



National Irrigators' Council

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Competition Policy Review Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Re: Competition Policy Review Water reform

Dear Review Secretariat

The National Irrigators' Council (NIC) welcomes the opportunity to provide input into the Government's review of Australia's competition policies, laws and institutions and whether they remain 'fit for purpose', against the backdrop of changing circumstances of the Australian economy anticipated over coming decades.

The NIC is the peak national body for irrigators in Australia, providing a policy and political voice for those who use water for commercial agricultural or horticultural purposes across the country. Our membership includes Irrigation Infrastructure Operators (IIO) as well as representative organisations for commodities and private diversion districts. The total gross value of irrigated agricultural production in Australia in 2012-13 was \$13.4 billion. *{Australian Bureau of Statistics}*

The NIC submits that any outcomes of the Competition Review process must not translate into any further erosion of the international competitiveness of Australia's irrigated agricultural sector. The sustainability of rural and regional jobs growth, development and overall social and economic wellbeing remains dependent on the export oriented agricultural sector. As price takers, irrigators operate on low margins and any small increase in input costs erodes profitability and competitiveness when they already operate in a tough international competitive environment.

Our focus in response to the Review draft report is directed to electricity and water reform. The NIC is pleased to provide comment regarding the following draft report recommendations:

The Review draft report Panel notes that: *Progress in the water sector has been slower than reforms in electricity and gas. While there are clear differences between the sectors, the approach taken in the energy sector may prove instructive in terms of furthering reform particularly in relation to the creation of national institutions and national agreements in areas of State sovereignty.* (ref Water: draft report page 128)

NIC comment: In response to the Panel's view that: *'progress in the water sector has been slower than reforms in electricity and gas'*, the NIC submits that there remains an urgent need for further reform of the electricity sector. Current electricity sector pricing arrangements, particularly in relation to the way network costs are calculated, are unfair and unsustainable and are having a highly distorting effect on the electricity market in regional Australia.

The NIC recently provided a submission to the Energy Green paper process supporting any action that might result in eliminating the complexity around energy market governance arrangements and reduce costs for consumers. We sought to highlight the impacts of electricity price rises, particularly network costs, on the profitability and financial sustainability of the irrigated agricultural sector, noting that price rises have been far in excess of the Consumer Price Index (CPI) primarily due to the way tariffs are now calculated. The cumulative increases in electricity tariffs are a major causal factor and leave many producers finding it unviable to irrigate using existing electricity infrastructure.

We argued that while the removal of the Carbon Tax would provide some relief in reducing the environment component of electricity bills, real benefits could only be achieved from genuine reform of network charges. The NIC has committed to continue to press the case to the federal government and to the Australian Energy Market Commission (AEMC) for the need for specific irrigation food and fibre tariffs.

We provide further comment regarding the electricity regulatory framework in our response to draft Recommendation 46 in this submission.

In the context of reform in the water sector, it is important to clarify the difference between urban and rural water suppliers.

Key messages: The NIC recommends:

- urgent reform of the electricity sector, particularly a re-examination of the way energy companies' network costs are calculated, which is unsustainably driving up electricity costs for irrigators;
- the introduction of specific irrigation food and fibre tariffs.

Draft Recommendation 16: Electricity, gas and water

All governments should re-commit to reform in the water sector, with a view to creating a national framework. An intergovernmental agreement should cover both urban and rural water and focus on:

- *Economic regulation of the sector, and*
- *Harmonization of state and territory regulations where appropriate.*

Where water regulation is made national, the body responsible for its implementation should be the Panel's proposed national access and pricing regulator. (see Draft Recommendation 46)

NIC comment: The water reform process has seen significant progress over a twenty year period. The 1994 COAG Water Reform Framework and the 2004 National Water Initiative have provided the underpinnings for a policy framework for Australia's water management. The 'hard won' COAG Intergovernmental Agreement on the National Water Initiative *'is a shared commitment by governments to increase the efficiency and sustainability of Australia's water use'*, and provides a blueprint for water reform through a national approach to the way Australia manages, plans, measures and trades water. Importantly, it provides a level of certainty for all stakeholders.

The ACCC Water Monitoring Report 2012-13 released in May 2014 noted: *'Australian water markets are considered to be the most advanced in the world. Twenty years of reform have established clear water rights and reduced barriers to water trading.'*

In addition, the latest Triennial Assessment of the implementation of the National Water Initiative noted that *'solid progress on managing the nation's water resources during the past two decades*

has delivered tangible benefits to governments, communities and industries’.

The draft recommendation 16 and the proposed intergovernmental agreement to cover **both urban and rural water** (with a focus on economic regulation of the sector, and harmonisation of state and territory regulations where appropriate) does not provide sufficient detail around aims and objectives to enable stakeholders to comprehensively examine any detail and provide informed comment. The NIC seeks clarification in the context of this recommendation and raises important questions. For example would an intergovernmental agreement covering urban and rural water result in:

- a) less regulation and lower user costs for end users (both rural and urban)
- b) an improved overall national water policy framework
- c) better outcomes for the social and economic wellbeing of rural and regional communities
- d) greater certainty for rural water users in terms of water availability and cost of service.

The objects of the Water Act 2007 *to enable the Commonwealth, in conjunction with the Basin States, to manage the Basin water resources in the national interest*, already provides a level of harmonisation of regulation. The *Water Charge (Infrastructure) Rules 2009 (WCIR)* outline processes for pricing determinations to be overseen by the ACCC.

