



Independent Pricing and Regulatory Tribunal

Customer engagement on prices for monopoly services

Research — Discussion Paper
February 2012



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Invitation for submissions

IPART invites written comment on this document and encourages all interested parties to provide submissions addressing the matters discussed.

Submissions are due by 23 March 2012.

We would prefer to receive them by email at engagement@ipart.nsw.gov.au.

You can also send comments by fax to (02) 9290 2061, or by mail to:

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Our normal practice is to make submissions publicly available on our website, www.ipart.nsw.gov.au. If you wish to view copies of submissions but do not have access to the website, you can make alternative arrangements by telephoning 1 of the staff members listed on the previous page.

We may choose not to publish a submission – for example, if it contains confidential or commercially sensitive information. If your submission contains information that you do not wish to be publicly disclosed, please indicate this clearly at the time of making the submission. IPART will then make every effort to protect that information, although it could be subject to appeal under public access to information legislation.

If you would like further information on making a submission, IPART's submission policy is available on our website.

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Executive summary

Households are becoming concerned about increasing prices for water, electricity and public transport. Successful engagement with customers before and during a price review can help households to understand better why and how they are charged for such essential services and how they can have a say in IPART's determination of future prices.

In July 2011 we released the Cambridge Economic Policy Associates (CEPA) report¹ on how utilities and their regulators engage with customers and stakeholders. The report highlights the range of customer engagement approaches used and the considerable effort regulated businesses and their regulators make in trying to strengthen customer consultation.

In October 2011, we ran a series of workshops with our stakeholders. The aims were to better understand how our stakeholders can engage with us and the regulated businesses, and how we can more effectively engage with customers.

The purpose of this discussion paper

This discussion paper provides stakeholders with our preliminary view on how customers' views are best represented in price reviews including:

- ▼ who should engage with customers of regulated businesses
- ▼ how we can best gauge the views of average households
- ▼ how customer engagement should feed into future price reviews.

The purpose of this discussion paper is to give stakeholders the opportunity to engage with us on our preliminary view before we release a draft decision.

Our preliminary view is that:

- ▼ Customer engagement is useful for businesses in delivering services that customers want and are willing to pay for.
- ▼ Customer engagement can be done at different levels and is most effective as part of ongoing strategic planning by regulated businesses.

¹ Consultant Report – CEPA – *Regulated Monopoly Service Providers and Customer Views, Preferences and Willingness to Pay – A report for IPART – June 2011.*

- ▼ We do not advocate any particular engagement option. It is the responsibility of the regulated businesses to choose options that fit their particular circumstances and to ensure the customer engagement is robust, cost effective and relevant to decisions on service levels and prices.
- ▼ Regulated businesses should demonstrate that they have adequately consulted their customers in developing their price and service proposals.
- ▼ Regulated businesses should consult with their consumers about service standards and price/service trade-offs before submitting a price proposal. Evidence of this should be provided with the price proposal.
- ▼ Regulated businesses should provide us with a plain English version of their price and service proposal aimed at consumer representatives and average households.
- ▼ We understand that regulated businesses may need guidance regarding engagement. We are willing to discuss this early in the review process.
- ▼ When assessing pricing submissions, we will take into account evidence of customer support for the proposal and any other factors we consider relevant.

We believe that regulated businesses are best placed to engage with their customers because they:

- ▼ know their customers better than us
- ▼ have experience in undertaking customer research
- ▼ can expand existing engagement activities to include views on issues relevant to price reviews.

We prefer that businesses choose the most effective form of engagement as the effectiveness of different forms is likely to vary between industries and customer groups.

We also recognise that IPART can improve the engagement process by:

- ▼ creating a pro-forma online submission document with plain English explanations for the main cost drivers to enable easier response by stakeholders
- ▼ giving regulated businesses clear guidance early in the determination process to ensure they understand our requirements regarding the customer engagement to be undertaken
- ▼ improving our use of digital and social media to communicate and consult with stakeholders
- ▼ continuing capacity building with interested and relevant parties.

Why we look at customer engagement

The businesses we regulate provide monopoly services. This means that customers cannot simply switch their water supplier or public transport bus service if they are unhappy with the service provided.

Customers often have limited influence over the setting of services standards and any associated price increases, in particular mandatory service standards. However, their involvement in developing and setting prices and services can contribute to better outcomes. Businesses can better understand their customers' concerns and preferences and are more likely to provide services that customers are willing to pay for. At the same time, customers can better understand the factors driving prices.

Another reason that we look at customer engagement is the difficulty of consulting with average households due to the technical elements of price reviews. This means the views of regulated businesses may be over-represented in our pricing reviews.

The way forward

We wish to work with regulated businesses and other stakeholders to improve the effectiveness of customer engagement in price reviews.

In the short term, there may be steps we can take to be more accessible to the public, and to encourage businesses to incorporate existing consumer research into their pricing proposals.

In the medium to long term, businesses should be able to better engage with households on the more technical aspects of price reviews, such as service priorities. This may involve market research and greater capacity building.

While better engagement processes are likely to have a positive impact on our decision-making, this is likely to have a cost impact on us or regulated businesses. Cost will be a practical constraint on what is feasible.

We aim to release a draft report by April 2012 and a final report by July 2012 following this discussion paper. The draft report will incorporate feedback from submissions by stakeholders.

1 Introduction

We are currently reviewing how customer engagement in price reviews can be improved. As a first step, we completed a series of case studies of current practice in Australia and overseas. This was released on our website as the CEPA report in July 2011.

Following its release, we held 4 workshops with the regulators, utilities, customer representative bodies and government. The purpose of these workshops was to obtain feedback from our stakeholders on the engagement options from the CEPA report.

Considering the research undertaken for us by CEPA and the views obtained from our workshops, we are now able to bring together various stakeholder views on our customer engagement processes for setting prices for monopoly services.

1.1 This paper's objectives

This paper examines how the views of customers and/or their representatives can be better heard in setting prices for monopoly services. The discussion focuses on customer engagement by regulated business in the water, transport and (retail) electricity and gas industries.

The process for special variations for local government rates already requires councils to engage with, and demonstrate the support of, ratepayers. We have found this a valuable requirement and have drawn on aspects of local government practice in developing this paper.

Although we are discussing price reviews in this paper, we also take on special reviews at the NSW Government's request. For example, we carried out extensive community engagement in our recent Domestic Waterfront Tenancies review.

