



CHAMBER OF COMMERCE AND INDUSTRY  
WESTERN AUSTRALIA

11 February 2008

Mr Lyndon Rowe  
Chair  
Economic Regulation Authority  
Level 6  
Governor Stirling Tower  
PERTH WA 6000

Dear Mr Rowe,

**CCI SUBMISSION TO ERA DRAFT REPORT ON COMPETITION IN THE  
WATER AND WASTE WATER INDUSTRY**

Thank you for the opportunity to present this submission to the Authority's consultation on its Draft Report on Competition in the Water and Waste Water Industry.

The Chamber of Commerce and Industry of WA strongly believes that markets are better than regulators at inducing efficient water use and welcomes this inquiry. Consistent with this long held position, we maintain greater private sector participation in the water and waste water industry could deliver many benefits to the WA community.

The Authority's Draft Report seeks feedback on a number of complex issues. CCI's submission will comprise two parts the first submission will address the majority of findings and recommendations contained in the Draft Report while the second submission will specifically address the proposal to establish an Independent Procurement Entity.

*Bulk Water Procurement*

*1) There are synergies between the Corporation's bulk water operations and distribution functions which indicate it may not be appropriate at this time to separate these functions.*

CCI agrees with this statement however, this issue should remain open over the longer term, as the market develops and the water and wastewater customer base grows in the Perth metropolitan region.

*2) An Independent Procurement Entity should be established with responsibility for ensuring least expected cost of balancing supply and demand subject to the constraint of maintaining security of supply at a level set by government.*

CCI is considering this issue and will forward a supplementary submission.

Water Trading

*3) There are potentially considerable additional sources of bulk water available from Harvey Water, the Gnamagara Mound and Wellington Dam.*

. CCI supports the principle “security through diversity” and therefore agrees with the above statement. Private sector proponents of bulk water supply projects in these areas should have their proposals considered independently and transparently.

*4) Pricing arrangements within irrigation cooperatives should be adjusted to allow for the trade of water out of cooperative areas by individual members should they choose to do so. A recent decision by the Australian Competition and Consumer Commission provides guidance on a possible approach.*

CCI maintains that individuals should have the ability to freely trade water and strongly recommends that artificial restrictions on an individual’s ability to trade water should be removed

*5) To facilitate an effective water trading regime, all significant users within a catchment, including pine plantations, should be taken into account when developing Statutory Water Management Plans and water allocations.*

No comment.

*6) On the Gnamagara Mound, finalisation of the Statutory Water Management Plan and Gnamagara Mound Sustainability Strategy is critical. In the meantime, an effective water trading market should be developed, despite a degree of environmental uncertainty.*

CCI is concerned about fast-tracking the statutory water management plan process prior to the completion of the water law reform programme. We understand that a number of assumptions could be made about the Water Resources legislation, particularly the specific requirements for individual statutory water management plans that may not be correct once the Bill has passed through the Parliament. We believe that priority should be placed on progressing the water reform legislation package and urge the Authority to make a recommendation to this effect.

CCI believes that, given the diversity between water systems throughout Western Australia, it is also important that water management and trading systems are tailored to local circumstances. In fully or highly allocated water systems, where demand for water is

significant, markets are better than regulators at inducing efficient water use. CCI supports the development of effective water trading markets where the introduction of competitive forces would deliver economically efficient outcomes.

*7) The concerns regarding water hoarding appear to be limited. However, there is the potential for a single individual or entity to obtain a significant share of water allocations and thereby be in a position to exert a degree of market power. While the Authority considers that the Trade Practices Act 1974, would be sufficient to deal with such potential anti-competitive behaviour, the Authority will consider the matter further.*

Consistent with CCI's view on regulatory intervention, we maintain that constraints should only be placed on water trading where there is evidence of market failure.

Where demonstrable market failure occurs, appropriate mechanisms should be used to counter cartelling, water hoarding and general anti-competitive behaviour. CCI does not support the imposition of unnecessary additional legislative burden, and considers that the provisions contained within the Trade Practices Act should sufficiently address and remedy anti-competitive conduct.

CCI notes the Authority's role in monitoring the operations of the Wholesale Electricity Market. In this respect we understand that the Authority regularly reviews the market to ensure that it is effectively meeting the Wholesale Market Objectives, as defined in the Wholesale Market Rules. We consider there may be similar scope for the Authority to periodically review the operation of water markets and publicly report its findings.

#### Third Party Access

*8) A State-based third party access regime should be implemented in Western Australia.*

CCI fully supports this recommendation because we believe a third party access regime allowing private sector suppliers to distribute water either through a bulk supply contract with Water Corporation, or direct to individual customers should be established.

A state-based regime that is fair, robust, will minimise delay and clearly articulate water quality standards is preferred. The tariff structure should be transparent and CCI recommends that an industry regulator should be responsible for regulating access to water and waste water distribution infrastructure. The Authority should perform this role, similar to its roles in the regulation of gas, rail and electricity infrastructure.

*9) A State-based third party access regime should be based on the principles of the Competition Policy Agreement, including provisions for negotiated access between the infrastructure owner and the access seeker, independent dispute resolution and an appeals mechanism.*

CCI supports this recommendation

*10) Further consideration should be given to prices under the State-based third party access regime being based on a 'retail minus avoidable cost' approach.*

CCI supports the recommendation to conduct further research into the pricing structure for a third party access regime.

*11) Any State-based third party access regime should be supported by sound and transparent regulation to ensure that access arrangements are safe, efficient and achieved at a minimum cost.*

CCI supports this recommendation.

