

Regulatory Burdens on Business

February, 2009

Onerous number of submissions and reviews

There are an excessive number of reviews initiated by different regulatory bodies, operators and commissions, to which submissions must be made.

An entire industry has grown up around the regulation, such as lawyers, consultants and other professionals solely supported by the need to deal with industry regulation.

These reviews and submissions are very costly to industry, not just in legal and consulting fees, but in the time taken by business employees to appreciate and respond to the reviews.

Regulated businesses have departments dedicated to responding to the numerous reviews.

Often the timeframes allowed are unreasonable in terms of length or timing. An example of this is the current Australian Energy Regulator (AER) review into the cost of capital parameters, where a substantive response into the proposed position was required in 30 business days over the Christmas period.

Examples of current consultations are:

- » National Energy Customer Framework;
- » National Frameworks for Network Planning, Connections and Capital Contributions;
- » AEMO;
- » STTM and consequential changes to Legislation and Rules;
- » WACC;
- » TFP;
- » Smart Metering; etc.

The regulator needs to account for a low carbon economy

There is to be a step change in the way energy is delivered.

To adjust to the changes, regulators need

to change their way of thinking in order to incentivise industry.

The focus needs to shift from poles and wires to allowing returns for achieving advances in climate change initiatives.

Currently the regulator is not flexible in their thinking, but to ensure innovation much greater flexibility is required in the regulator's mindset.

Lack of early informal consultation:

There is a tendency for officials and policy-makers to make decisions about the means and frameworks for implementing policy without first canvassing views of affected industry sectors.

Most often those decisions involve reaching for direct regulatory intervention as a first choice, which can be an impediment to dynamic efficiency – industry has the knowledge and ability to devise efficient solutions if given the opportunity.

For example the National Stakeholder Steering Committee will have a significant role in devising and implementing the National Smart Metering Program. Industry involvement has particular value because there is a question whether the officials and agencies have sufficient understanding of the industries they are seeking to regulate.

A further example of this lack of understanding was apparent through the problems with the first draft of the NGL and NGR.

The MCE Proposed National Framework for Energy Network Safety Legislation

The options presented are basically a re-design of the current framework, but there are more onerous requirements than previously adopted.

Previously allowed for flexibility to develop and comply with safety standards, but move to mandate Australian Standards into legislation.

This outcome would be sub-optimal – current regime is effective.

The aim is for industry efficiency and high level of safety, but redesigning the objectives is not the way to achieve this

Harmonisation of Energy Safety

Supportive of harmonisation to bring together one common set of rules.

Should not come at the cost of excess regulation, where there is no increase in safety or efficiency.

Regulations should focus on outcomes rather than inputs. This would meet the requirements of the COAG Best Practice Regulations Guidelines.

Issue of network planning re: environmental planning

Town planning and the design of the networks within.

Need to establish consistency between rules and procedures.

Obligations imposed on networks by local Government policy

Instances where local Governments seek upgrades to footpaths, etc. after works.

Often recover above and beyond marginal cost of providing services to utilities, essentially equivalent to taxation.

Also different levels and officials with local Government often have differing opinions, as a result conflicting direction can be given or multiple instructions regarding the same issue.