IPART's objectives in reviewing customer engagement on prices for monopoly services are:

- ▼ to understand current customer engagement practices by regulated businesses
- ▼ to ensure there is a close link between customers' preferences, service standards and long-term capital expenditure plans by regulated businesses

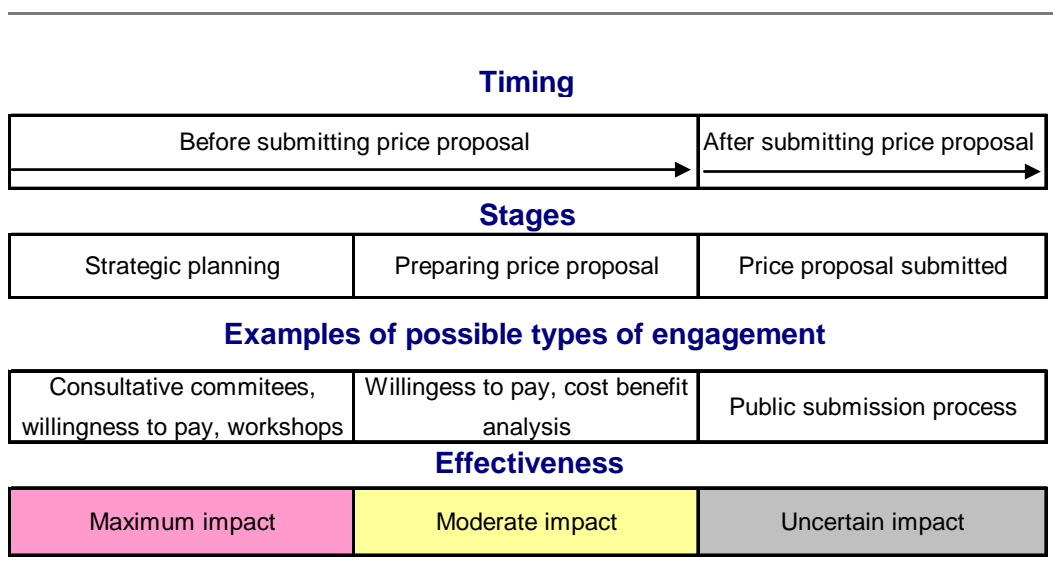
- ▼ to improve households' involvement in our price reviews and their understanding of the trade-off between price and services.

In relation to the first objective, we are interested in finding out what type of customer engagement utilities or government agencies undertake during:

- ▼ the strategic planning stage
- ▼ the pricing proposal stage
- ▼ the price review stage.

Figure 1.1 sets out our current thoughts on how customer engagement influences price setting at the different stages. We believe maximum impact is achieved from earlier consultation.

Figure 1.1 Consumer engagement – timing, stages, engagement type and effectiveness



Customers or customer representative groups generally take part in our price setting reviews after we receive a utility's price proposal. In past reviews, we did not receive many public submissions focusing on the key issues driving price changes. In order to improve the price setting process, we want to encourage and empower stakeholders to make submissions which can have greater impact on price determinations.

1.2 Why customer engagement is important in IPART's price reviews

Households are becoming concerned about increasing prices for essential services. Successful engagement with customers before and during a price review can help them better understand why and how they are charged for essential services and how they can have a say in determining future prices.

In a competitive market, consumers have the ability to choose their supplier. This direct interaction between suppliers and consumers gives businesses information for decisions about capital investments and the level of service that customers require.

Monopoly businesses are less driven by consumer preferences due to their monopoly power. To counter that power in a regulated market, regulators may limit the prices that companies can charge and also monitor or set required levels of service.

Customer engagement is relevant to different aspects of the price review process as discussed below.

Price setting

Stronger customer engagement in regulatory processes can help ensure balance. It can help regulators test the proposals put forward by regulated businesses, and offer alternative views on matters such as service priorities, capital expenditure proposals, and price structures.

Service standards

Many mandated service standards and associated expenditures are imposed by other regulators, such as health and environmental standards. Standards may be set to achieve environmental goals or protect broader community interests. Customers often have limited influence over setting these standards and any associated price increases.

For service standards mandated by the government, our view is that utilities should provide us with the supporting cost-benefit analysis for the service standard, in addition to the cost-benefit analysis required for capital expenditure proposals. Whilst we are not involved in the setting of mandated standards, we will determine the efficient costs of implementing these standards.

In cases where service standards exceed mandated levels, it is important that utilities provide us with evidence of customers' willingness-to-pay as part of price proposals. We believe this will improve our price decisions.

1.3 Current practice

Before a price proposal is prepared and submitted to us

Regulated businesses seek their customers' views on significant spending proposals before they submit a price proposal. This is likely to occur at the strategic planning stage or the pricing proposal stage.

Utilities may also be directed to provide certain services. In this case it would be expected that the referring authorities undertake customer research to ensure the directed expenditure meets community expectations.

Businesses often engage customers in different ways. Usually they will set up some form of consumer panel and possibly they will conduct surveys or willingness-to-pay studies. For example, Hunter Water conducted a consumer survey and used the evidence from it in preparing their submission to the 2009 price review.

Prior to a utility's initial submission, we usually release an issues paper which outlines the key issues for consideration during the price review. We invite stakeholders to comment on the issues paper.

After a price proposal has been submitted

The utility's submission to us and any consultants' reports (for example, a technical opinion on the prudence and efficiency of capex and opex) are published on our website for comment.

We usually hold public hearings during reviews. We publish our draft reports on our website for comment and carefully consider all submissions in making our final decisions (published as a final report and price determination).

All areas of a company's regulated business are open for discussion with consumers, including operating and capital expenditure, financial issues and any other issues that stakeholders and we consider relevant to the review.

The information gathered during our consultations is both qualitative and quantitative.

In IPART's experience, our current stakeholder engagement process works well with regulated businesses and government departments. However, it is more difficult to consult with households. While customer representative bodies participate in the pricing process, they mostly represent the disadvantaged and are less likely to represent the views of the average households.

Some of the issues with the current process are that:

- ▼ There is no formal requirement for us to engage with average households as part of the price setting process.
- ▼ There may not be a clear link between regulated businesses' price proposals and the preferences of average households.
- ▼ It is difficult to engage households due to the length and complexity of the submission documents and inconvenient public hearing times. Consequently, the views of regulated businesses may be over-represented in our pricing reviews.

We believe that there is room to improve current customer engagement in price setting.

Table E.1 (in Appendix E) summarises our current customer engagement processes and their impact on price setting.

1.4 Legislative requirements

Mandatory expenditure

In general, we do not set service standards for utilities. Our role is to determine if the expenditure to meet service standards, mandatory expenditure, is prudent and efficient.

