

Gas Market Code of Conduct Consultation 2023

ACCI Submission

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ACCI welcomes the opportunity to contribute to the consultation of Australia's *Competition and Consumer Order 2022 (Mandatory Code of Conduct)* and to provide recommendations that will assist in implementing reforms that support gas-reliant businesses and improve efficiency and effectiveness of the domestic gas market.

This submission makes the following points:

Code of Conduct

- A mandatory code of conduct with a government-determined 'reasonable price' is a significant intervention to the gas market that will deter vital investment in the industry
- A voluntary code of conduct should remain in place.

Long Term Strategies

- Increase domestic supply at a federal and state level by removing restrictions on gas exploration and fast-tracking the approval process for new gas field developments
- Develop new measures to improve transparency in price setting, including real-time information on the volume of available gas supply, gas price by regions, and details of costs of production and delivery of gas to customers
- Develop a national gas strategy to increase competition, create a more interconnected network and improve the efficiency and effectiveness of the gas market
- Develop an energy roadmap to guide investment, support the National Energy Market's (NEM) transition to net-zero, and reduce reliance on gas-fired generation and take undue pressure off the gas market

Introduction

Australia's gas market has been dysfunctional for almost a decade, with ongoing short-term fixes being used in lieu of any comprehensive, long-term strategies that address the core issues. Price-capping is just another short-term measure that will deter investment and supply.

ACCI recognises that the government must do all it reasonably can to ensure commercial and industrial (C&I) gas users remain viable and household energy bills are affordable. However, we are concerned that the price cap and proposed mandatory code of conduct will create larger problems down the track.

Part of the current crisis has been caused by the Russian invasion of Ukraine, destabilising global energy markets. This has contributed to skyrocketing international gas prices and sharply increased demand for Australian liquid natural gas (LNG) exports.

The other core issue facing the gas market is lack of domestic supply. Poor government planning and co-ordination has constrained gas supply and led to the current domestic gas market dysfunction. The new gas field development in Queensland has been insufficient to meet the export contracts, requiring gas supply to be diverted from the existing domestic network. The gas fields in the Otway and Gippsland Basin, previously relied on for much of the supply to the southern states, are drying up and the Victorian government's moratorium on new gas field exploration has left insufficient new gas field development to replace it.

The most recent ACCC Gas Inquiry report (2023) identified a 30 PJ supply shortfall in the east coast market this year if LNG producers were to export all of their uncontracted gas.¹

ACCI believes that more comprehensive reforms are needed to address gas supply, security and affordability for east coast gas users.

A significant issue facing C&I gas users is the inability to negotiate long-term supply contracts. A code of conduct can play a role enabling C&I gas users to access secure long-term supply contracts at affordable prices. However, the proposed mandatory code of conduct and its government determined 'reasonable pricing' is too heavy-handed - in the medium and long run it will deter investment, resulting in less gas supply in the future.

Incentives for investing in the development of new gas fields and increasing gas supply should be the main priority, especially considering the expected increased reliance on gas-fired power generation as the electricity sector transitions to renewables. Mandating the code of conduct is likely to disincentivise this crucial investment in the industry. This market intervention creates uncertainty and dampens investor confidence, discouraging private Australian and international investment.

ACCI continues to advocate for the development of a comprehensive national gas strategy, to provide stability to the gas market and boost investor confidence. A holistic strategy is needed to increase competition, create a more interconnected network and improve the efficiency and effectiveness of the gas market. The strategy must strike right balance between providing secure, affordable and reliable supply to C&I gas-reliant businesses and residential customers, while maintaining our gas export market and the benefit it brings to Australia's trade balance and gross domestic product (GDP).

In line with the creation of a national gas strategy, an energy roadmap needs to be developed. The transition to 82 per cent renewable energy by 2030 and ambition to achieve net zero by 2050 is a significant challenge that brings large uncertainty to private investment. An energy roadmap is needed to

¹ ACCC 2023, *Gas Inquiry 2017-2030, Interim Report: January 2023*. https://www.accc.gov.au/system/files/Gas%20Inquiry%20-%20January%202023%20interim%20report_1.pdf

help guide the transition and contribute heavily to reducing the energy markets reliance upon gas power electricity generation.

