



PARIS

English text only

**DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS
COMMITTEE ON COMPETITION LAW AND POLICY**

Working Party No. 2 on Competition and Regulation

COMPETITION IN THE NATURAL GAS INDUSTRY

-- Australia --

This note is submitted by the Delegation of Australia to the Working Party No. 2 FOR DISCUSSION at its next meeting on 23 February 2000.

87276

Document complet disponible sur OLIS dans son format d'origine
Complete document available on OLIS in its original format

COMPETITION IN THE NATURAL GAS INDUSTRY

Australia

Overview

1. The gas industry in Australia has developed on a State basis, with little or no interconnection between States to enable trade in gas. Competition between gas producers has been limited, with most major gas markets in Australia supplied by a single transmission pipeline connecting the market to a single basin. Each market has usually been supplied by a single retailer and distributor, and the supply basin has also typically been dominated by a single joint venture producer. The industry was therefore characterised by a monopoly structure in the production, transmission, distribution and retail stages of the network.

2. In the mid 1990s Commonwealth, State and Territory governments agreed to introduce reforms to increase competition in the natural gas industry. Regulatory and legislative barriers to inter-State trade in gas have been removed, and a uniform framework to govern third party access to natural gas pipelines has been introduced.

3. Key features of the access regime are a requirement for pipelines to provide non-discriminatory access to third parties on a fair and reasonable basis, and a requirement for contestable gas businesses (eg. retailing and production) to be separately owned from the monopoly pipeline transmission and distribution businesses. Access tariffs are required to be approved by a regulator, but pipelines and access seekers are able to negotiate other terms and conditions of access.

4. Competition is also being introduced in the retail sector with the progressive lowering of thresholds which enable gas customers to choose their gas supplier. Large industrial customers in most jurisdictions are currently able to choose their gas supplier, and small business and household customers in the majority of jurisdictions are scheduled to be able to choose their gas supplier by the end of 2001.

5. The new industry arrangements are expected to lead to increased investment in natural gas pipelines, so that consumers will increasingly be able to receive gas supplies from more than one production source.

National Context and Key Regulation

Objectives of Gas Industry Reform

6. As part of the microeconomic reform agenda designed to enhance the efficiency of the energy sector in Australia, in 1994 the Commonwealth, State and Territory governments made a commitment to achieve free and fair trade in natural gas. The commitment had three underlying objectives:

- to remove policy and regulatory impediments to retail competition in natural gas;
- to remove a number of restrictions on interstate trade; and
- to encourage the development of a nationally integrated and competitive natural gas market by establishing a national regulatory framework for third party access to natural gas pipeline systems, and facilitating the interconnection of pipeline systems.

7. The reforms have come some way since the early 1990s. Governments have removed regulatory and legislative impediments to inter-State trade in gas and in 1997, governments agreed to implement a uniform national regulatory framework to govern third party access to natural gas pipelines. The access regime consists of the *Gas Pipelines Access Law* and the *Gas Pipelines Access Code*. The access regime establishes a framework for third parties, such as gas retailers and end-users, to negotiate access to transmission and distribution gas pipelines on fair and reasonable terms and conditions. It aims to increase competition in the sale of natural gas by addressing bottlenecks in the non-contestable segments of the industry.

8. The *Gas Pipelines Access (South Australia) Act 1997* was enacted in South Australia and adopted in other jurisdictions through an application of laws, except in Western Australia which has enacted essentially identical legislation to apply the law. The legislation and gas code may be found at the following website: <http://www.coderegistrar.sa.gov.au/>. There are also a number of Commonwealth, State and Territory acts that govern safety and gas and petroleum exploration and production. Under the new market arrangements, consumers are able to contract directly with a service provider for the transportation of the gas.

9. Reforms in the gas industry have proceeded on a similar timetable to electricity industry reforms, although there are different timetables for gas and electricity retail contestability. Reforms in the gas and electricity industries gained momentum from recommendations of the Hilmer Committee on National Competition Policy in 1993. As part of their commitment in 1995 to implement National Competition Policy and the related reforms, State and Territory Governments agreed that progress in reforming the energy sector would be a condition for National Competition Payments from the Commonwealth Government.

Regulatory Institutions

10. Under the gas pipelines access regime, the Australian Competition and Consumer Commission (ACCC) is the regulator for all transmission pipelines except those in Western Australia, where a State-based regulator has been appointed for both transmission and distribution pipelines. The aim of having a common regulator for transmission pipelines is to provide maximum uniformity for regulation. Distribution pipelines are regulated by a local regulator in each jurisdiction, except for the Northern Territory where the ACCC is the distribution pipeline regulator.

11. Table 1 sets out the key regulatory institutions for gas pipelines in each jurisdiction, and indicates whether the regulator is headed by a Commission, Tribunal or a single person.

Table 1: Key Regulatory Institutions for Gas Pipelines

State or Territory	Regulator	Type of Regulator
Australian Capital Territory		
• Transmission pipelines	Australian Competition and Consumer Commission	Commission
• Distribution pipelines	Independent Pricing and Regulatory Commission	Commission
New South Wales		
• Transmission pipelines	Australian Competition and Consumer Commission	Commission
• Distribution pipelines	Independent Pricing and Regulatory Tribunal	Tribunal
Queensland		
• Transmission pipelines	Australian Competition and Consumer Commission	Commission
• Distribution pipelines	Queensland Competition Authority	Authority
South Australia		
• Transmission pipelines	Australian Competition and Consumer Commission	Commission
• Distribution pipelines	South Australian Independent Pricing and Access Regulator	Regulator
Northern Territory		
• Transmission pipelines	Australian Competition and Consumer Commission	Commission
• Distribution pipelines	Australian Competition and Consumer Commission	Commission
Western Australia		
• Transmission pipelines	Office of Gas Access Regulation	Regulator
• Distribution pipelines	Office of Gas Access Regulation	Regulator
Victoria		
• Transmission pipelines	Australian Competition and Consumer Commission	Commission
• Distribution pipelines	Office of the Regulator-General	Regulator-General

12. Under the gas pipelines access regime, regulators are responsible for considering and approving access arrangements submitted by service providers under the *Gas Pipelines Access Code*. Access arrangements set out the terms and conditions under which a pipeline operator/owner (service provider) will allow third parties to have access to a pipeline. Regulators may also arbitrate disputes relating to the terms and conditions of access.

13. State and Territory regulators may also have responsibilities for approving gas tariffs for customers who are not yet eligible to choose their gas supplier. Retail tariffs for customers who are eligible to choose their gas supplier are not regulated.

14. The ACCC is also the national competition regulator and is responsible for administering the provisions of the *Trade Practices Act 1974*, including competitive conduct provisions such as those governing mergers and anti-competitive agreements. Most State and Territory regulators have an ex-officio representative on the ACCC.