In determining prices under the *Independent Pricing and Regulatory Tribunal Act 1992* (IPART Act), we must consider the quality, reliability and safety standards of the services concerned, whether those standards are specified by legislation, agreement or otherwise.

Discretionary expenditure

Regulated businesses may wish to invest in a project which provides services or quality beyond that required by service standards. This type of expenditure goes beyond what is necessary and IPART would expect a business case that is tested with households. Our role in evaluating discretionary expenditure is different to evaluating mandatory expenditure since service level is considered along with the cost efficiency of service delivery. The level of discretionary expenditure is normally a small percentage of total capital expenditure for a regulated business.

When conducting reviews under the IPART Act, we consider a broad range of matters. Information about customers' willingness to pay or capacity to pay may be relevant to the social impact of the determination.

More detail on our legislative requirements can be found in Appendix F.

1.5 How and when you can provide input to this review

Table 1.1 sets out our indicative timetable for this review.

Table 1.1 Indicative review timetable

Task	Timeframe
Release discussion paper	10 February 2012
Receive submissions from stakeholders	23 March 2012
Release draft report	18 May 2012
Receive submissions on draft report	29 June 2012
Release final report	27 July 2012

Note: These dates are indicative and may change.

1.6 What the rest of this paper covers

In the following chapters we discuss the options for improving consultation in price setting and how these options will be evaluated.

Chapter 2 covers IPART's preliminary view on options for consultation.

Chapter 3 explains the types of engagement options considered. These were either proposed as a result of CEPA's research for IPART or developed from our stakeholder workshops.

For each of the 7 options considered we describe the option, our current experience, relevant stakeholder comment(s) and any issues which need to be considered.

We assess each option against 3 criteria: the responsible party, the likely budget impact and its effectiveness in obtaining households' preferences.

Chapter 4 explores the implications for future IPART price reviews.

A number of appendices follow, including summaries of the views expressed in the IPART stakeholder workshops held in October 2011.

1.7 Issues for stakeholder comment

We are seeking comment on a wide range of issues, which are explained and discussed in the report. Stakeholders are also invited to comment on any other relevant issues.

- 1 Do you agree with our preliminary view as outlined in Chapter 2 of this discussion paper? If you do not agree, why? In your response please address specific points as numbered in the chapter. 12
- 2 Do regulated businesses survey their customers about their strategic plans and service standards? How can current or future surveys by regulated businesses about strategic plans and service standards best feed into price reviews? 14
- 3 Do regulated businesses survey their customers on price/service trade-offs before submitting a price proposal to IPART? How can current or future surveys by regulated businesses about price/service trade-offs best feed into price reviews? 15
- 4 Do you believe that constructive engagement could be an option in any of the industries we are regulating? 18
- 5 Do you believe that the use of new media (digital and social) can improve the way we communicate with the public? 23
- 6 Do you agree with IPART's overall assessment of the customer engagement options? 26

2 Preliminary view

Our preliminary view is that:

1. Customer engagement is useful for businesses in delivering services that customers want and are willing to pay for.
2. Customer engagement can be done at different levels and is most effective as part of ongoing strategic planning by regulated businesses.
3. We do not advocate any particular engagement option. It is the responsibility of the regulated businesses to choose options that fit their particular circumstances and to ensure the customer engagement is robust, cost effective and relevant to the decisions on service levels and prices.
4. Regulated businesses should demonstrate that they have adequately consulted their customers in developing their price and service proposals.
5. Regulated businesses should consult with their consumers about service standards and price/service trade-offs before submitting a price proposal. Evidence of this should be provided with the price proposal.
6. Regulated businesses should provide us with a plain English version of their price and service proposal aimed at consumer representatives and average households.
7. We understand that regulated businesses may need guidance regarding engagement. We are willing to discuss this early in the review process.
8. When assessing pricing submissions, we will take into account evidence of customer support for the proposal and any other factors we consider relevant.

We recognise that IPART can improve the engagement process by:

1. Creating a pro-forma online submission document with plain English explanations of the main cost drivers to enable easier response by stakeholders.
2. Giving regulated businesses clear guidance early in the determination process to ensure they understand our requirements regarding customer engagement to be undertaken.
3. Improving our use of digital and social media to communicate and consult with stakeholders.
4. Continuing capacity building with interested and relevant parties.

IPART seeks comments on the following.

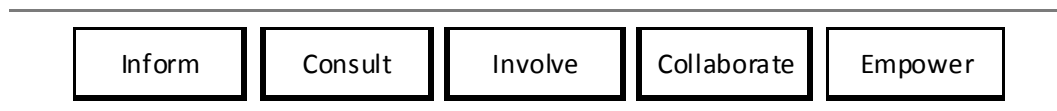
- 1 Do you agree with our preliminary view as outlined in Chapter 2 of this discussion paper? If you do not agree, why? In your response please address specific points as numbered in the chapter.

3 Engagement options

There are a number of options available to increase engagement in the regulatory process. The options considered in this chapter are classified on the International Association for Public Participation Australasia's IAP2 Public Participation Spectrum, which promotes the values and leading practices associated with involving the public in decisions that impact their lives. From recent interaction with utilities it appears they also employ this approach.² A similar framework has also been developed by the World Bank.³

The IAP2 spectrum is shown in Figure 3.14. While this discussion paper will show where the options in Chapter 3 fit on the spectrum, we **do not advocate any particular spectrum position**.

Figure 3.1 IAP2 Public Participation Spectrum



As a result of the CEPA research undertaken for IPART and our stakeholder workshops, we discuss 7 options below. We will describe each option and outline our experience, relevant stakeholder comments from our workshops and issues to be considered regarding its use. The options are not mutually exclusive.

3.1 Option 1 – Customer surveys and willingness-to-pay studies

The CEPA report (pp 36–42) identified that utilities and regulators commonly undertake surveys. These range from full willingness-to-pay (WTP) studies to face-to-face, telephone, online and mail surveys.

² This public participation model is based on the work of Sherry R Arnstein. Her seminal paper was, A Ladder of Citizen Participation, *Journal of the American Institute of Planners*, Vol. 35, No. 4, July 1969, pp 216–224.

³ Elisa Muzzini, *Consumer Participation in Infrastructure Regulation: Evidence from the East Asia and Pacific Region*, World Bank Working Paper No.66, 2005.

⁴ For more detail, see:
<http://www.iap2.org.au/sitebuilder/resources/knowledge/asset/files/36/iap2spectrum.pdf>
accessed 30th January 2012

We distinguish between surveys and willingness-to-pay studies which involve statistical methods known as choice modelling. We proposed both options in our fact sheet and both were discussed at our workshops.

