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Dear Dr Fisher

Exports and Infrastructure Discussion Paper – 8 April 2005

Thank you for the opportunity to comment on the above discussion paper. The Australian Pipeline Industry Association (APIA), as the peak national body representing Australia's gas transmission pipeline sector, would like to present to you the infrastructure investment concerns of the industry.

While the gas transmission industry is not directly export-oriented, gas and gas pipeline services are inputs into many export industries, in particular natural resource processing. They are also indirect inputs into most export industries via the use of gas as a major fuel for electricity generation. Also, there are important parallels between the regulation of gas transmission infrastructure and the more specifically export-oriented infrastructure.

Confidence to invest in infrastructure across the nation is critical for Australia's economic security and development. APIA is providing its perspectives on the regulation of gas transmission infrastructure as an input to the infrastructure debate.

Over the last 10 years, ownership of the gas transmission pipeline sector has undergone significant change where largely publicly owned pipelines were privatised as part of the Hilmer-inspired National Competition Policy reforms. As part of that reform process, an industry-specific, third-party access regime was implemented, which saw regulatory oversight entrusted to the Australian Competition and Consumer Commission (ACCC). Regulation of gas transmission infrastructure is expected to transfer to the Australian Energy Regulator (AER) soon.

APIA acknowledges the need for some form of regulatory oversight of pipelines which have both the ability and incentive to misuse market power. However, we submit that the current regulatory regime is costly to the industry and can be a hindrance to long-term investment. The direct costs involve an onerous and adversarial regulatory environment, which sees many legal appeals against ACCC decisions. It should be noted that the appellate body has generally found against the ACCC. To date, successful challenges have been mounted in respect of the four largest transmission pipelines in Eastern Australia.

This adverse impact on investment decisions is not quite as tangible but, for example, the current regulatory regime can cause delays in investment decisions and the system tends to discourage the building of pipelines with significant uncontracted (or spare) capacity because extra capacity increases the likelihood of regulatory intervention. This outcome reduces investment in future capacity. Also, the regulators' focus tends to be on reducing tariffs for existing pipelines, apparently at times without considering the impact on future investment.

Pipelines are facing increased competition, not only amongst themselves but also from competing energy sources, however, at times these risks do not appear to be factored into regulatory assessments by the ACCC, for example by making an adjustment to the risk-rated rate of return.

The *Productivity Commission Report on the Gas Access Regime* (11 June 2004) has recommended the introduction of a "light-handed" regulatory regime which would increase certainty and encourage future infrastructure investment. Without implementation of the *PC Report* recommendations, transfer of regulatory power from the ACCC to the AER is unlikely to introduce major change to the management of regulations.

Infrastructure investment is too important for it to be unnecessarily affected by regulatory uncertainty and unwillingness to invest. In the interests of encouraging a strong economy and therefore a strong export sector, APIA urges the Prime Minister's taskforce to also consider the current restrictions on energy infrastructure investment as a general sign of encouragement to the nation's infrastructure industry.

Should the taskforce require further information regarding investment in gas transmission infrastructure, APIA would be happy to provide a more detailed analysis at any time.

Yours sincerely



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