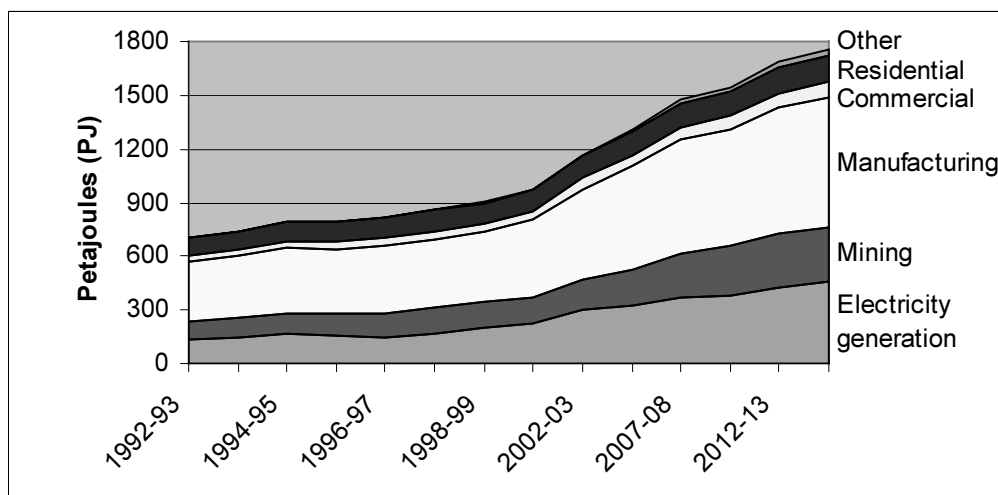
15. Regulators are required to be independent authorities established by statute. The independence of regulators (i.e. independence from governments and incumbent firms) is assessed by the National Competition Council as part of the process of approving each jurisdiction's access regime.

16. The Gas Reform Implementation Group, which comprised representatives of government, industry and regulators, was responsible for developing the gas reforms. Other key bodies are the National Gas Pipelines Advisory Committee and the Code Registrar. The National Gas Pipelines Advisory Committee monitors the *Gas Pipeline Access Law* (including the Code) and prepares advice and recommendations to Ministers on amendments to the law and the Code. The Code Registrar has a number of functions, including maintaining an up-to-date version of the *Gas Pipelines Access Code*, a public register of access arrangements submitted under the code, and the decisions of regulators and arbitrators. Membership of the National Gas Pipelines Advisory Committee includes an independent Chair, the Code Registrar and representatives from government, regulators and the industry.

Key Features of the Demand for Gas

17. The domestic natural gas industry makes a significant contribution to the Australian economy, providing a fuel source for industry, electricity generation, transport, commerce and households. It is also a major source of feedstock for some industries.

Chart 1: Natural Gas Consumption, by sector¹



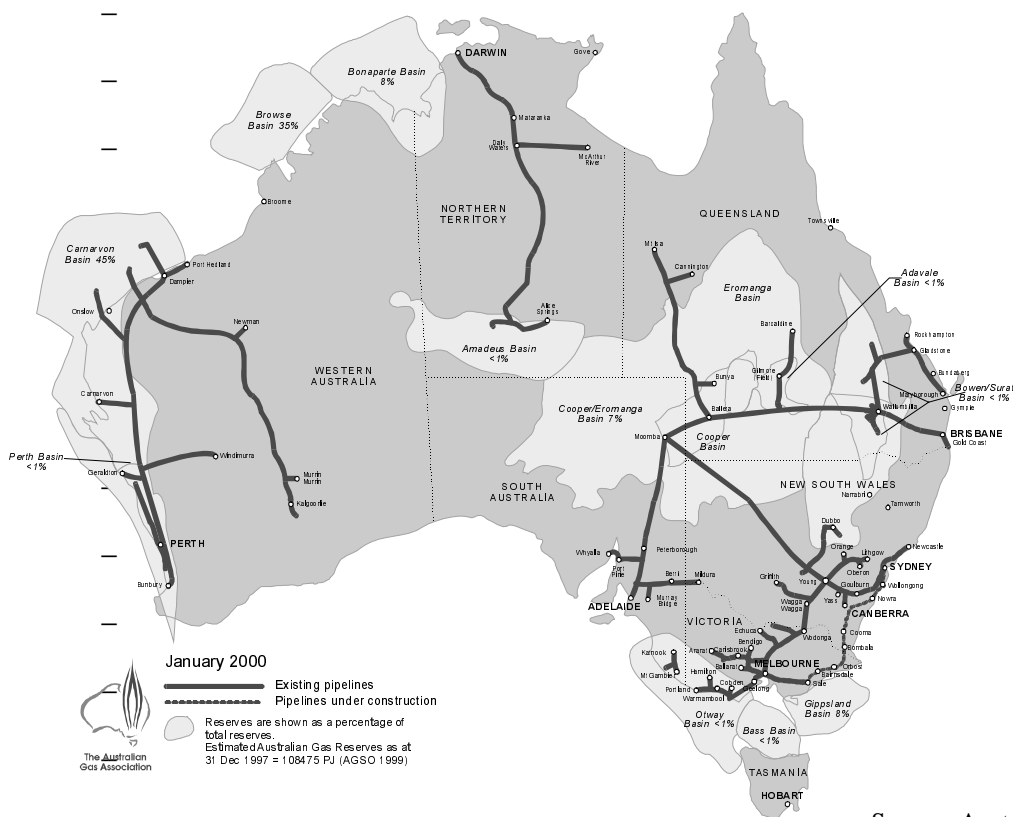
18. As Chart 1 illustrates, the manufacturing sector is the main consumer of natural gas in Australia, accounting for 44 per cent of gas consumption in 1997-98. Electricity generation currently accounts for 20 per cent of natural gas consumption, although gas consumption in the electricity generation and mining sectors is projected to increase significantly.

19. Hot water, space heating and temperature control for commercial and industrial applications are the main uses where consumers may substitute gas for other fuel sources (such as diesel, coal and electricity). Switching from one fuel source to another usually involves changes to, or the replacement of, machinery using the energy source. The extent of price competition between gas and other fuels is therefore affected by the cost of switching to alternative fuel sources. There may also be a lag in responding to price changes.

Key Features of the Supply of Gas: Market Structure

20. The map below illustrates Australia’s existing transmission pipelines and natural gas reserves.

Figure 1: Australia’s Natural Gas Basins and Pipelines



Source: Australian Gas Association

21. As indicated in Figure 1 above, most major markets in Australia are served by one major pipeline connecting a single basin to a market. Within that basin, a single joint venture (or unitised joint ventures) has generally supplied the gas to a single distributor/retailer.

22. This situation arose for a number of reasons, including:

- the concentration of gas supplies, generally at a significant distance from major population centres;
- the relative immaturity of the market (the natural gas industry in Australia did not begin to develop until the 1960s); and
- a desire by State and Territory governments to ensure that sufficient gas supplies were available to service their energy needs.

Separation and Unbundling

23. The national gas pipelines access regime requires contestable gas businesses (eg. retailing and production) to be separately owned from the monopoly pipeline transmission and distribution businesses. This includes a requirement to have separate accounts, marketing staff and customer information for each

business. Where a pipeline has a related gas production or retailing business, the business must be a separate legal entity. In addition, contracts between related businesses must be approved by the regulator, with a decision by the regulator not to approve a contract between related businesses subject to administrative appeal.