Customer surveys

The utilities that participated in our workshop said that if consumer research for price reviews is undertaken, it will be important to consider how many customers really understand the price-setting process and price/quality and reliability trade-offs.

One way of doing this is to conduct a customer survey. Customer surveys require a randomly selected group of participants whose responses mirror the population to which they belong. Participants answer a standardised set of questions on a clearly defined issue.

Customer surveys can take various forms, such as questionnaires, telephone or face-to-face surveys, online surveys or customer complaint databases. Surveys often include questions on attitudes to such matters such as service levels and standards, service delivery strategies and price structures. Responses are generally qualitative or attitudinal.

Customer surveys can be undertaken for a variety of issues. For example, RailCorp undertakes regular surveys of CityRail customers at train stations. This allows it to understand how customers think about the current service levels and if these meet their expectations.

A survey is more easily constructed and undertaken than a WTP study, which generally requires more time and resources. Surveys are generally well understood by the community and are common in many fields. However, simple surveys may vary in quality and caution is essential when using the results.

For example, using a simple survey, it may be difficult:

- ▼ to get a representative sample of all customers
- ▼ to gauge customer views on price/service trade-offs.

It is important surveys are well designed and robust so that the results can be accepted as reflective of consumer expectations. A more rigorous type of survey is best suited to establishing verifiable price/service trade-offs, for example a willingness-to-pay study.

IPART seeks comments on the following.

- 2 Do regulated businesses survey their customers about their strategic plans and service standards? How can current or future surveys by regulated businesses about strategic plans and service standards best feed into price reviews?

- 3 Do regulated businesses survey their customers on price/service trade-offs before submitting a price proposal to IPART? How can current or future surveys by regulated businesses about price/service trade-offs best feed into price reviews?

Willingness-to-pay (WTP) studies

WTP studies can provide useful insights into customer attitudes and priorities.

WTP studies allow businesses to directly survey consumers or the community on their willingness to pay for goods or services that are usually not provided by the market and whose price cannot therefore be revealed. This tool gives researchers the ability to add quantitative data to a cost-benefit analysis and allow program comparisons where previously only qualitative judgements would have been possible.

WTP studies can be expensive. The typical process can take from 3 months up to a year, depending on complexity, and may cost hundreds of thousands of dollars. Further, methodology issues bring into question the ability to conclusively use results. Issues include:

- ▼ accurately explaining the goods and services respondents are required to choose between
- ▼ asking the survey questions in a way to ensure there is no bias
- ▼ interpreting the data.

However, these mainly quantitative surveys may be useful in testing the value that consumers place on particular service levels or environmental improvements. The survey data can then be used in an economic analysis of the costs and benefits of various options.

For example, in the UK, water utilities were asked by their regulator, Ofwat, to include information on the costs and benefits of their capital expenditure proposals based on WTP studies.

In Australia, the Essential Services Commission of South Australia (ESCOSA) undertook a WTP study to find out if electricity distribution service standards reflect community expectations.

This type of analysis may be done by regulated businesses but is not regularly presented to us in price proposals. As the CEPA report showed, this type of analysis is well established in the Economic and Forecast Analysis Unit of CityRail for internal project evaluations.

Stakeholders have told us that utilities have done WTP studies. One reason put forth by regulated businesses for not providing this information is that they are unsure if and how the information will be used in the price-setting process. Hunter Water made this comment in its submission (p 4).

Figure 3.2 Surveys / WTP studies on the IAP2 Public Participation Spectrum

Surveys have more of the characteristics of consultation. Willingness-to-pay studies may, in some instances, be seen as more involving than surveys.

3.2 Option 2 – Cost-benefit analysis (CBA) of service standards

We discussed this option at our workshops.

CBA is a well-known analytical tool used by business and government for valuing the net benefits of alternative programs. An advantage of CBA is that it usually has a consultative phase that allows stakeholder involvement. A limitation is that distributional impacts may not form part of the analysis since these are beyond the tool's purpose. This limitation is important because a situation may arise where the community as a whole may benefit but the direct consumers of the service may not. Cost-benefit analysis is well established and guidelines are available from NSW Treasury and the Australian Department of Finance and Deregulation.

Regulated water businesses told us at our utilities workshop that most, if not all, capital expenditure is backed by a cost-benefit analysis (Appendix B).

Utilities already provide CBA on effectiveness in their price proposals, which we use to assess whether the expenditure is prudent and efficient. However, there could be more CBA on the appropriateness of the service standards, and trade-offs between price and quality that customers may prefer.

Normally when standards are set by government regulation, a CBA is required as part of a Regulatory Impact Statement. Where there is an existing CBA to support an investment, this should be included as part of a price proposal.

Figure 3.3 CBA on service standards on the IAP2 Public Participation Spectrum

A CBA assessing service standard options can range from 'consult' to 'involve' depending on how stakeholders views influence options developed for the CBA, and their understanding of the information.

3.3 Option 3 – Constructive engagement

This option in the CEPA report (pp 43-48) was discussed at our workshops. Constructive engagement gives the business and their customers the opportunity to agree on a price/services proposition without the formal involvement of the regulator. The regulator simply approves the agreement between the business and its customers.

Constructive engagement mechanisms range from informal discussions with customers and stakeholders through to formal negotiated settlements. In negotiated settlements, customers or their representatives negotiate directly with suppliers in order to reach an agreement on price and services which is then endorsed by the regulator.

Constructive engagement requires customers or their representatives to make informed comments or decisions that will influence the services provided by regulated companies. In such cases, they need considerable commitment to the process, as well as a degree of expertise and sufficient resources to engage effectively. Where the process becomes more formal, the corresponding level of commitment and expertise also tends to rise. While higher levels of engagement might be feasible for larger business users or intermediate customers such as retail suppliers, it is less feasible for small businesses or household consumers. However, there may still be a role for a consumer representative where it can be determined that these representatives properly understand consumers' views.

Examples of constructive engagement in Australia include:

- ▼ the Australian Rail Track Corporation and the NSW Minerals Council negotiation over access to the Hunter Valley coal rail network, which involved the Australian Competition and Consumer Commission (ACCC)
- ▼ State Water's negotiation with its 9 Hunter Valley-based customer service committees on discretionary service levels (see the CEPA report p 145).

Both examples involved committed and well-resourced customers. Another example of constructive engagement is Wingecarribee, Shoalhaven and Goulburn Mulwaree councils' discussions with the Sydney Catchment Authority regarding their current pricing structure proposal (for non-Sydney Water customers) before it was submitted to us.

