)

## East Coast Wholesale Gas Market and Pipeline Frameworks Review – Public Forum

On 5 March 2015 the AEMC announced that it had held a public forum to inform the East Coast Wholesale Gas Market and Pipeline Frameworks Review. [Read about the Review here](#)

## Demand Management Incentive Scheme – Consultation Paper Released

On 19 February 2015 the AEMC released a consultation paper on reforming the demand management incentive scheme, which is the next rule change proposal to flow from the AEMC's Power of Choice review. [Access paper here](#)

## Competition in Retail Energy Markets – Stakeholder Submissions Invited

On 18 December 2014 the AEMC invited stakeholder submissions on the state of competition in retail energy markets in the ACT, New South Wales, Queensland, South Australia, Tasmania and Victoria. [MR here](#)

## Residential Electricity Price Trends Report Released

On 11 December 2014 the AEMC released its 2014 Residential Electricity Price Trends report on factors driving electricity prices in each state and territory. [Access report through here](#)

## New Rules for Cost-reflective Network Prices

On 27 November 2014 the AEMC announced that the National Electricity Rules will be changed from 1 December 2014 to require regulated network companies to structure their prices to better reflect the consumption choices of individual consumers. [Follow for new rules](#)

## National Competition Council (NCC)

### Comet Ridge to Wallumbilla Pipeline Loop – No-Coverage Recommendation

On 20 March 2015 the NCC released its draft recommendation on the application for a 15-year no-coverage determination for the Comet Ridge to Wallumbilla Pipeline Loop (CRWPL). The NCC proposes to recommend to the relevant Minister that he decide to make a 15-year no-coverage determination in respect of the CRWPL.

## Australian Capital Territory

### Independent Competition and Regulatory Commission (ICRC)

#### Utility Licence Application

On 7 January 2015, the ICRC received an application for a utility licence from TransGrid to provide electricity transmission services in the ACT. [Detail here](#)

#### ACT Electricity Feed-in Scheme Summary Report – September 2014 Quarter

On 1 December 2014, the ICRC published its summary report on Scheme activity for the period 1 March 2009 to 30 September 2014 (updated for the September 2014 quarter). [Link to summary report here](#)

## New South Wales

### Independent Pricing and Regulatory Tribunal (IPART)

#### Bi-Annual Financial Market Update

On 16 February 2015 the IPART released its bi-annual financial market update for February 2015 to assist stakeholders in replicating and predicting its WACC decisions. [Market updates](#)

#### External Benefits of Public Transport

On 16 December 2014 the IPART released a technical paper for public comment measuring the external community benefits of public transport. The External Benefits of Public Transport Review draft report outlines the approach to valuing the benefits to the overall community of rail, bus and ferry journeys that the IPART plans to incorporate when calculating future fare prices in Sydney. [Access the paper here](#)

#### See Notes on Interesting Decisions

#### New Tribunal Member

On 15 December 2014 the IPART announced that the New South Wales Premier had appointed Mr Ed Willett as a Member of the Tribunal.

#### Monitoring Competition for Small Customers in the Retail Electricity Market

On 8 December 2014 the IPART released a fact sheet providing an overview of IPART's new role in monitoring competition for small customers in the retail electricity market. This new role follows deregulation of retail electricity prices in NSW from 1 July 2014.

## Northern Territory

### Utilities Commission

#### New Retail Water and Sewerage Pricing Order

[Access the order](#)

#### New Retail Electricity Pricing Orders

[Access here](#)

## Queensland

### Queensland Competition Authority (QCA)

#### Rail – 2014 Draft Access Undertaking

On 30 January 2015 the QCA issued a draft decision on Aurizon Network's 2014 Draft Access Undertaking, concerning significant changes to the access arrangements for the Central Queensland Coal Network. [Read the DAU.](#)

#### Electricity Prices for Regional Customers in 2015–16 – Draft Report

On 10 December 2014 the QCA released its draft determination on regulated electricity prices for customers in regional Queensland for 2015–16. [Read the draft determination.](#)

#### South-east Queensland Bulk Water Prices 2015-18 – Draft Report

On 2 December 2014 the QCA released a draft report recommending bulk water prices for south-east Queensland for 2015 to 2018. Bulk water is purchased by retailers for sale to the public and accounts for about 30 per cent of an average household's water and sewerage bill. [Read the report.](#)

## South Australia

### Essential Services Commission of South Australia (ESCOSA)

#### 2015 South Australian Rail Access Regime Review

On 12 February 2015, the ESCOSA announced that, as required under the Railways (Operations and Access) Act 1997, it would be conducting a five-yearly review into the Access Regime that applies to the major intrastate railways in South Australia. **Submissions were due by 24 March 2015.**

#### SA Water Regulatory Rate of Return 2016 to 2020 – Submissions

On 4 February 2015 the ESCOSA announced it would prepare a report for the Treasurer setting out a proposed approach to the calculation of the rate of return to be applied to SA Water's regulated assets. **The report is to be finalised by the end of March 2015.**