24. These ring-fencing arrangements aim to ensure that related businesses cannot gain preferential treatment at the expense of other market participants. The regulator may vary these arrangements on a case-by-case basis, either by imposing additional obligations or by waiving certain obligations. Any decision by the regulator to vary the arrangements is subject to appeal.

25. Transmission and distribution pipelines are also expected to unbundle pipeline services where reasonable and practical, so that prospective access seekers can obtain a service that includes only those elements that the user wishes to be included in the service. Where unbundling occurs, pipelines should also charge a separate tariff for each element of a service.

Production

26. The aim of the gas pipelines access regime is to ensure that the owner of the facility will make access to the facility available to other firms on reasonable terms in order to allow the benefits of upstream and downstream competition to be passed onto end users. However, competition has been, and continues to be, limited in the upstream gas production sector in Australia.

27. As Table 2 below illustrates, the main gas production basins supplying Australia are the Carnarvon Basin which supplies gas to Western Australia, the Cooper/Eromanga Basin, which supplies South Australia, Queensland and New South Wales, and the Gippsland Basin, which supplies gas to Victoria.

28. There is a relatively high level of cross-ownership between joint ventures within each basin and across basins. Santos, for example, has a significant interest in the South Australian Cooper Basin Unit joint venture and the South West Queensland Cooper Basin Unit joint venture. Esso holds interests in both these joint ventures and a fifty per cent interest in the Gippsland Basin. While Western Australia has a larger number of actual and potential gas production joint ventures, a degree of common ownership exists between these projects, particularly between those projects capable of supplying gas to larger industrial users.

Table 2: Gas Field/Basin Production and Licence Ownership, 1998²

Field/Basin	Main market(s)	Production Sales Gas mmcf (1997)	Santos %	Esso %	BHPP %	Boral %	Others %
<i>Cooper/Eromanga</i>	Qld, SA, NSW	191,933					
SA Cooper Basin			59.75*	20.21	-	13.19	6.85
Patchawarra East			69.35*	17.14	-	10.54	2.97
SWQ JV Unit			58.86*	23.2	-	16.74	1.2
<i>Surat/Bowen</i>	Qld						
Denison Trough		12,202	50*	-	-	50	-
Kincora		3,499	-	-	-	100*	-
Moonie		36	100*	-	-	-	-
Roma		2,324	85*	-	-	-	15
Silver Springs		3,574	50*	-	-	-	50
<i>Gippsland Longford Otway</i>	Victoria	175,557	-	50*	50	-	-
Port Campbell	Victoria	2,795	-	-	-	100*	-
Katnook, Ladbroke, Haselgrove	SA	2,208	-	-	-	55.71*	44.29
<i>Amadeus</i>	NT						
Palm Valley		7,586	46.72	-	-	1.25	52.03*
Mereenie 4& 5		8,891	65*	-	-	-	35
<i>Adavale Gilmore</i>	Qld	1,806	-	-	-	-	100*
<i>Perth</i>	WA						
Beharra Springs		10,691	-	-	-	67*	33
Dongara		3,272	-	-	-	-	100*
Woodada		1,239	-	-	-	-	100*
<i>Carnarvon</i>	WA						
Griffin		5,590	-	-	45*	-	55
NW Shelf JV		135,613	-	-	16.67	-	83.35*
Tanami		1,185	-	-	-	-	100
Tubridgi		7,085	-	-	-	56.65*	43.35
East Spar JV		7,707	45	-	-	-	55*
Harriet JV/Rosette		25,915	-	-	-	-	100*
Thevenard Is.		363	-	-	-	-	100*

* Operator of field/basin.

29. The Upstream Issues Working Group (UIWG) presented a report to Australian governments in December 1998 on the implications of current approaches to gas exploration and production on downstream competition. The focus of the report was to ensure that the benefits of reforms in the pipeline and retail sectors of the industry are not eroded by a lack of competition in the upstream gas sector (i.e. exploration and production). The report recommended:

- that reforms be undertaken in relation to acreage management policies;
- that industry and jurisdictions develop best practice principles for third party access to gas production facilities; and

- that the existing authorisation provisions in the *Trade Practices Act 1974* be maintained for approving joint marketing activities, but that separate marketing of gas by participants in joint ventures should be encouraged whenever and as soon as this is feasible.

30. The UIWG recommendations relating to acreage management are largely being addressed by jurisdictions in the context of reviews of their petroleum legislation. The upstream petroleum industry has developed principles for its members to apply in commercial negotiation of access to spare capacity at upstream facilities. The upstream industry principles did not include a number of key features (cost reflective pricing, arbitration or mediation) which most jurisdictions and other industry groups had been calling for. Accordingly, Commonwealth, State and Territory Energy Ministers, at their meeting in August 1999, noted the industry principles, but did not endorse them, and agreed that their effectiveness in improving competition in the upstream sector should be reviewed in two years.

31. At present no natural gas is imported into Australia. However, there are plans to build a natural gas pipeline from Papua New Guinea to Queensland. If the pipeline proceeds, it will provide an alternative source of supply and should promote supply competition in the Australian gas market.

32. No end-user customers are currently supplied directly by gas production firms without passing through the transmission or distribution network. Most natural gas production facilities are located a long way from customers and therefore have to go through at the least the transmission network to supply customers.

Transmission

33. A number of firms operate transmission pipelines in Australia. The key pipelines, and their operators, are listed in Table 3 below.

Table 3: Major transmission pipelines

State	Pipeline location/route	Operator	Length (km)
<i>Queensland</i>	Wallumbilla to Brisbane	AGL Pipelines Ltd	434
	Ballera to Wallumbilla	Epic Energy Pty Ltd	750
	Wallumbilla to Rockhampton	Duke Energy International	627
	Ballera to Mt Isa	AGL Pipelines Ltd	840
<i>New South Wales & ACT</i>	Moomba to Sydney	East Australian Pipelines Ltd	1,950
<i>Victoria</i>	Rural Eastern	GPU GasNet Pty Ltd	505
	Rural Central Northern	“	497
	Rural Central	“	388
	Rural Western	“	231
<i>South Australia</i>	Moomba to Adelaide	Epic Energy Pty Ltd	1,067
<i>Northern Territory</i>	Amadeus Basin to Darwin	AGL Pipelines Ltd	1,815
<i>Western Australia</i>	Dongara to Pinjarra	CMS Gas Transmission of Australia	445
	Dampier to Bunbury	Epic Energy Pty Ltd	1,803
	Goldfields Gas Pipeline	AGL Pipelines Ltd	1,427

34. In most instances, competition between transmission pipelines is limited. This is partly attributable to the long distance between customers and most gas sources, which makes it uneconomic to duplicate pipelines.