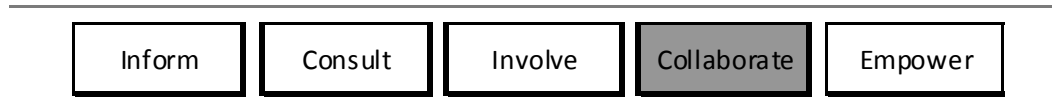
Constructive engagement has been widely used in the United States since the 1970s and is becoming more common in Britain. Since 2004, the Civil Aviation Authority (the UK airport regulator) has pursued a constructive engagement strategy, which it has used at both Heathrow and Gatwick airports.⁵

⁵ Presentation – Customer engagement a new regulatory approach – ACCC and IPART workshop – Darryl Biggar – 24 October 2011.

We are particularly interested in finding out if any of our stakeholders believe that constructive engagement would work in their industry and why. A comment made at our workshops was:

Constructive engagement is viewed to be a significant deviation from our present process because of the empowerment it provides consumers (Appendix C).

Figure 3.4 Constructive engagement on the IAP2 Public Participation Spectrum



Constructive engagement is classified by us as 'collaborate' on the IAP2 spectrum because participatory decision-making between the regulated business and their customers is undertaken. It may also be classified as 'empower', should the decision made in this process be automatically accepted by the regulator.

IPART seeks comments on the following

- 4 Do you believe that constructive engagement could be an option in any of the industries we are regulating?

3.4 Option 4 – Capacity building

We proposed this option in our fact sheet and it was discussed at our workshops.

Capacity building refers to the building of technical skills and an understanding of how they apply to the issues presented during a price review. Capacity building can apply to individuals from customer representative bodies, to selected representatives of customer councils or to a consumer champion unaffiliated with the groups mentioned (see Box 3.1 for more on consumer champions).

The skills required could either be specialised or general, depending on the preferences of those receiving the training. Stakeholders mentioned in our workshops that general skills might be more useful for certain customer representative bodies as they were interested in many issues and not specifically with 1 part of a price review.

Box 3.1 Consumer champion

The idea of a consumer champion was suggested at our workshops. Some examples of consumer champions include:

▼ Customer representation in the US:

The majority of states in the US have funded authorities tasked with representing consumers in utility regulatory proceedings. For example, in 12 states the state attorneys general provide utility consumer advocate representation. Further, in 29 other states there is some kind of office of the consumer advocate (also known as a consumer counsel, or public counsel).

▼ Consumer champions in the UK:

Consumers in the UK are represented by Consumer Focus, the statutory consumer champion for England, Wales, Scotland and for postal consumers in Northern Ireland. “Consumer Focus has strong legislative powers. These include the right to investigate any consumer complaint if they are of wider interest, the right to open up information from providers, the power to conduct research and the ability to make an official super-complaint about failing services.” In October 2010, the present government announced Consumer Focus would be abolished and some of its functions transferred to other existing consumer bodies. This transfer is expected to take place in early to mid 2013. (www.consumerfocus.org.uk).

▼ Health Consumers NSW (HCNSW):

A recent example in NSW is Health Consumers NSW. “Health Consumers NSW is the independent peak health consumer organisation our state, providing a voice of health consumers in shaping policy and services.” Also, “HCNSW is supported by a NSW Health Ministerial grant in its current establishment phase” (www.hcnsw.org.au).

The general consensus across all workshops was that customer representatives lacked the technical skills to be able to contribute on many issues beyond the effects of the price change on households. There was support for continuation of our previous capacity building workshops.

The Electricity & Water Ombudsman NSW (EWON) has found our capacity building sessions on regulatory economics valuable and would encourage us to continue providing workshops, training and information sessions. (Appendix C)

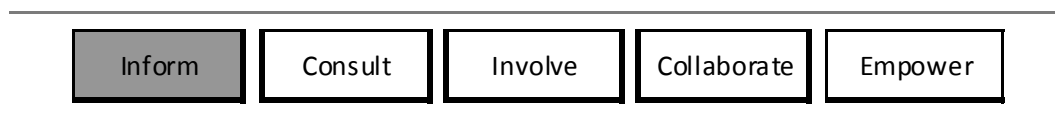
Capacity building was discussed in all 4 of the stakeholder workshops, and extensively in the customer representative bodies and EWON workshop (Appendix C). The customer representative bodies responded by asking for the following capacity building:

- ▼ Financial modelling training in the building block approach – some members of these bodies have previously undertaken this training but it was felt that it should be continued to allow others to participate.
- ▼ Given limited resources, stakeholders raised the possibility of finding 1, or a group of volunteers who could be trained to assist them in preparing more informed submissions.

- ▼ Stakeholders welcomed the idea of a consumer champion who is not an employee of the consumer representative body. Evidence from the UK indicates that intermediaries, such as supply companies, make some of the best consumer champions.
- ▼ Stakeholders would welcome more frequent interaction with us.
- ▼ There is also the possibility to explore whether anyone is willing to provide pro-bono assistance to the not-for-profit sector.
- ▼ Capacity building needs to start from upstream issues, for example during the standard setting stage.

We already run annual training session for our stakeholders but understand that more is needed to build their capacity to provide informed submissions to our reviews.

Figure 3.5 Capacity building on the IAP2 Public Participation Spectrum



Capacity building allows for more informed decision-making by stakeholders, and thus is classified as ‘inform’ on the IAP2 spectrum. Although capacity building may empower consumers to provide more informed submissions, this does not mean the option empowers consumers. In the IAP2 spectrum ‘empower’ means the final decision is in consumer hands.

3.5 Option 5 – Creating incentives for successful customer engagement

This option emerged from our workshops.

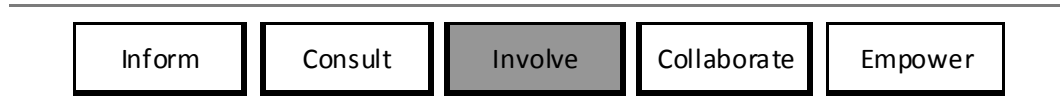
A right to appeal regulatory decisions for consumers could create incentives for successful customer engagement.

The CEPA report (pp 27–29) details on Ofgem’s right of appeal. In summary, in the UK energy sector, third parties can potentially appeal Ofgem’s price control decisions. Ofgem saw this as a benefit as it may facilitate and encourage greater engagement of consumers and wider stakeholders in price review. One of the requirements that must be fulfilled before an appeal can be lodged is that the third party must demonstrate that it has effectively participated throughout the price control process.

