

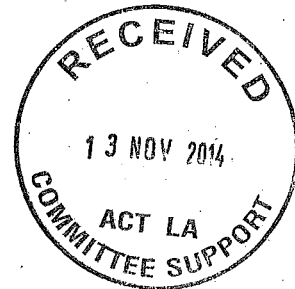


ICRC

Independent competition and regulatory commission

Authorised 27 November 2014

Mr Brendan Smyth MLA
Chair—Standing Committee on Public Accounts
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601



13 November 2014

Dear Mr Smyth

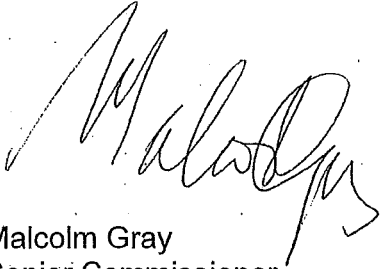
I should like to add to the answer I gave to a question from Ms Porter at the Commission's appearance before the Public Accounts Committee on Monday, 10 November 2014. The question concerned a comment in our Annual Report on the operation of an Industry Panel convened to deal with an application from a government owned business. I would like to add to my answer as follows.

As Ms Porter noted in her question the Commission commented that, although a range of affected parties have the right to apply for a review of a price direction brought down by the Commission, given the cost of such an application, only the regulated entity is likely to do so. The Commission went on to say that, when such an application is made by a government owned enterprise, the only grounds to be considered by the Industry Panel should be that the price direction damages the financial viability of the enterprise and that the Panel should only proceed with further consideration of the application when it is satisfied that such damage has occurred.

The reason the Commission considers that the case of a publicly owned enterprise should be treated differently from a privately owned enterprise is that, in the case of a publicly owned enterprise, there are no private interests to be protected. In making a price determination for a publicly owned enterprise the main duty of the Commission is to ensure that the community is protected from the enterprise using any market power it may possess to charge unreasonably high prices.

The public interest will only suffer if the Commission goes too far in restricting the price that may be charged and does not allow the enterprise to recover reasonable costs it incurs in providing the service. Hence the Commission considers that, in this case, the only grounds on which a Panel should be allowed to change a price direction is that it is satisfied that this has occurred.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Malcolm Gray', written in a cursive style.

Malcolm Gray
Senior Commissioner
Independent Competition and Regulatory Commission