35. However, there is now the potential for some competition between pipelines and gas sources following the recent and proposed expansion of the network in eastern Australia. For example, the Victorian and New South Wales transmission systems were interconnected in 1998, which has provided an additional source of gas supply to the Victorian market (as most gas currently flows south into Victoria over the Interconnect pipeline). A transmission pipeline is currently under construction from the Victorian gas production plant at Longford to Sydney that will enable Gippsland Basin gas to be sold directly into the Sydney market. The pipeline is expected to promote competition between the Cooper Basin and Gippsland Basin gas producers, and with the Moomba-Sydney transmission pipeline.

36. At present, only a relatively small number of gas consumers are supplied directly off high-pressure transmission pipelines (i.e. without passing through a retail distribution network).

Distribution and Retailing

37. As noted above, ring fencing requirements under the *Gas Pipelines Access Code* require distribution activities to be separate from retail businesses.

38. The major distribution and retailing companies in each region are set out in Table 4. There are also a number of smaller distributors and retailers, which generally supply smaller markets in regional areas.

Table 4: Major Distributors and Retailers

Region	Distributor(s)	Retailer(s)
<i>Victoria</i>	Multinet Energy Pty Ltd Westar (Gas) Pty Ltd Stratus (Gas) Pty Ltd	Kinetik Energy Pty Ltd Boral Energy Pty Ltd Energy Partnership (Retail) Pty Ltd
<i>New South Wales & Australian Capital Territory</i>	AGL Gas Networks	AGL Retail
<i>Queensland</i>		
• South Brisbane, Gold Coast, Toowoomba & Oakey	Allgas Energy	Allgas Energy
• North Brisbane, Ipswich, Gladstone, Rockhampton	Envestra/Boral Energy Ltd	Envestra/Boral Energy Ltd
<i>Northern Territory</i>		
• Alice Springs	Centre Gas	Centre Gas
• Darwin	NT Gas Pty Ltd	NT Gas Pty Ltd
<i>Western Australia</i>	AlintaGas	AlintaGas
<i>South Australia</i>	Envestra Ltd	Boral Energy Terra Gas Trader

39. Owing to the natural monopoly nature of gas distribution pipeline systems, most distributors have a local or State-wide monopoly over distribution. In recent years, the number of gas retailers has increased, in part due to government initiatives. For example, prior to the privatisation of the Victorian gas businesses, the incumbent retail/distribution company was separated into 3 retail and 3 distribution companies. Each gas distributor was commercially stapled to a gas retailer, and services another retailer as well.

40. Distribution pipelines are generally separately owned from transmission pipelines, although in the case of the Northern Territory the key distribution and transmission pipelines are operated by the same company. Some distribution companies have an interest in transmission pipelines – for example, the New South Wales and ACT gas distributor AGL has a majority shareholding in EAPL, which operates the Moomba to Sydney gas transmission pipeline.

41. Gas retailers may provide a range of services, including connections for natural gas and electricity, energy audits for businesses and appliance repair and maintenance. Some retailers also have an interest in gas appliance sales and installation.

Ownership

42. With the exception of AlintaGas in Western Australia, Allgas Energy in Queensland, Terra Gas Trader in South Australia, and the Power and Water Authority in the Northern Territory, all the major gas companies in Australia are privately owned. Allgas Energy is owned by Energex, a State Government owned electricity distributor/retailer. The Power and Water Authority is primarily an electricity business, but owns a gas pipeline on behalf of the Northern Territory Government. Terra Gas Trader and AlintaGas are expected to be privatised in the near future.

43. The state-owned gas firms operate as corporatised entities, with governments setting key financial and non-financial performance targets. Allgas Energy, Terra Gas Trader and AlintaGas are registered corporations, and are required to comply with Corporations Law provisions in the same manner as any privately-owned company.

44. Many gas companies in Australian are foreign-owned. For example, apart from those pipelines owned by AGL, all major transmission pipelines are owned by foreign companies. Foreign-owned companies are also prevalent in gas production (eg. Esso, Chevron and Shell).

Multi-Utilities

45. In recent years, gas distributors and retailers have expanded their range of business activities. For example, AGL is an electricity and gas retailer and Boral Energy has an interest in electricity retailing as well as gas production, transmission, distribution and retailing. At this stage, no gas companies provide water, telecommunications or cable television services, but many companies are actively considering expanding the range of services they provide. No gas producers are currently directly involved in the market for electricity generation.

Key Features of the Regulatory Regime

Entry Regulation

46. As noted above, ring-fencing requirements in the national gas pipelines access regime require businesses engaging in gas retailing or production to be separately incorporated from gas transmission and distribution businesses.

Production

47. There are no regulations/restrictions on competition between gas production sources, or on gas importation or re-gassification of Liquefied Natural Gas. However, licensing requirements may apply. For example, potential gas producers need to successfully bid for exploration permits and production licences.

Transmission and distribution

48. There are no regulations/restrictions on competition between transmission pipelines. In fact, investment in transmission pipelines has increased in recent years, with the result that consumers in some jurisdictions are now able to receive gas supplies from more than one production source and via more than one transmission pipeline.

49. Transmission and distribution pipelines in most jurisdictions that wish to transport gas must obtain an authorisation from the relevant jurisdiction. Firms wishing to construct a pipeline for the direct supply of large gas customers may be required to comply with standard licensing and environmental approval processes, but apart from these there are no general restrictions on pipeline construction. Transmission firms are also allowed to be integrated into gas distribution, although most such businesses are separately owned.

Storage

50. Competition in gas storage is permitted, although linepack accounts for the bulk of existing storage. Underground gas storage facilities have been recently developed in Victoria. It is envisaged that these storage facilities will be used to supplement the supply of gas during periods of high seasonal demand, and enable gas suppliers to balance loads when supply and demand imbalances occur. Some underground storage facilities also exist in the Cooper Basin in South Australia. LNG storage may also be used to supplement gas supplies and is used for peak shaving on the Victorian transmission system.

Retail

51. In the retail sector, competition is being introduced with the gradual phasing out of restrictions on the ability of customers to choose their gas supplier. While the timetable for phasing out these restrictions varies between jurisdictions, large industrial customers in most jurisdictions are currently able to choose their gas supplier. All customers are scheduled to be able to choose their gas supplier (i.e. become contestable) in New South Wales and the Australian Capital Territory by July 2000, in South Australia by July 2001, and in Victoria and Queensland by September 2001. Most gas customers in Western Australia are expected to be able to choose their gas supplier by July 2002.

52. At present gas retailers are generally required to obtain authorisation from the relevant jurisdiction to supply gas. Governments have agreed to phase out or reform any exclusive franchise arrangements, with the exception of a regional franchise arrangement in Western Australia that is expected to expire in February 2008. Future exclusive franchises for gas retailers and distributors will only be granted if the applicants meet strict criteria.

53. Following reforms in the Victorian gas industry, the government has imposed restrictions on the retailing activities of the dominant gas producers in that state. These provisions aim to promote competition in the retail gas market and limit the incumbent producer's market power by restricting the gas producers to selling gas to the largest 35 gas customers in the state.