In Australia, a limited merits review is available of the pricing decisions of the Australian Energy Regulator (AER). A stakeholder at our regulators’ workshop was critical of this process.

A right of appeal, to third parties that have engaged effectively in the price-setting process, may ensure that their concerns are directly reflected in the decision made. However, legal processes can be lengthy and expensive.

Figure 3.6 Creating incentives on the IAP2 Public Participation Spectrum



3.6 Option 6 – Consumer panels

Consumer panels were covered in the CEPA report (pp 30-35) and discussed at our workshops.

Consumer panels are often used to discuss service or policy issues. Panels are generally made up of representatives of different consumer groups or a sample of individual consumers. The structure of consumer panels differs depending on the purpose of the group. For example, a panel may represent different types of customers and may meet on an ad hoc basis or at set times to further a particular project.

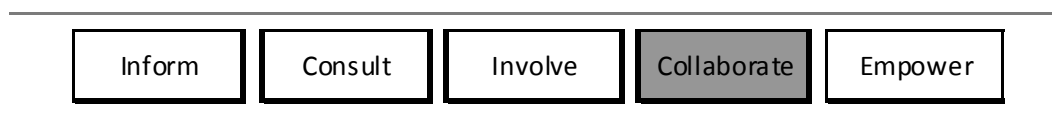
Consumer panels are often used for long-term and regular consultation. However, long-standing members of a panel may begin to be less representative as they become more involved in the process. In some cases, this problem is addressed through periodic changes in panel membership. Some companies have engaged with panels of consumers to develop their strategies and business plans and this approach is considered useful. It is important that panel members are independent of the company and are given good information. Regulators also make use of consumer panels.

Consumer surveys and willingness-to-pay studies, discussed in section 3.1, would typically follow the deliberations of consumer panels, which define current issues and consider new issues.

Most utilities already have a consumer panel, often as part of legislative or licensing requirements.

However, EWON and the Public Interest Advocacy Centre (PIAC) in their submissions to the CEPA report believe there is value in a dedicated consumer panel (suggestion no. 2 and section 5.2 respectively).

Consumer panels are likely to be resource-intensive (see the State Water example in the CEPA report p 148), which would impose a cost on either the government or us, should we create our own panel. Also, an additional panel to the utilities' own would clearly need to bring value to the price review process.

Figure 3.7 Consumer panels on the IAP2 Public Participation Spectrum

Consumer panels allow for collaboration between regulated businesses and their stakeholders. Consumer panels who actively engage and can offer advice and assistance in solving problems are classified as 'collaborate' on the spectrum.

3.7 Option 7 – Communications strategy

This option has been developed as a result of our customer engagement workshops with stakeholders.

One of our concerns is how we engage with households for our price reviews. In our experience, it has been difficult to engage with households as part of our traditional engagement process, including through submissions and public hearings. The traditional review process has worked better with other stakeholders, namely regulated business and government agencies.

Across all 4 IPART stakeholder workshops we received consistent feedback that we could improve our approach to seeking customer feedback and use of technology. Stakeholders said that, although we already have some useful means of engagement, such as simple fact sheets and roundtable discussions, we could better inform households of the main issues by, for example, publishing an easy-to-read primer on the building block model or other price review topics.

IPART could improve its communications. There is a need for more guidance on the important issues driving changes in prices. (Appendix D)

Some useful suggestions included an online pro-forma document in plain English that simplified the submission process for customer representative bodies. PIAC suggested supplementary information to issues papers. This could be in the form of a document highlighting key issues and referring to relevant parts of our issues paper/draft report for more detailed information. Considering this feedback we are currently exploring options on how we can improve the submissions process to increase our engagement with households. These may include:

- ▼ drawing out the key issues for comment in plain English
- ▼ exploring the use of short fact sheets, presentations or videos which could accompany the call for submissions on a topic-by-topic basis
- ▼ exploring if there is a market for online discussion forums.

Another option to consider is whether businesses should provide us with a plain English version of their price proposal in addition to their formal submission. This could assist stakeholders in better understanding what drives price increases and what they should address in their submissions.

Existing communication might also be improved, for example, by holding public hearings at times more likely to suit households. Further, we could release more simple fact sheets which could address concerns such as the social and environmental impact of the proposed changes. In their submission to the CEPA report, EWON mentioned that consumer organisations may be more involved if these issues were addressed.

Another key stakeholder suggestion was that we could use technology better to communicate with households and also allow households to communicate among themselves.

IPART could make better use of its website to engage with consumers (Workshops)

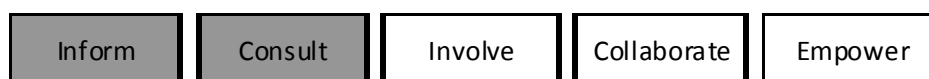
Using online tools to complement more traditional consultation approaches may reach a wider audience (EWON's submission to IPART, p 3).

IPART undertook a revamp of our website to make it more user-friendly and interactive. The new website, which went live in December 2011, has a dedicated consumer section.

At our workshops, stakeholders discussed if the new website could:

- ▼ have an online discussion forum for consumer representative bodies or other stakeholders
- ▼ have capacity building content such as online video tutorials
- ▼ integrate with social media such as Facebook and Twitter
- ▼ use digital media services such as video messages or YouTube.

Figure 3.8 Communications strategy on the IAP2 Public Participation Spectrum



Improving the way we, and businesses communicate with stakeholders before, during and after a price review is a cost effective way to improve stakeholder participation at the inform and consult levels.

IPART seeks comments on the following:

- 5 Do you believe that the use of new media (digital and social) can improve the way we communicate with the public?

3.8 Assessment of options

This section assesses each of the 7 engagement options using a set of decision criteria to understand their strengths and weaknesses:

- ▼ Responsibility – who is best placed to undertake the action?
- ▼ Cost impact – what is the cost impact of the action/requirement?
- ▼ Effectiveness – how effective is the action/requirement? For example, does an engagement option target small groups of customers or a broad cross section?

The purpose of the assessment is to assist stakeholders in considering and responding to the options described in this paper.

Table 3.1 Surveys

Form of consultation	Surveys
Responsibility	Regulated business
Likely cost impact	Low to medium
Effectiveness	Potentially High

Assessment: Surveys are widely used and can be inexpensive. This option may be useful in obtaining the views of households since surveys are widely used to gather the views of all types of consumers for a wide variety of matters. Surveys are currently undertaken by regulated business to gather mainly non-price information. Therefore, the current approach may need to be slightly modified to provide information on service priorities and price/services trade-offs. However, surveys may vary in quality and care must be taken when using the results.

