



24 January 2006

Mr John Ryan
Manager
Ministerial Council on Energy Secretariat
Department of Industry, Tourism and Resources
GPO Box 9839
Canberra ACT 2601

Dear Mr Ryan

I note the publication of the Regulatory Impact Statement for the Gas Access Regime – Light Handed Regulation (RIS) at the end of December 2005.

Although the Standing Committee of Officials is not seeking submissions on the RIS, I would like to take the opportunity to emphasise again APIA's concerns that decisions by the MCE are moving the industry towards more intrusive regulation.

In this regard, the recommendation to include a light-handed regulatory option is a welcome development. However, I note the proposal in the RIS to make the AEMC the recommendatory body for coverage and revocation decisions as well as being the body responsible for determining the form of regulation to apply to a covered pipeline. APIA does not support the AEMC taking on these roles and this proposal indicates a clear rebuttal of industry's views. APIA believes that the National Competition Council should be the recommendatory body on both coverage/revocation and form of regulation decisions. This is because:

- it is consistent with the PC recommendations, which are the result of extensive investigation and consultation;
- giving the AEMC these roles does not maintain the appropriate separation between rule making/policy functions and rule application/enforcement functions;
- there is no justification for treating energy access differently from other infrastructure. Doing so has the potential to result in inconsistent regulatory outcomes; and
- expertise regarding these types of decisions resides with the NCC, making it better placed to carry out these functions in a timely and efficient manner.

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The RIS also includes as part of the recommended 'alternative model' the ability for the AER to tailor information requirements to individual businesses under the price monitoring form of regulation to 'ensure compliance costs are minimised'. APIA supports giving the AER flexibility in respect of information requirements on the basis that its discretion is limited to waiving the requirements or requesting less information than required under the Laws and Rules. APIA seeks confirmation from the MCE that this is the intended effect of the proposal.

APIA remains strongly of the view that divergences from the Productivity Commission's approach to the regulatory regime or towards more intrusive regulation should be avoided in MCE deliberations.

APIA looks forward to participating further in the gas access regime development as the process continues.

Yours sincerely

A handwritten signature in black ink, appearing to be 'C. Cartwright', with a long horizontal stroke extending to the right.

CHERYL CARTWRIGHT
Chief Executive