Access Regulation

Transmission and distribution

54. The gas pipelines access regime, which incorporates the *Gas Pipelines Access Code*, establishes the rights and obligations of service providers and users in relation to third party access to natural gas transmission and distribution. It is designed to promote competitive market outcomes where there are pipeline facilities with natural monopoly characteristics serving a market.

55. The access regime applies to most transmission and distribution pipelines, and requires service providers to submit an “access arrangement” for approval to the relevant regulator. The access arrangement sets out the proposed terms and conditions of access, including reference tariffs for the maximum price to access the services provided by a pipeline. The terms and conditions approved by the regulator will apply in the event of an access dispute that requires third party arbitration. Parties are free to commercially negotiate other terms and conditions for access to a pipeline.

56. When submitting an access arrangement, service providers are also required to provide information covering factors such as capital and operations and maintenance costs, and pipeline capacities. This information may be publicly disclosed, at the discretion of the regulator. The terms and conditions of access approved by a regulator, including reference tariffs, will be made publicly available. However, if a third party negotiates access to a pipeline on other terms and conditions, these details may be kept confidential.

57. The *Gas Pipelines Access Code* also makes provision for interconnection between pipelines, by providing a right for third parties to interconnect with a distribution or transmission pipeline. In addition, a regulator may require a service provider to expand the capacity of a pipeline to meet the requirements of a prospective user.

58. As some pipelines have only limited spare capacity, as part of their access arrangement pipelines are required to submit a queuing policy for the regulator’s approval. The queuing policy sets out rules for allocating spare and future capacity in the pipeline in a non-discriminatory fashion. This may include provisions for allocating capacity at peak and non-peak times, if applicable. Parties who have a contracted right to pipeline capacity may also trade their unused contracted capacity to other parties. The service provider may only withhold consent to transfer capacity on reasonable commercial or technical grounds.

59. The *Gas Pipelines Access Law* also contains provisions that prohibit service providers or users and their affiliates from engaging in conduct for the purpose of hindering access to a transmission or distribution pipeline.

Market carriage

60. In Victoria, a market carriage system applies to the main transmission pipeline system, with no requirement for retailers to contract for specific capacity over pipelines between points of injection and delivery. Instead, users of the pipeline system have a right to vary the amount of capacity on the system that they utilise, with charges based on capacity and volume usage. A net pool has been established to determine market clearing prices and help resolve physical constraints. Gas storage facilities may bid to inject or withdraw gas like any other participant. If the system operator, VENCORP, has to intervene to resolve congestion, system users may be liable to pay an ‘uplift’ charge. The uplift charge reflects the cost to VENCORP of resolving the constraint, such as by requiring LNG to be injected into the system.

Production facilities

61. Gas producers are not required under the *Gas Pipelines Access Code* to grant third-party access to their gathering lines and production facilities. However, the Upstream Issues Working Group, which reported to Commonwealth, State and Territory governments in December 1998, recommended that industry and jurisdictions develop best practice principles for access to gas production facilities. The upstream petroleum industry has developed principles for the commercial negotiation of access to spare capacity at upstream facilities and has requested its members to apply them. However, the principles did not include a number of key features called for by most jurisdictions and other industry groups (eg. cost reflective pricing, arbitration or mediation). Accordingly, Commonwealth, State and Territory Ministers agreed that the effectiveness of the principles in improving competition in the upstream sector should be reviewed in 2001.

Price regulation

Retail prices

62. The gas reforms introduced from the mid 1990s aim to promote competition at all stages of the industry – from production to gas transportation and retailing. As restrictions on competition are still being phased out, some elements of the industry are still subject to price regulation. For example, the prices paid by retail customers who are not eligible to choose their gas supplier are regulated by jurisdictional regulators or relevant government ministers. Such regulation will be removed, or in some cases reviewed, when all customers are eligible to choose their gas supplier.

63. In most jurisdictions, retail gas prices are subject to CPI-X based incentive regulation. The price cap sets a maximum final delivered gas price, which may reflect the commodity price of gas and haulage costs plus a margin for retailers. Gas retailers are provided with some flexibility to adjust components of the tariff within the price cap, although in some jurisdictions the regulator's approval must be obtained before increasing fixed supply or minimum bill charges. Some jurisdictions also require that customers pay a uniform charge throughout or in most parts of a state. Gas retailers are not required to charge different prices for peak and off-peak times, or for different end-uses.

Transmission and distribution prices

64. Prices for transmission and distribution are regulated in the sense that pipelines are required to obtain regulatory approval for reference tariffs that establish the maximum price for services provided by a pipeline. If a pipeline provides more than one reference service, it must submit a proposed reference tariff for each service.

65. The principles to be used in setting reference tariffs are set out in the *Gas Pipelines Access Code*. The principles provide regulators with a high level of discretion and flexibility to take into account pipeline-specific circumstances. The key requirement is that reference tariffs should be based on the efficient costs (direct and indirect) of providing pipeline services. Regulators have some discretion to determine which costs may be passed on to customers. For example, if the pipeline's proposed operation and maintenance costs are judged to be excessive compared to industry benchmarks, the regulator may require that only a portion of these costs be reflected in the reference tariff. Incentives for the service provider to share in productivity improvements are also encouraged.

66. There are three alternative methodologies that may be used, or a combination of these, in determining total revenue, and hence the reference tariffs, for a pipeline – a cost of service approach, internal rate of return, or a net present value approach.

67. Regulators also have some flexibility in relation to asset valuation and depreciation. A full spectrum of methodologies, including past asset valuations and tariffs, may be used by a regulator to assess the initial capital value of an asset. It is expected that the initial capital value of an existing pipeline would normally not be below depreciated historic cost and not be above the depreciated optimised replacement cost. Redundant assets are also to be written out of the cost base, to encourage service provider to be efficient and to seek to expand the market.

68. There is no requirement for access prices to vary according to peak and off-peak periods, although service providers may propose this as part of their access arrangement if desired. As noted above, the terms and conditions of access approved by a regulator, including reference tariffs, will be made publicly available.

69. Regulators also have some discretion to determine whether reference tariffs should be distance-based, or apply a single price for an entire zone. For example, a single zonal price may be considered appropriate for a new pipeline in order to generate sufficient demand across a region for the services provided by the gas pipeline.

70. Reference tariffs are typically for “firm” supply of gas. In Victoria, where a market carriage system applies, pipeline users do not receive a contractual right to capacity. However, pipeline users may be offered a choice as to whether they are interruptible or non-interruptible customers, with charges based on the type of service provided.

71. The *Gas Pipelines Access Code* does not specifically require regulators to ensure that quality of service standards are maintained. However, service providers are required to provide information on Key Performance Indicators to justify ‘reasonably incurred’ costs and to provide comparative information on performance with other pipelines.

72. There are also some constraints on the ability of firms to price discriminate. For example, while access seekers can negotiate access prices at a rate less than the reference tariff, pipelines may only recover these discounts through higher reference tariffs on other users if the regulator approves them as prudent discounts.