C&I Gas Users

The gas market's dysfunction has been particularly damaging to C&I gas users that rely upon gas as a feedstock, such as plastics, fertiliser and chemical manufacturers. Natural gas is the main input for these manufactures and can represent up to three quarters of their operating costs. However, even before the current gas crisis, C&I gas users nearing the end of their gas supply contracts were finding it difficult to negotiate new long-term contracts at affordable prices. Many were forced to accept short-term (12 month) contracts whilst others were unable to secure a contract at all and left to source their gas through the highly volatile spot market. In Q3 2022, C&I gas users having to rely upon the volatile spot market were paying \$26/GJ, a 150 per cent increase from Q3 2021. Unless they were able to pass these costs onto the customer, C&I gas-reliant businesses struggled to remain viable.

The inability to secure long-term contracts has ramifications for investment and the ongoing operation of many businesses. Many gas users have maintenance schedules that align with their gas supply contracts, as they will often need to shut down operations for three to six months to carry out major refurbishments, upgrade or replacement of machinery. If these C&I users cannot secure long-term gas contracts at reasonable prices, it limits their ability to secure finance to support this investment.

Detering the supply of gas and investment in the gas industry will be deleterious to the prospects of C & I gas users in Australia. Already a number of gas-reliant facilities have ceased manufacturing in Australia. For example, Incitec Pivot ceased manufacturing AdBlue at its Brisbane-based Gibson Island plant at the end of 2022, flagging the inability to secure long-term contracts for affordable gas supply from 2023 onwards.

Code of Conduct

ACCI agrees a code of conduct can play a role in facilitating transparency. But ACCI has concerns about the government's proposal for a mandatory code of conduct. The provision for the government to determine 'reasonable prices', enforceable through arbitration, would be a significant impairment to the efficient operation of the market and would deter future investment in the industry. This market intervention detracts from the private sector's interest in investment in the exploration and development of critical gas fields, failing to address the core issue in lack of domestic gas supply.

The open-ended nature of this provision is also a problem. 'Reasonable pricing provision' provides little clarity and confidence to current gas-producers. What is 'reasonable', and who determines that?

If this legislation is embedded it is unlikely to be rescinded in the future, thus legislating permanent government intervention and compounding the deterrent effect on investment and supply over the long-term.

Incentivise Domestic Supply and Remove Regulatory Barriers

Recognising the substantial timeframe and investment required, it is essential the government commence work on a national strategy to increase gas supply. Currently, extensive regulatory barriers are limiting investment in gas exploration and new gas field developments.

The Victorian government has a moratorium on any new gas field development. The Narrabri gas field development in NSW has been subject to extremely arduous, multi-layered environmental assessment processes since it was first proposed in 2016, significantly delaying this crucial supply of gas to the network.

C&I gas users and households in Victoria and NSW have become increasingly reliant on gas transported from northern Australia. NSW imports 98 per cent of its gas requirements from other states. Improving the regulation to fast-track gas field development would increase supply to the market and contribute to affordable gas prices.

Acknowledging this is largely determined at a state government level, ACCI notes the federal government has an important coordinating role in influencing the states to lift restrictions of gas exploration and extraction. Increasing supply is the key to addressing the current dysfunction in the gas market, bring gas prices down and return long-term contracts to the table.

Greater Transparency

Greater transparency in the domestic gas market will also contribute to the efficiency and competitiveness of the market. The development of new measures that require the publication of real time information on the volume of available gas supply and gas prices by regions would greatly improve the transparency of the market. This would consequently act as a competitive incentive to gas producers and LNG exporters, driving improvements in their operations and the market overall. Increasing transparency of gas pricing is an efficient and effective method to support reasonable price setting and improve the negotiation of gas contracts whilst not deterring ongoing investment in the market.