Table 3.2 Willingness-to-pay studies

Form of consultation	WTP
Responsibility	Regulated business
Likely cost impact	Medium to high
Effectiveness	Potentially High

Assessment: WTP studies are useful in understanding how much customers' value the service offered. A well designed WTP study incorporates the views of a cross-section of people and would be useful in obtaining household views. However, WTP studies can be costly, depending on the complexity of the issue. Further, results from WTP studies may be contested on a variety of issues, such as survey design, sample selection and analysis of results.

Table 3.3 Cost-benefit analysis of service standards

Form of consultation	CBA of service standards
Responsibility	Regulated business
Likely cost impact	Medium to high (if not already undertaken)
Effectiveness	Medium to high

Assessment: A CBA can provide information on the most efficient service standard for the community. This option provides high quality information (both quantitative and qualitative and market and non-market) and, depending on the consultation undertaken, may be representative of households' preferences. However, seeking the views of households may be difficult given the technical nature of service standards and the potential capacity building required to inform stakeholders.

Table 3.4 Constructive engagement

Form of consultation	Constructive engagement
Responsibility	Regulated business
Likely cost impact	High
Effectiveness	High

Assessment: Constructive engagement works well when the negotiating parties have a similar level of technical understanding and influence. However, this option is less useful for households, since this group is unlikely to be organised and their preferences too different to negotiate effectively.

Table 3.5 Capacity building

Form of consultation	Capacity building
Responsibility	IPART
Likely cost impact	Low
Effectiveness	Medium

Assessment: This option is relatively low cost and meets our objective of improving the quality of submissions. However, building the capacity of households may be a challenge unless we can understand who this group is, what they know and how they process information.

Table 3.6 Creating incentives for successful customer engagement

Form of consultation	Incentives for successful customer engagement
Responsibility	Government
Likely cost impact	High
Effectiveness	Medium

Assessment: The existence of right of appeal, for example, could create high incentives for consumers to engage in the price-setting process. However, it may be too expensive for individual consumers or consumer groups and add significantly to the overall cost of regulation.

Table 3.7 Consumer panels

Form of consultation	Consumer panels
Responsibility	Regulated business or IPART/government
Likely cost impact	Medium to high
Effectiveness	Medium to high

Assessment: Consumer panels exist within many regulated businesses, are understood and provide a link to stakeholders of the regulated business. Consumer panels are supposedly representative, but not a representative sample, and so may be a good tool in reaching households. However, the degree to which they are representative depends on the actual composition of the panel. This option is more likely to succeed if undertaken by regulated business compared to IPART or the government, since it is unclear presently what an IPART consumer panel would do.

Table 3.8 Communications strategy

Form of consultation	Communications strategy
Responsibility	IPART
Likely cost impact	Low
Effectiveness	Low to medium

Assessment: This option is likely to be low cost and potentially effective when communicating with a wider audience than presently is the case. We are working on improving our website to focus more on stakeholders needs. However, whether the quality of submissions would improve is debatable unless a real interaction occurs with households. This option may only inform, rather than assist them to participate.

IPART seeks comments on the following.

6 Do you agree with IPART's overall assessment of the customer engagement options?

4 Implications for future IPART price review processes

This chapter discusses the implications of implementing the options presented earlier in this paper.

4.1 Implications for regulated businesses

At our workshops, utilities stated that they already undertake a considerable amount of customer research. We understand that engaging with customers can be difficult and expensive.

At this stage:

- ▼ utilities should draw on their existing research to complement their price proposals
- ▼ we will request limited additional information from utilities.

We will aim to engage with utilities early so that they have enough time to integrate customer research into their price proposals.

One option that we raised at the workshops was utilities following the local government model. This model requires councils to consult with their community on a long-term strategic plan and on price/service trade-offs for specific rate determination periods.

4.2 Engaging with households and their representatives

One of the aims of this review is to increase the amount and quality of engagement with customers who are under-represented in the current price review process, for example, households.

One crucial question is how we improve the ability of consumer groups to engage with us in price reviews. While we can increase the frequency of our capacity building workshops, other options that can be considered include:

- ▼ using technically-skilled volunteers to assist customer representative bodies
- ▼ using a consumer champion to assist customers and their representatives to engage with us or utilities.

4.3 IPART's use of the information provided by utilities

Information on customer preferences provides us with a better understanding of customer expectations for the services they receive. We are interested in obtaining more information on whether:

- ▼ current service standards meet the expectations of customers
- ▼ customers are willing to pay for the services and the level of quality provided
- ▼ a representative cross-section of customers has been consulted.

Stakeholders, in particular service providers, have asked how we will use the information on customer engagement provided for a price review. As with all reports and accompanying documentation submitted during a price review, any additional information (if adequate) provides us with a better understanding of customers' expectations of the services they receive. The way we consider information presented should be responsive to the particular circumstances of each price review.

This non-prescriptive approach is necessary because we generally have the ability to consider a range of factors in our decisions.

4.4 Timeframes for price reviews

Stakeholders have already indicated to us that the current price review process takes a considerable time to complete. Therefore, we need to be mindful of not unduly extending the process, which may place a strain on the resources of utilities and consumer groups.

Ideally, we would like to see water utilities and transport service providers consult early with their customers before a price proposal is finalised. Water utilities presently have long-term capital expenditure plans. It would be useful for us to know whether their customers value the services that result from these plans. An often cited positive example in NSW is State Water's engagement with customers and its communication to us on the outcomes.

We are aware that requiring evidence of customer consultation also puts an onus on us to engage early with the utilities to clarify what type of information we need.

Customer representative bodies at our workshop also informed us that IPART needs to forewarn them early about participating in our process so that they are able to resource their efforts accordingly.



Appendices

A ACCC/IPART customer engagement workshop outcomes

The comments made at this workshop were general in nature. A number of points to note:

- ▼ It is important to consider the role of the regulator. For example, ESCOSA has been established to protect the interest of customers in South Australia. Hence their approach to customer engagement may be quite different from other regulators.
- ▼ In their current water prices review, the Essential Services Commission will set a base tariff but allow utilities to offer different value propositions to their customers. This effectively recognises that the businesses know their customers best and are best placed to gauge their customers' preferences.
- ▼ The Victorian Consumer Utilities Advocacy Centre commented that appeal mechanisms for consumers may be in place, but the process itself is expensive.

Bruce Mountain, a consultant who has worked with large energy users, commented that large energy users have a greater capacity to contribute to the price-setting process than retail customers. In his opinion, regulators should consider how to engage with these stakeholders more effectively.