Production

73. The gas production sector is not subject to price regulation. Although the limited competition between gas producers is of concern, policy action in this area has been aimed at addressing the causes of limited upstream gas competition, rather than applying a regulatory solution to counteract its effects.

74. Although the production sector is not price regulated, Victoria has introduced legislation to prevent significant Victorian gas producers from misusing their market power, particularly in a manner that prevents or discourages gas retailers from seeking alternative sources of gas. A competition rule prohibits the dominant producers from discriminating among gas retailers in a manner that has the purpose, or has or is likely to have the effect, of substantially lessening competition in a Victorian gas market.

Non-commercial Service Obligations

75. Some jurisdictions impose a requirement on retailers to provide non-commercial service obligations.

76. For example, in New South Wales the Government requires retailers to provide discounts to pensioners holding pensioner concession cards. The amount of these concessions is approximately \$3.50 a person per quarter. The Government has a legislative requirement to fund these rebates, but has deferred

this obligation until all gas customers are eligible to choose their gas supplier. The cost is therefore currently paid by the existing gas retailers through internal cross-subsidisation.

77. In Victoria, the Government requires gas utilities to provide a 17.5 per cent Winter Energy Concession and an Energy Relief Grant Scheme. These non-commercial service obligations are funded from the State budget. New entrants are also subject to these obligations.

Trade and Investment Issues

Trade

78. International trade in gas is currently limited to exports of LNG. LNG exports are expected to rise slightly to 7.9 megatonnes in 1999-2000, valued at \$1.66 billion. There are no restrictions on trade in LNG.

79. At present, Australia has no gas pipeline links with other countries. However, a proposal to construct a natural gas pipeline to import gas from Papua New Guinea to Queensland is well advanced.

Foreign investment

80. The Australian Government's approach is to encourage foreign investment consistent with the interests of the community. Overall, the general stance of Australia's foreign investment policy is welcoming, in recognition of the contribution that foreign investment has made and continues to make to the development of Australia.

81. The natural gas industry is subject to the general foreign investment rules that apply to most sectors of the economy. In brief, all investment proposals by foreign interests in the natural gas industry above certain thresholds need prior approval and therefore need to be notified to the Government. The general notification threshold for either a direct acquisition of a substantial interest in an existing Australian business or for an offshore takeover is \$50 million, while the notification threshold for the establishment of a new business is \$10 million.

82. The ultimate objective of Australia's foreign investment screening system is to encourage foreign investment while allowing the Australian Government to determine whether foreign investment is or is not contrary to Australia's national interest. This is done by implementing the 'national interest test' (i.e. a negative test rather than a prescriptive test to a list of criteria, whereby the onus is on the Australian authorities to have reason to reject a proposal, rather than on the investor to show benefits to Australia resulting from a proposal). Through the national interest test, the foreign investment screening process is applied on a non-discriminatory basis as to the source economy of investment funds. Very few proposals are rejected using this test.

Miscellaneous Issues

Existing contractual rights

83. In reaching agreement on reforms to the gas industry, it was acknowledged that existing contracts would merit some protection. Accordingly, the *Gas Pipelines Access Code* provides that a regulator must not make a decision that would impede the existing rights of a user to obtain services, or deprive any person of a contractual right that existed prior to the submission of an access arrangement or the notification of a dispute, other than an exclusivity right which arose on or after 30 March 1995. An exclusivity right is a contractual right that expressly prevents or limits a service provider from supplying services to certain parties.

Environmental issues

84. Reforms to the natural gas industry have not been made with specific environmental objectives in mind. However, as energy market reform proceeds towards full implementation, it is envisaged that natural gas will increasingly be used as an alternative to other fossil fuels for electricity generation and energy supplies, resulting in a significant reduction in greenhouse gas emissions.

85. Existing fuel taxes reflect a preference for fuel sources that are a lower source of greenhouse gas emissions and other pollutants. For example, natural gas and liquefied petroleum gas (LPG) are currently not subject to excise. Excise duty applies to refined petroleum products and certain crude oil and petroleum condensate used as fuel substitutes, as well as stabilised crude petroleum oil and condensate produced from onshore and some offshore projects.

86. The major excisable refined products include gasoline (leaded and unleaded petrol and aviation gasoline), diesel fuel, kerosene (including aviation turbine kerosene), and fuel and heating oil. The rates of excise applicable are based on intended end use. The highest rates are imposed on on-road transport fuels such as gasoline and automotive diesel fuel. Concessional rates apply to products used for non-transport fuel use – for example, heating oils, kerosene and fuel oils.

Long-term contracts

87. From the time of the development of the natural gas industry in Australia, the majority of gas produced has been supplied under long-term contracts that commonly included take-or-pay and annual contract quantities commitments. Although the duration of contracts has varied, contracts negotiated in the early stages of the market were typically for terms of 20 years and in some cases 30 years. At that time, the justification for these terms was the buyer's and seller's need to underwrite significant up-front capital expenditure and the buyer's need for security of supply.

88. However, as the market in Australia has developed, this justification has become less relevant and in some cases long term contracts have instead become regarded as a barrier to entry for other producers. While the term of gas supply contracts has tended to become shorter, a large proportion of current contracts are typically for terms of 10-15 years. The predominance of long-term contracts is not expected to lessen until parties are able to source gas from different suppliers with varying terms and conditions. This has been demonstrated in Western Australia where, given the greater number of competing production joint ventures than elsewhere in Australia, some larger gas users are now adopting a portfolio approach to gas supply contracts with a combination of long term, medium term and shorter term supply contracts.

89. There are indications that producers in eastern Australia are now encountering indirect competition between basins as the major long-term contracts wind down. Furthermore, recent interconnection of transmission pipelines of the Victorian and New South Wales markets, the impending entry of the Eastern Gas Pipeline from Victoria to New South Wales and several proposals to source gas externally to Australia, are likely to bring competitive pressure on the producers and impact on contract terms.

90. A transition to separate marketing by production joint venture members in the future is also considered likely to result in varying contract terms and conditions given the expected differences in incentives between firms within the joint venture. While no separate marketing currently takes place in Australia, due in part to the relative immaturity of the market, this is expected to change as the market moves from a project-based market to a commodity market.

Spot and futures market trade in gas

91. The proportion of gas traded on the spot or future market in Australia is currently negligible. Victoria is the only State in Australia to have introduced a wholesale gas spot market. The market is still in its infancy, with trading activities accounting for a small proportion of the market. For example, spot trading accounted for between 3 and 8 per cent of total Victorian gas demand monthly during the period August to December 1999.

Key Competition Issues

Application of and enforcement of Competition law

92. In addition to its role as regulator for gas transmission pipelines, the ACCC is responsible for administering and enforcing the national competition and consumer protection laws enacted in the *Trade Practices Act 1974* (TPA). The administration of regulatory functions and competition law functions within the one organisation in Australia is unique. By contrast, a large proportion of countries have separate institutions administering the regulatory functions and general competition law.