#### Drinking Water and Sewerage Retail Services Pricing Reform – Inquiry

On 28 January 2015 the ESCOSA submitted its final Inquiry report to the Government for its consideration in framing future policy in the water pricing area. The draft Inquiry report was released in July 2014. [Read the final report.](#)

#### 2015-16 Retailer Feed-in Tariff-Final Price Determination

On 16 December 2014 the ESCOSA released its final decision in respect of the minimum retailer feed-in tariff payable from 1 January 2015 by electricity retailers to customers with solar photovoltaic units, for electricity fed into the distribution network from those units. [Read the decision.](#)

## Tasmania

### Office of the Tasmanian Economic Regulator (OTTER)

#### 2015 Water and Sewerage Price Determination Investigation

In January 2015 the OTTER released a Draft Report and Draft Price Determination for the Tasmanian water and sewerage industry for the three-year regulatory period from 1 July 2015 to 30 June 2018 (the second regulatory period). [Read about the investigation.](#)

#### Review of the Role of the OTTER

In December 2015 a review was announced of the role of the OTTER. The Department of Treasury and Finance has released a paper which outlines a number of proposals. [Read about the review.](#)

## Victoria

### Essential Services Commission (ESC)

#### VicTrack Proposed Access Arrangement

On 18 March 2015 the ESC approved the proposed variation of VicTrack's access arrangement. [Decision here](#)

#### Pacific National Proposed Access Arrangement Variation

On 18 March 2015 the ESC approved the Pacific National proposed access variation. [Pacific National Decision](#)

#### Best Practice Financial Hardship Programs of Retailers – Inquiry

On 18 February 2015 the ESC announced it has been asked to review the policies, practices and procedures that energy retailers use to help customers in financial hardship avoid disconnection. [Read about the inquiry.](#)

#### Water Performance Report

On 18 December 2014 the ESC published its *2013-14 Performance Report – Metropolitan and Regional Water Businesses*. [Access report here](#)

#### Energy Retailers Comparative Performance Report – Customer Service 2013-14

On 18 December 2014 the ESC released its Energy Retailers Comparative Performance Report – Customer Service 2013-14. [Find the report](#)

## Western Australia

### Economic Regulation Authority (ERA)

#### Financial Hardship Policy Guidelines – Electricity & Gas Licences

On 17 March 2015 the ERA announced its approval of the new Financial Hardship Policy Guidelines - Electricity & Gas Licences. [Read about the new guidelines.](#)

#### The Mid-West and South-West Gas Distribution Systems Proposed Revised Access Arrangement – Return on Debt Consultation

On 4 March 2015 the ERA released a discussion paper as part of its work program for the fourth access arrangement review for the Mid-West and South-West Gas Distribution Systems (GDS). [The](#)

ERA's Secretariat is undertaking consultation with stakeholders regarding the return on debt.

#### The Dampier to Bunbury Natural Gas Pipeline – Proposed Revised Access Arrangement

On 11 February 2015 the ERA invited public comment on the proposed revised access arrangement for the Dampier to Bunbury Natural Gas Pipeline (DBNGP). [Read about the proposed revised access arrangement.](#)

#### Maximum Reserve Capacity Price for the 2017-18 Capacity Year – Final Decision

On 30 January 2015 the ERA approved the revised Maximum Reserve Capacity Price (MRCP) for the 2017-18 Capacity Year of \$164,800 per MW per year, as recommended by the Independent Market Operator (IMO). [The approved revised MRCP for the 2017/18 Capacity Year will be effective from 1 October 2017.](#)

#### The Water Corporation's Amended Financial Hardship Policy – Decision Not to Approve

On 27 January 2015 the ERA announced its decision not to approve proposed amendments to the Water Corporation's financial hardship policy. [Read about the decision.](#)

#### Professor Stephen King Appointed ERA Alternate Chairman

On 3 December 2014 the ERA announced the appointment of Professor Stephen King as Alternate Chairman of the Governing Body of the Economic Regulation Authority until 24 November 2015. [Read about Professor King's appointment.](#)

#### Rail WACC – Revised Draft Decision and Call for Comments

On 28 November 2014 the ERA issued its Revised Draft Decision on the WACC and invited public comment. [Read about the revised draft decision.](#)

## New Zealand

### New Zealand Commerce Commission (CCNZ)

#### Upper South Island Reliability Project Amendment Application – Final Decision

On 26 February 2015 the CCNZ released its final decision approving Transpower's application for an amendment to the Stage 1 upper South Island reliability project. [Media release](#)

## **Liability Allocation for Telecommunications Providers – Final Decision**

On 22 December 2014 the CCNZ released its final decision confirming how much 22 telecommunications providers will pay towards the \$50 million Telecommunications Development Levy (TDL) for 2013/14. **Read more about the levy.**

## **Backdating Prices for Chorus’s Copper Lines and Broadband Service – Emerging View**

On 19 December 2014 the CCNZ published its emerging view on backdating the final prices that Chorus charges for its local copper lines and broadband service. **Read about Chorus’ charges.**

## **The WACC used for Information Disclosure – Final Decision**

On 12 December 2014 the CCNZ released its final decision on the weighted average cost of capital (WACC) that will apply to information disclosure for electricity lines and gas pipeline businesses. **Read the final decision.**

## **Price-Quality Paths for Electricity Distributors – Final Decision**

On 28 November 2014 the CCNZ released its final decisions on the default price-quality paths for sixteen electricity distributors for 2015 to 2020. **Media Release with links**

## Notes on Interesting Decisions

### The External Benefits of Public Transport

The Independent Pricing and Regulatory Tribunal has published its **Draft Report** on the *External Benefits of Public Transport*.