National Gas Strategy

ACCI continues to advocate for the development of a national gas strategy which aims to achieve a functioning competitive gas market with a focus on improving its efficiency and effectiveness, increasing competition and removing regulatory constraints. The Australian Energy Market Operator (AEMO), in their integrated system plan (ISP) for the electricity market to 2050, show that gas power generation will continue to play an important role in electricity generation over the next 30 years as Australia transitions to renewable energy generation, with the goal of achieving net zero by 2050. The ISP shows an increasing reliance on gas power generation, up 50 per cent, over the next 30 years to 2050. It is therefore essential that work begins now to develop a comprehensive long-term national gas strategy with an overall goal of ensuring secure, reliable and affordable gas supply.

To be consistent with the National Gas Objective, the strategy would be consumer focused, catering for the needs of C&I gas users and residential customers. This, however, needs to be balanced with support to the LNG export sector, which is a major contributor to Australia's trade balance and GDP. LNG exports

have grown to an estimated value of \$49 billion in 2021-22, becoming Queensland's second largest merchandise export after coal. In addition to meeting the needs of domestic gas users, the strategy also needs to factor in the importance of these exports and limit any disruption to this trade.

In developing the national gas strategy, ACCI recommends the government work with its state and territory counterparts through the Energy National Cabinet Reform Committee and Energy Ministers' Meetings to ensure consistency of policy and regulation. With a national gas strategy comes greater clarity, direction and confidence for investment and development in the gas market, this is particularly important considering the disruption caused by the price cap and proposed mandated code of conduct.

Energy Roadmap

Alongside the national gas strategy, ACCI reiterates the government needs to produce an energy transition roadmap. The government has committed Australia to a substantial transition task but has set no guidelines for the private or public sector to follow. This ambiguity disincentivises investment, slows the transition, and continues to leave the National Electricity Market (NEM), and consequently the gas market, vulnerable. Gas power generation (GPG) will be increasingly relied on to support the transition of electricity supply to renewable sources. This was most prevalent in Q2 2022 when planned and unplanned closures of coal plants and variability in the renewable generation resulted in surging demand for GPG to fill the gap, with GPG contributing 9.3 per cent of electricity generation. Whilst noting GPG's importance to the energy transition, its use should be optimised and not unduly relied upon. The accelerated transition to renewables and early closure of coal-fired power plants will increase the strain on gas supply, emphasising the need to establish an energy roadmap such that the NEM can operate effectively.

Using the resources of Treasury, the Commonwealth should conduct its own analysis and modelling of the significant transition to renewable energy. From this analysis, the production of a roadmap will serve as a pathway and checklist to make the abatement task transparent and accountable and provide confidence for private investors.

The Budget has allocated \$1.9 billion to a Powering the Regions fund to assist with the transition to net zero emissions. The AEMO's Electricity Statement of Opportunities notes that any delays in new renewable energy projects risk the ability of the NEM effectively replace retiring coal generation. This increases the reliance on gas to stabilise in the NEM and ensure security of electricity supply. The creation of an energy roadmap would help ensure that the transition to a renewables grid follows the abatement task closely.

About ACCI

The Australian Chamber of Commerce and Industry represents hundreds of thousands of businesses in every state and territory and across all industries. Ranging from small and medium enterprises to the largest companies, our network employs millions of people.

ACCI strives to make Australia the best place in the world to do business – so that Australians have the jobs, living standards and opportunities to which they aspire.

We seek to create an environment in which businesspeople, employees and independent contractors can achieve their potential as part of a dynamic private sector. We encourage entrepreneurship and innovation to achieve prosperity, economic growth and jobs.

We focus on issues that impact on business, including economics, trade, workplace relations, work health and safety, and employment, education and training.

We advocate for Australian business in public debate and to policy decision-makers, including ministers, shadow ministers, other members of parliament, ministerial policy advisors, public servants, regulators and other national agencies. We represent Australian business in international forums.

We represent the broad interests of the private sector rather than individual clients or a narrow sectional interest.

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