93. Broadly speaking, Part IV of the TPA prohibits a range of anti-competitive conduct including:

- Anti-competitive agreements and exclusionary provisions (s.45) which relate to, for example, market sharing and price fixing;
- Misuse of market power (s.46). If a business has market power it is prohibited from taking advantage of that power for the purpose of eliminating or damaging a competitor, or preventing the entry of a person into any market;
- Exclusive dealing (s. 47). Section 47 prohibits anti-competitive exclusive dealing that has the purpose or effect of substantially lessening competition in a relevant market;
- Resale price maintenance (s. 48);
- Mergers that have the effect of substantially lessening competition in a substantial market for goods or services (s.50).

94. Conduct that may substantially lessen competition under the TPA may be granted authorisation under the TPA, which is a mechanism that provides immunity from legal proceedings for certain arrangements or conduct that may otherwise contravene the Act.

95. Authorisation may be granted on the grounds of prevailing public benefit. The ACCC must be satisfied that the arrangement results in a benefit to the public that outweighs any anti-competitive effect; or that the conduct results in such a net benefit to the public that the conduct should be allowed to occur. Decisions made by the ACCC in relation to authorisations can be appealed to the Australian Competition Tribunal.

96. For example, conditional authorisation was granted for the participants in the North West Shelf Project to discuss and agree on common prices, terms and conditions for the sale of natural gas made available from the proposed expansion of the Project to domestic customers. The parties were also conditionally authorised to coordinate their method of marketing and selling gas. This authorisation was granted for a seven year period on the basis that the public benefits likely to result from the expansion would outweigh the anti-competitive effects.

97. In addition, in limited circumstances statutory exemptions for certain prohibited conduct is available under section 51(1) of the TPA. Prior to 1995, section 51(1) enabled the Commonwealth, the States and Territories to exempt conduct in areas otherwise subject to the TPA. Since then, statutory exemptions have continued to be available, but only where the legislation or regulation expressly refers to the TPA.

Market Definition Issues

98. In the Australian gas industry, the most recent court consideration of market definition was by the Australian Competition Tribunal in 1997.³ This matter was in the context of the Tribunal's review of the ACCC's determination revoking authorisation of the Australian Gas Light Company's gas supply arrangements from the Cooper Basin to New South Wales.

Product Market

99. The Tribunal stated that the natural gas market extends at the margin to encompass, at times, alternative and complementary energy sources, principally electricity. It also found that there were three product markets of relevance to the application, namely natural gas, and the services of transmission and reticulation (distribution).

100. The Tribunal also considered that the content of the product market was expanding over time. The Tribunal stated:

So far as the natural gas market is concerned, the main factor is the relationship with electricity which has become much more important. In today's market, gas and electricity may be substitute fuels in industrial, commercial and domestic uses, and they are complements in co-generation.⁴

101. However, the Tribunal recognised that in industrial applications, gas is the fuel of choice. The Tribunal stated:

Statements from several industrial users as to the logic of their continuing choice among alternative fuels, and from environmental authorities as to their attitudes and practices in the regulation of industrial emissions and wastes, satisfy the Tribunal that (unless the supply of natural gas somehow becomes unreliable or the costs of gas use relative to alternative fuels become highly disadvantageous) natural gas will be increasingly entrenched in the market as the industrial fuel of choice in NSW.⁵

102. In a recent decision, the ACCC⁶ stated that competition between gas and electricity is more common in the domestic and commercial segments than in the industrial segment. While gas and electricity may be considered substitutes in a commercial or domestic environment in the sense that they can be put to the same use, for example, heating, this is not necessarily the case for large industrial users.

Geographic Market

103. The Tribunal considered that the geographic scope of these markets was expanding over time, from New South Wales in 1986 to south east Australia (New South Wales, Victoria, South Australia and Southern Queensland). In the Tribunal's view⁷, the 'future market' would be Australia-wide, including off-shore sources of gas in Western Australia and the Northern Territory, and also Papua New Guinea.

104. The Tribunal concluded that just as the scope of the markets is expanding, so the market structures are evolving from monopoly to at least 'contestability' in present-day markets and possibly to full workable or effective competition in the markets of the future.

Other Factors

105. In view of the anticipated increase in competition between firms operating in the markets for gas and for electricity in the future, convergence between utilities is likely to become an increasingly significant issue in the ACCC's assessment of market definition in relevant markets.

Abuse of Dominance

106. The ACCC has considered a limited number of cases of alleged abuse of dominance in the natural gas sector since the introduction of the regulatory regimes from 1997. Of those considered, none of the matters progressed to court either because the conduct ceased or a settlement was reached with the ACCC.

107. An overview of one of these matters and of the outcome is presented below.

AlintaGas/EPIC

In February 1998 the ACCC advised Gas Corporation (trading as AlintaGas) that it believed that the agreement between AlintaGas and Epic Energy Pty Ltd for the haulage of gas to the An Feng Kingstream Steel Project near Geraldton in Western Australia was anti-competitive.

In the ACCC's view, the agreement for haulage services involved the misuse of market power by AlintaGas for an anti-competitive purpose. It concluded that AlintaGas had, by virtue of its then ownership and operation of the Dampier-Bunbury Natural Gas Pipeline (DBNGP), which is the only gas pipeline connecting the south west of Western Australia with the North West Shelf gas fields, a substantial degree of market power for the haulage of gas.

The ACCC formed the view that AlintaGas misused its market power by offering access to the DBNGP to Epic, under the agreement, on uncommercial terms and made for the purpose of preventing the entry of a second competing pipeline to the market.

The ACCC advised the parties that it believed that such conduct was at risk of contravening sections 45 and 46 of the TPA and that the appropriate course was to not proceed with the agreement.

In light of the ACCC's concerns, AlintaGas advised that it had decided not to proceed with the agreement.

Other Competition Enforcement Issues

Anti-competitive arrangements

108. In the past two years, there has been only one case involving an alleged anti-competitive arrangement in the gas industry that has been pursued by the ACCC. The number may be low in part because firms may apply for authorisation of certain arrangements, as outlined above.

Gasgo

In May 1999, the ACCC instituted proceedings against Gasgo, a company that buys natural gas and on-sells it, mostly to the Northern Territory Power and Water Authority (PAWA). The ACCC alleged that, in January 1999, Gasgo had given or threatened to give effect to a pre-

emptive right clause in a 1985 gas purchase agreement between Gasgo and the Mereenie Producers in respect of natural gas proposed to be supplied by the Mereenie Producers to a competitor of PAWA, NT Power Generation Pty Ltd.

The Mereenie Producers are collectively a group of companies that supply natural gas from the Mereenie gas field in the Amadeus Basin of the Northern Territory. NT Power is the owner of a gas powered electricity generation plant located at Mount Todd in the Northern Territory. It proposed to supply electricity to consumers in the Darwin/Katherine area of the Northern Territory.

The pre-emptive right required the Mereenie Producers, prior to selling gas to third parties, to first offer that gas to Gasgo at the same price and for the same quantity. Gasgo then had a limited time in which to choose whether to accept the offer, or alternatively decline or waive its rights with respect to that gas, in which case the Mereenie Producers could then sell that gas to the third party.