The IPART is responsible for determining maximum fares for public train, bus and ferry services in Sydney and surrounding areas each year. These fares recover only a small proportion of the total cost of providing the services. The NSW Government pays the bulk of the cost.

Given this, a key decision in determining fares is how much of the total cost should be paid by the people who use public transport (through fares) and how much by the NSW community as a whole (through the Government subsidy).

For the past five years, the IPART has made this decision by estimating both the value of the 'external benefits' associated with each mode of public transport and the efficient costs of providing the services. It then sets the Government subsidy broadly in line with the estimated value of the external benefits, and sets fares to generate the difference between the Government subsidy and the estimated efficient costs.

The IPART uses this approach because one of the main reasons governments subsidise public transport services is that having these services benefits the whole community, not only the people who use them. For example, using public transport leads to lower road congestion, and lower air pollution and lower greenhouse gas emissions than if these journeys had been taken by private vehicle. Key chapters review and assess the external benefits in these areas.

The IPART considers it appropriate to set the Government subsidy broadly in line with the estimated value of these community-wide or external benefits. While the IPART still thinks this broad approach is appropriate, it is conducting a periodic review of the detail of its approach, in line with good regulatory practice. In particular, it is reviewing how it estimates the value of the net external benefits of each mode of public transport – including which external benefits and costs are included in this estimate, and the methodologies it uses to measure the value of each benefit and cost.

The objective of this review is to establish the approach to be used to determine the value of the net external benefits of bus, train and ferry services for the next round of fare reviews. The IPART has

applied its draft approach to estimate the current values of these benefits but it will not use these specific estimates for the fare reviews. It intends to reapply the final approach during the fare reviews using the most up-to-date and consistent inputs and assumptions.

## Regulatory News

### International Insights for the Better Economic Regulation of Infrastructure

On 13 March 2015, the Australian Competition and Consumer Commission and the Australian Energy Regulator jointly published the tenth paper in the ACCC/AER Working Paper Series.

The paper, written by Rob Albon and Chris Decker, is titled *International Insights for the Better Economic Regulation of Infrastructure*.

The paper is based on a study of seven key infrastructure areas (energy, telecommunications, postal services, water and wastewater, rail, airports and ports) across seventeen countries. These countries include the ten largest economies in the OECD and encompass a wide range of physical, economic and social conditions. The arrangements for the economic regulation of infrastructure affect: pricing and quality of service outcomes for consumers; the level of investment; and economy-wide productivity growth. The paper aims to provide insights for the continuous development of Australia's regulation of infrastructure by comparing and contrasting regulatory design, processes and practices that exist around the world.

Key insights highlighted in the paper include:

- Regulatory agencies that are independent of government are a common feature of the surveyed jurisdictions. However, the precise nature of 'independence' varies across countries.
- Regulators in most surveyed jurisdictions are assigned efficiency-based objectives. Where regulators are given broader remits, such as the promotion of social and environmental objectives, conflicts with regulatory objectives often arise.
- The collection of regulatory responsibilities for a number of infrastructure industries in a single institution, at least to the sectoral level (for example, energy or communications), is common.

- In four of the five surveyed jurisdictions where national multi-sectoral regulators exist, the multi-sectoral regulator also has responsibility for competition enforcement. There appears to be a trend towards a single-institution model, with Spain and the Netherlands both combining regulatory and competition activities in recent years.
- Regulators are placing an increasing emphasis on establishing processes for more effective 'engagement' with consumers.
- The surveyed jurisdictions have different approaches to: issues of information asymmetry between regulators and the businesses they regulate; balancing the trade-off between broad information collection powers; the protection of commercial-in-confidence information; and timeliness in regulatory processes.
- Innovations such as 'alternative dispute resolution' and negotiated settlements can potentially speed-up regulatory outcomes if they are successful in avoiding the full, formal regulatory process. However, speedier decision-making may come at the cost of diminished consultation and less transparency.

The views expressed in ACCC/AER Working Papers are those of the authors and not necessarily those of the ACCC/AER. Nevertheless, the ACCC/AER considers that these working papers are part of its important role to disseminate material that will inform discussion of how to regulate nationally significant infrastructure to achieve good outcomes for Australian consumers and businesses. To access this and other ACCC/AER Working Papers see: **Working & discussion papers.**

*Network* is a quarterly publication of the Australian Competition and Consumer Commission for the Utility Regulators Forum. For editorial enquiries please contact Rob Albon (Robert.Albon@acc.gov.au) and for mailing list enquiries please contact Genevieve Pound (Genevieve.Pound@acc.gov.au).