DomGas Alliance

Competition Policy Review Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir/Madam,

The DomGas Alliance welcomes the opportunity to provide comment and feedback on the Draft Report of the Competition Policy Review.

The DomGas Alliance was established in 2006 and represents major industrial users of gas in Western Australia; companies which help generate economic growth, promote regional development and provide employment for thousands of Western Australians.

The Alliance would like to highlight the fact that the West coast gas market is fundamentally different to the East coast market, which appears to be the sole focus of national policy makers and advisers at the present time.

Western Australia's energy context is completely different to that being faced by the East coast due to our heavy reliance on natural gas for our energy needs, the off-shore location of most of our natural gas resources, and our geographic isolation.

Western Australia is also not a part of the integrated network of pipelines which links and services South Australia, Queensland, New South Wales, Victoria and Tasmania.

The lack of gas-on-gas competition in the West coast market has major implications for industrial gas users and the State's economy.

The Grattan Institute has estimated that rising gas prices could cost industrial users up to $3.2 billion a year. In doing so it noted:

> "The cost will not be distributed evenly by state. … Over half of the total cost increases to industrial users, a total of almost $1.8 billion, could be borne in Western Australia."[1]

Market power in the western market is heavily concentrated in the hands of a small number of gas producers.

[1] "Getting gas right: Australia's energy challenge." T Wood & L Carter, Grattan Institute, June 2013

Far from being a "normal" market, this distortion of power is increased and reinforced by the allowance of joint marketing arrangements. The ACCC has issued exemptions to allow joint marketing for the North West Shelf project (despite the joint venture partners marketing their gas individually to the export market) and the Gorgon project.

The current policy principle of the Federal government, as expressed in the recent Energy Green paper, is that "competition encourages innovation, leading to better products and services. It also encourages better prices."

The DomGas Alliance believes that these joint marketing exemptions have only one possible outcome: to significantly reduce competition in the domestic gas market.

The exemptions come up for review by the ACCC in 2015.

The DomGas Alliance notes that in relation to the joint marketing exemptions operating in the West coast market the Energy Green Paper goes on to state "the Competition Policy Review should identify if there are any significant issues with the continuation of this arrangement."

Unfortunately the draft report of the Competition Policy Review does not appear to reference these arrangements and appears to put the ball back in the court of the White Paper process by stating:

> "The Panel notes that the Australian Government will respond to the (Eastern Australian Domestic Gas Study) report through the Energy Green Paper. The Panel considers the Green Paper should, among other things, examine barriers to entry in the gas market, whether access regimes are working effectively to encourage upstream and downstream competition as well as regulatory and policy impediments to the efficient operation of Australia's gas market. The Panel would welcome the Green Paper committing to a more detailed review of competition in the gas sector in response to the Eastern Australian Domestic Gas Study and calls in other reports such as the Victorian Government's Gas Market Taskforce Final Report and Recommendations."

It is therefore unclear which process is trying to determine a national approach to the issue of joint marketing exemptions for gas producers.

From a DomGas Alliance perspective it is also surprising and disappointing that the Draft Report of the Competition Policy Review, like the Energy Green Paper, focuses on the apparent lack of competition in the East coast market but makes no reference to a potentially worse scenario in the West coast market.

As part of our submission in response to the Energy Green Paper the Alliance has welcomed the recommendation that "an ACCC Price Inquiry into the eastern Australian wholesale gas market … or a Productivity Commission review, could examine the levels of competition in the eastern gas market" but questioned why a similar recommendation is not being considered in relation to the West coast market.

The DomGas Alliance would welcome a clearer statement from the final report of the Competition Policy Review which:

- acknowledges the fundamental difference and unique challenges of the West coast gas market;
- acknowledges the lack of competition in the West coast gas market;
- acknowledges the detrimental impact of joint marketing arrangements on competition in the West coast market; and
- calls for a more detailed review of competition in the West coast market.

The DomGas Alliance has also used its response to the Energy Green Paper to highlight other issues that are impacting on competition in the West coast market.

The current approach by the Federal government to the management of retention leases has significant implications for competition in the West coast market. It is remarkable and a major failing of the Green paper that there is not a single reference to retention lease management policy in the document.

Unlike the East coast, the overwhelming majority of our currently available gas reserves are located offshore.

Earlier this year the Fortescue Metals Group (a member of the DomGas Alliance) commissioned a report by Deloitte-Access Economics that detailed the rapid expansion in the number of retention leases being used by producers to warehouse natural gas fields for future LNG exports.[2]

The Deloitte Access Economics report noted that in 1990 less than 4% of the Commonwealth's offshore gas titles were held under retention leases but by 2009 this figure had grown to more than 40%.

Despite legislation aimed at ensuring fields are developed within 15 years, around 25% of the land area that is held under retention leases had been held for longer than this period – with one title being held for 27 years.

The report went further by modelling the commercial viability of two reserves held under retention lease; modelling which proved they would be commercially viable for domestic supply.

The current Commonwealth Offshore Petroleum and Greenhouse Gas Storage Act 2006 provides a simple test for the issuing of a retention lease in that the Joint Authority must be satisfied that "the recovery of petroleum from that area is not, at the time of the application, commercially viable but is likely to become commercially viable within 15 years after that time." (s142)

There is no differentiation in the Act between domestic or export supply when it comes to determining if an area is commercially viable.

The FMG-commissioned report has identified reserves currently under retention leases that could supply the domestic market and meet the test of commercial viability.

[2] "Western Australia gas sector analysis", Deloitte Access Economics, 16 May 2014

This issue is of particular relevance to the West coast domestic market. The Federal government's failure to deliver on its legislative responsibility is effectively locking potential additional supplies and therefore competition out of the domestic market.

Lack of access to third party infrastructure could also be having a significantly detrimental impact on competition in the West coast market, effectively locking out potential new supplies of domestic gas.

The Energy Green Paper regrettably does not specifically address the issue of how to ensure or encourage project developers to gain the maximum benefit through the sensible sharing of common infrastructure.

The DomGas Alliance believes there would be considerable value in reviewing third party access to infrastructure to determine if such access could help bring on new supplies of gas, particularly from offshore fields.

This may allow alternative funding models that could help reduce the cost of gas supply. More of the infrastructure could be provided at lower rates of return than that required by the oil and gas industry.

The Green Paper at least acknowledges this point noting that "Shared use of private infrastructure is challenging, but duplication through not sharing is costly and reduces national competitiveness. Self-funded infrastructure can be a commercial advantage, and private interests are understandably reluctant to lose that advantage."

The DomGas Alliance believes there would be considerable value in the Federal government undertaking an analysis of current offshore gas fields to determine whether these could be brought to the domestic market sooner if access to third party infrastructure was available and then make recommendations about how this outcome should be achieved.

If the Competition Policy Review wishes to adopt a broader approach to assessing the lack of competition in Australia's domestic gas markets and extend that assessment to include the West coast market, then the three issues of joint marketing exemptions, retention lease policy and access to third party infrastructure would be a good starting point.

While the detailed work on these issues may be beyond the scope of the Review, the DomGas Alliance hopes the Review's final report will at least highlight these key issues and call for a more detailed consideration of them as the Federal government finalises the Energy White Paper,

If you would like to discuss these comments in more detail I can be contacted via matt@domgas.com.au or on 0419 813 171.

Yours sincerely,

MATT BROWN

Executive Director