The difficulty for irrigators is that while these rules endeavour to ensure all jurisdictions apply the same principles to pricing, the rules are implemented differently in each jurisdiction. For example in NSW, the State Water Corporation pricing determination for Murray Darling Basin valleys is undertaken by the ACCC while the pricing determination for the operations of the NSW Office of Water, and State Water in non-MDB valleys, is conducted by the Independent Pricing and Regulatory Tribunal. In Victoria, water pricing determinations are conducted by the Essential Services Commission as an accredited agency under Part 9 of the WCIR.

Any further proposed ‘harmonisation’ must explain how systems would be improved overall and resultant benefits to water users.

National consistency of water reform sounds a desirable principle. However due to insufficient detail in the draft report recommendations to clearly set out case by case the benefits to be achieved through national consistency, it is difficult to provide useful comment on this. As the NIC has frequently argued, any move to remove duplication and reduce red tape resulting in lower input costs for irrigators, would be supported. Currently each state and territory operates within a customised system according their needs and within a different model of ownership. Importantly, this model enables a degree of flexibility where economic and environmental pressures on water resources vary from region to region across Australia.

The NIC would not support any change that resulted in loss of jurisdictional based determination and loss of local knowledge to manage local water resources in an effective and efficient manner and in line with the NIC principle that states: *Irrigators require a consistent national approach to water management subject to relevant geographical and hydrological characteristics.*

Key messages:

1. The NIC seeks clarification around why an intergovernmental agreement covering urban and rural water, with a focus on economic regulation of the sector and harmonization of state and territory regulations would represent:
 - less regulation and lower user costs for end users (both rural and urban)
 - an improved overall national water policy framework
 - better outcomes for the social and economic wellbeing of rural and regional communities
 - greater certainty for rural water users in terms of water availability and cost of

service.

2. The NIC questions how a consistent national framework in water reform will:
 - remove duplication, reduce red tape and result in lower input costs for irrigators.
3. The NIC cautions against a major move away from:
 - the current policy framework for Australia's water management and blueprint for water reform which could undermine certainty and risk a loss of confidence in the irrigated agriculture sector and the communities they support;
 - the current customized system of state and territory operation which enables a degree of flexibility where economic and environmental pressures on water resources vary from region to region across Australia.

Draft Recommendation 46: Access and pricing regulator functions

The following regulatory functions should be transferred from the ACCC and the NCC and be undertaken within a single national access and pricing regulator:

- *the powers given to the NCC and the ACCC under the National Access Regime;*
- *the powers given to the NCC under the National Gas Law;*
- *the functions undertaken by the Australian Energy Regulator under the National Electricity Law and the National Gas Law;*
- *the telecommunications access and pricing functions of the ACCC;*
- *price regulation and related advisory roles under the Water Act 2007 (Cth).*

Consumer protection and competition functions should remain with the ACCC.

The access and pricing regulator should be established with a view to it gaining further functions as other sectors are transferred to national regimes.

NIC comment: The NIC questions the proposal to move to a single national access and pricing regulator and why it is viewed current arrangements around access and pricing regulator functions for water are no longer sustainable. In this context it is important to make the distinction between the treatment of rural water versus urban water with regard to access and pricing in line with the following key tenets, for example:

- Rural water is a lower cost product; urban water attracts a higher cost and much higher demand;
- Rural water supplies are based on an 'ordering' system; urban customers are able to access water on demand;
- The rural customer is dependent on market prices and faces competition against international markets.

With the intention that consumer protection and competition functions should remain with the ACCC, we stress that consumer protection must remain paramount. Despite the existence of a national regulator, the Australian Energy Regulator (AER), there has been little regard for the impact of unsustainable electricity prices on consumers, and particularly in relation to the irrigation industry. As noted earlier in this submission, irrigators are faced with crippling electricity prices principally due to network costs which are determined through the AER process. As the body responsible for the economic regulation of the electricity transmission and distribution networks in the national electricity market, the AER determines the network component of electricity prices. The National Electricity Law and Rules set out the regulatory framework for electricity networks. Network businesses are required to apply to the AER to assess their

revenue requirements (usually every five years). The AER then sets a revenue recovery target at a level that is intended to guarantee a return on network costs.

Given the obvious flaw in the AER process, resulting in a lack of fairness for end users, the NIC questions the proposal to implement a national access and pricing regulator within the water market when a streamlined process has not been achieved in the electricity sector where pricing paths remain and state segregation continues. Similarly in the water market, water will continue to be regulated and controlled within state borders.

The NIC has recently provided a submission to the Australian Government Energy Green paper process and will in due course provide feedback to the current Senate inquiry into electricity costs.

Key message: The NIC seeks an explanation on why the proposed implementation of a national access and pricing regulator within the water market would deliver an improved system for all stakeholders when the electricity sector, under the umbrella of the AER has not to date delivered a fair and equitable system for end users.

Finally, the irrigation industry has been involved in significant change through the water reform process reflected in water rights, reform of water markets and water recovery for environmental flows. The industry has reached a point where it can have a level of certainty and stability within current policy frameworks. Any imposition of further regulatory changes on the industry would disrupt this process, undermine confidence and cause unnecessary community anxiety, particularly when it is unclear as to the overall benefits and when end users (ie irrigators) are so often called upon to pay for the cost of reforms.

The NIC appreciates the opportunity to make comment on the draft report during this phase of the review. Our members look forward to ongoing consultation as further detail becomes available on these particular draft recommendations.

Yours sincerely

Tom Chesson
Chief Executive Officer