#### Retail

*12) There are likely to be minimal gains from any disaggregation of the Corporation's Perth operations at this time.*

CCI agrees with this statement however, this issue should remain open over the longer term, as the market develops and the water and wastewater customer base grows in the Perth metropolitan region.

*13) Retail contestability is premature for small customers at this time. However, to facilitate third party access and the potential use of recycled water, contestability should be considered on a case-by-case basis.*

CCI agrees with this statement.

*14) Retail contestability should be introduced for large customers.*

CCI supports this recommendation because water providers may wish to sell their water direct to customers through bilateral trading mechanisms. This could be viable where non-potable or treated wastewater can be traded for use in industrial processes. Providers may also see commercial opportunity in directly retailing potable water to industrial or large commercial customers.

*15) There is merit in exploring the introduction of scarcity based pricing to improve price signals for customers regarding the true cost of their consumption and producers regarding potential investment opportunities.*

CCI supports this recommendation. We believe that in order to attract and facilitate private sector involvement in the water market, water pricing mechanisms should be developed so that the price of water reflects its scarcity value and actual cost. Price signals would then operate to allocate water to its most efficient uses.

Transparent pricing and cost analysis for the entire water supply chain is also vital, with any cash payments or subsidies between Water Corporations' divisions made apparent, otherwise potential market entrants will find it difficult to determine business viability. Water transportation costs would be an example of critical information that should be made available to prospective entrants.

Regional and Remote Operations

*16) There may be potential significant cost savings from the creation of a multi-utility by transferring the Corporation's water and wastewater assets to Horizon Power in its area of operation. However, further investigation prior to the release of the Final Report is required before any definitive conclusions can be made.*

Sufficient information is not available at this stage to enable CCI to reach a firm position on this proposal. We consider that the Authority should undertake an extensive research project before any recommendations are made to create a multi-utility for regional and remote service provision.

CCI understands that prior to this inquiry Water Corporation and Horizon Power had worked together to identify synergies and develop common service delivery models for some remote indigenous communities.

CCI is aware that since the referral of this inquiry, both organizations have conducted preliminary studies examining whether there may be efficiency gains arising from some form of merger or alliance arrangement. CCI considers that additional work may be required to identify the true costs and benefits of any alteration to the current structure of regional utility service provision.

We consider that a more detailed study considering a restructure of regional utility service provision should be undertaken to examine at least two, and potentially three, alternate models.

Under the first model, Water Corporation's regional service delivery arm would be disaggregated and subsequently merged into Horizon Power. The second model would involve some form of contractually-based alliance arrangement in areas where Water Corporation and Horizon Power share a common foot print. CCI understands that both of these options have been considered by Water Corporation and Horizon Power. A third option, that CCI understands has been considered by Water Corporation, would involve the merger of Horizon Power's activities within Water Corporation's regional operations arm.

The comprehensive study should identify the synergies between the two businesses and should also highlight potentially problematic areas.

Whilst we believe benefits may accrue from a merger or joint service arrangement in some regional areas, particularly where it is possible to share common human resources and/or facilities this may not be the case in all of Water Corporation and Horizon Power's operational areas. The footprints of the SWIS and the IWSS, for example, are quite different, creating difficulties when determining how to service Kalgoorlie, Bunbury, Albany, and Geraldton.

CCI recommends that the effect of the two different business models and organizational structures on service delivery and customer experiences should also be examined. Devolved decision-making and a permanent local contact point for all utility service provision, for example, could assist the local community to engage with the development and implementation of more appropriate and tailored supply solutions.

The potential service delivery benefits and operational efficiencies gained from introducing either a partnering arrangement or full merger must be balanced against the actual cost of altering the current service provision structure.

CCI understands that there are considerable costs involved in disaggregating and reforming corporate structures. It may be the case that similar customer service and efficiency gains can be achieved through alliance or partnering arrangements, rather than through a full corporate restructure.

CCI maintains that the real costs of disaggregation must be fully accounted for and that a firm business case must be made for a merger, considering potential hidden costs and factoring-in any 'intangible' benefits, such as improved customer experience. We consider it is also important to adopt a realistic perspective regarding when benefits of any restructure can be expected to accrue.

The financial benefits and risks involved in any course of action have not been sufficiently explored in the Draft Report to enable CCI to take a firm position at this time.

CCI considers there is considerable merit in undertaking a transparent cost-benefit study, fully examining the business case for a restructure. Whilst impartiality and objectivity are of central importance, it is also vital to fully engage the affected businesses and stakeholders in any independently conducted study.

*17) There may be potential significant cost savings from the reconfiguration of water and wastewater services in the Bunbury and Busselton areas. However, further investigation prior to the release of the Final Report is required before any definitive conclusions can be made.*

No comment.

*18) Proposed legislative reforms being undertaken by the Department of Water will enable the payment of Community Service Obligations (CSO) to all licensed service*

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*providers. The Department of Treasury, the agency responsible for the payment of CSOs, should develop a policy perhaps similar to that in operation in Queensland to explicitly allow for the payment of CSOs to non-government entities.*

CCI considers that the Authority should recommend Terms of Reference for a study into the design of community service obligation payments, potentially conducted by the Department of Treasury and Finance. The Authority should also specifically identify particular policy initiatives for the DTF's consideration.

CCI's Senior Adviser – Industry Policy, Ms Jessica Shaw, is available to provide any further information regarding this submission. Ms Shaw can be contacted on 08 9365 7498 or [Jessica.Shaw@cciwa.com](mailto:Jessica.Shaw@cciwa.com).

Yours sincerely,

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Director Industry Policy