The gas sold to Gasgo is predominantly used by PAWA for the generation of electricity for sale to industrial, commercial and domestic consumers in the Darwin/Katherine area.

The ACCC alleged that this conduct was in breach of section 45 of the *Trade Practices Act 1974* which prohibits firms from giving effect to a contract, arrangement or understanding that has the purpose or likely effect of substantially lessening competition.

The ACCC's primary objective in instituting these proceedings was to prevent Gasgo from exercising its pre-emptive right. This objective was achieved when Gasgo agreed, by way of a court enforceable undertaking, not to exercise its pre-emptive right in respect of gas sales by the Mereenie Producers to any third party wishing to use that gas for the commercial generation of electricity for supply to customers in the Darwin/Katherine area.

The ACCC viewed the pre-emptive right as a significant barrier to entry for any potential new entrant to the commercial electricity generation market in the Northern Territory. The aim of the undertaking was ensure that any potential new entrant would be able to secure a supply of natural gas from the Mereenie Producers, without Gasgo having a right of first refusal.

Mergers

109. Section 50 of the Act prohibits acquisitions that would be likely to substantially lessen competition in a substantial market in Australia, in a State or in a Territory. Merger law is especially important given the absence of a divestiture law in Australia that enables existing firms to be broken up and the substantial number of privatisations that have been occurring at all levels of the energy markets.

110. In the assessment of a merger proposal, the ACCC follows its published Merger Guidelines, which outline its policy for administration and enforcement of those provisions of the TPA that deal with mergers and related matters. The guidelines state the factors taken into consideration by the ACCC when considering a merger proposal.

111. An overview of the key gas industry mergers that were considered by the ACCC in the past two years are outlined below.

Boral/Allgas

Allgas Energy Limited was initially the subject of takeover bids from Texas Utilities and Boral Energy Resources Limited. Given its existing interests in gas distribution and retailing, the bid by Boral was considered by the ACCC to potentially lessen competition in the relevant markets.

The Brisbane domestic and commercial gas loads, together with most industrial loads in the Brisbane metropolitan area, are supplied by Boral on the northern side of the Brisbane River and by Allgas on the southern side. Boral is a gas retailer and also operates Envestra's gas distribution network. Allgas had a combined gas retail and distribution business. Boral and Allgas were assigned retail/distribution franchise areas by the Queensland Government that were proposed to be phased out in the transition of the market to contestability.

Market inquiries undertaken by the ACCC indicated that there was already competition between Allgas and Boral in the supply of gas to industrial customers, and that this competition was expected to increase when the market was deregulated. Contracts had already been written with customers in anticipation of deregulation at rates lower than those offered under previous contracts. The ACCC concluded that this competition would be lessened if the acquisition were to proceed.

Inquiries identified a number of factors that indicated that barriers to entry were high. There was also evidence that sources of competitive gas supplies to new entrants were limited. The incumbents' existing long term take-or-pay contracts with gas producers gave them a strong advantage in terms of retaining existing customers. In particular, the take-or-pay obligations would have given the incumbents an incentive to do everything possible to retain their existing customers, and would have had the effect of deterring new entrants.

After extensive consideration, the ACCC concluded that entry was not likely to occur, nor occur on such a scale, and in a sufficiently short time as to compensate for the loss of competition between Allgas and Boral when the Queensland market was deregulated. The ACCC also found that the threat of new entry was not sufficiently credible to constrain the merged entity.

The ACCC therefore concluded that the acquisition was likely to substantially lessen competition. The ACCC sought an undertaking from Boral not to proceed with its proposal to acquire Allgas.

Energex, a Queensland based electricity utility, subsequently announced a takeover bid for Allgas. Boral then advised the ACCC that it would not proceed with its bid, stating that Energex's bid had gone beyond an amount that Boral was prepared to pay for Allgas.

Energex/Allgas

On 27 July 1998 the ACCC announced that it would not intervene in the acquisition by Energex of Allgas.

Energex is an electricity utility based in south-east Queensland that serves just under one million customers. At present the only other franchise electricity retailer in Queensland is Ergon Energy. Following reforms by the Queensland Government the customer franchises held by the existing electricity retailers are being progressively removed to enable users to purchase electricity

directly from generators or from other retailers. The entire Queensland market is expected to become contestable by January 2001.

The ACCC noted that the gas and electricity industries in eastern Australia were undergoing substantial regulatory reform, including the move toward a national electricity market, a national code on access to gas pipelines, and ongoing State programs to progressively remove franchises held by incumbent retailers.

The ACCC considered that there were, at the time, separate gas and electricity markets in Queensland, and that Energex and Allgas did not compete in the same market.

Privatisations

112. The ACCC has considered a significant number of privatisations in the gas sector in recent years.

113. The ACCC has no role in advising governments on whether assets should be sold or on the structure of the markets. However, proposed acquisitions of government assets or businesses by private sector companies, suppliers or customers are still subject to section 50 of the TPA and are examined by the ACCC.

114. In the past two years, the ACCC has assessed the sale of a number of Victorian gas assets, including each of the three retail/distribution businesses and the gas transmission business, Transmission Pipelines of Australia. The ACCC took a pro-active role in the sale process and liaised with the State Government on potential competition issues raised by the bidders prior to the sales.

115. In relation to the sale of the retail businesses, the ACCC did not raise any concerns with the majority of bidders. Its considerations included an assessment of the competitive impact of the sale of the retail businesses on other Victorian electricity retail businesses. The ACCC's inquiries indicated that some degree of convergence between gas and electricity retail/distribution businesses might result in efficiency gains. Given the number of participants in the market with 'dual fuel' capabilities, this convergence was unlikely to substantially lessen competition. The ACCC will, however, continue to monitor future cross-utility merger proposals on a case-by-case basis.

116. In relation to the sale of Transmission Pipelines of Australia, the ACCC considered that its sale to GPU Powernet could potentially raise some competition issues. Given that GPU Powernet also operates the State electricity transmission network, this would potentially place the owner of electricity and gas transmission networks in a position to influence the development of the energy industry, particularly in Victoria. However, on the basis of market inquiries it appeared unlikely, in this particular situation, that significant competitive detriment would be likely to occur. Accordingly, the ACCC did not oppose any of the Victorian asset sales.

NOTES

- 1 Data from *Australian Energy: Market Developments and Projections to 2014-15*, ABARE, April 1999.
- 2 Source: *Report of the Upstream Issues Working Group to ANZMEC and COAG*, Upstream Issues Working Group, December 1998, p.12.
- 3 Australian Competition Tribunal, Review of ACCC Determination revoking Authorisation No A90424 (No VI of 1996), 14 October 1997.
- 4 Australian Competition Tribunal Decision, p. 95.
- 5 Australian Competition Tribunal Decision, p. 68.
- 6 Australian Competition & Consumer Commission, Determination: Application for Authorisation – North West Shelf Project, 29 July 1998, pp. 23-25.
- 7 Australian Competition Tribunal Decision, pp. 94-95.