B Utilities customer engagement workshop outcomes

Cost-benefit analysis (CBA)

Two different levels of CBA have been discussed:

1. the cost effectiveness of meeting a service standard
2. the deeper level of CBA on the appropriateness of the standard itself.

One of the main questions to ask in terms of CBA is, whether we have the right trade-off between pricing and reliability?

- ▼ Regulated water businesses told us at our utilities workshop that most, if not all, capital expenditure is backed by a cost-benefit analysis.

Willingness-to-pay (WTP) and consumer research

- ▼ If IPART requires the utilities to submit WTP information as part of their price proposals, then there should be clear guidelines on how this would be used by IPART.
- ▼ If WTP is not accepted by IPART, we need to give clear reasons why.
- ▼ IPART should engage early with utilities to determine what exactly we want utilities to do in terms of consumer research.
- ▼ If utilities do consumer research for price reviews, it will be important to consider how many customers really understand the price-setting process, price/quality, and reliability trade-offs.
- ▼ Is there a role for IPART to do capacity building with households before they can effectively engage with the utilities?
- ▼ Utilities already do a lot of consumer research and it would be cost effective to use the existing work.
- ▼ Some utilities argued that both the regulator and the utility should undertake their own studies since the utility's studies may be biased.

Consumer panels

- ▼ Utilities already have consumer panels. Some are mandated by legislation, others are part of the utilities own consumer research.
- ▼ Utility panel members are usually selected by the utilities. This may lead to a perception of bias.
- ▼ Utilities do not only engage on pricing issues with their customer panels.
- ▼ Hunter Water has online opt-in panels (approximately 1200 members in total) which provide feedback to the utility regarding its services – the characteristics of the members are known and complement any attitudinal surveys the utility may also undertake.
- ▼ Utilities also discussed outside processes, such as supporting interest groups that use informal means to pressure for change. For example, Sydney Water and the Sydney Catchment Authority (SCA) fund Streamwatch, an environmental action network educating and empowering communities to work together for healthy catchments.
- ▼ Some utilities commented that their customers do not understand what they are paying for.
- ▼ There is a need for capacity building.
- ▼ Some utilities undertake capacity building exercises with their panel members.
- ▼ Do we need another customer panel or should we use the utilities' panels?
- ▼ The SCA asked why broad consumer advocates do not exist in the first place – implying there may not be enough consumer demand for them and that we should not be creating a layer of consultation that may not be required.
- ▼ There could be a consumer panel representing all industries.

Communication

- ▼ Utilities asked if IPART has a communications person to liaise with journalists on upcoming decisions.
- ▼ Should IPART do some capacity building with relevant journalists so that they are better equipped to report on IPART's decisions?
- ▼ Some utilities feel that IPART's press releases are adversarial. An example was the press release which stated that the utility asked for an X% increase in prices and IPART only allowed them to increase prices by Y%.

Utilities also raised the importance of social media in capacity building.

Process

- ▼ Customer engagement activities should be designed collaboratively with the utility responsible for delivery.
- ▼ Utilities and regulators should engage early to determine what customer preferences information IPART requires, how this will be used in the pricing determination, and how IPART should report its decision to stakeholders.
- ▼ Some utilities considered that there should be more prescriptive rules on how customer preference information is used.
- ▼ Hunter Water believes that it would be useful for IPART to fully understand what engagement activities they are already undertaking.
- ▼ There is a need to establish the costs and benefits of customer engagement.
- ▼ Uniformity in approach to customer engagement is unlikely to be useful considering the variety of issues considered.

C Customer representative bodies and EWON workshop outcomes

Capacity building

- ▼ All stakeholders agreed that IPART should do more capacity building to support customer representatives and the not-for-profit sector.
- ▼ Given limited resources, stakeholders raised the possibility of finding 1 volunteer, or a group, who could be trained to assist them in preparing more informed submissions.
- ▼ Another option raised was that customer representatives could be trained to become specialists in a particular industry and then assist all customer representatives and the not-for-profit sector to prepare submissions. Stakeholders commented that this may not be the best option as most issues are the same across different industries.
- ▼ Some participants suggested that general skill building would be more beneficial than specialisation, for instance, in the cost building block model or weighted average cost of capital only.
- ▼ Stakeholders welcomed the idea of a consumer champion trained by IPART who is not an employee of the consumer representative bodies.
- ▼ Supply companies make some of the best consumer champions in the UK and might be motivated to do so here.
- ▼ Stakeholders would welcome more frequent interaction with IPART.
- ▼ There is also the possibility to explore whether anyone is willing to provide pro bono assistance to the not-for-profit sector.
- ▼ Most customer representative bodies represent the disadvantaged and represent about 10% to 20% of total consumers. How can we reach out to the other consumers?
- ▼ Capacity building needs to start upstream, for example, during the standard setting stage.
- ▼ Do businesses need capacity building to understand community concerns?

Consumer panels

- ▼ It is important to distinguish between customer panels established by the utility and those established by the regulators. Stakeholders feel that the former will be biased in favour of the utility.
- ▼ One stakeholder noted that in the US, the Consumer Advocate Office negotiates deals between customers and utilities.
- ▼ Stakeholders mentioned a new body funded by the Minister of Health. Health Consumers NSW is made up, among others, of trained customers who sit on roundtables on behalf of all health customers in NSW.
- ▼ The selection of panel members can be problematic because including specialised advocacy groups runs the risk that the broader public's voice will be missed.
- ▼ Further, even the representatives of the specialised customer representative bodies suggested that they find it challenging to represent the diverse groups of their constituents.
- ▼ Constructive engagement would require the customer representative groups to plan ahead to be able to participate.

Communication

- ▼ The not-for-profit sector considers that it needs clear guidelines on what is consulted on and where it will have an impact.
- ▼ Better use of website was flagged.
- ▼ IPART could provide templates for public submissions highlighting the main issues and their impact on prices.
- ▼ The website could provide better prompts for public submissions.
- ▼ The website could be more interactive.
- ▼ Some consumer groups have more access than others to our processes and thus may have unequal representation. An online forum to allow information sharing could therefore be helpful to some participants.
- ▼ Stakeholders suggested that IPART should release short environmental and social impacts statements as part of a price decision.

Process

- ▼ Some stakeholders feel that IPART has not appropriately acknowledged customer submissions in the past.
- ▼ Some stakeholders equally feel that IPART did not explain how it used customer submissions in its decision-making process.
- ▼ IPART needs to be more proactive if it wants to get more widely understood price submissions from the utilities.

- ▼ Stakeholders commented that they do not follow the leading questions in our issues papers. They tend to base their submissions on their own priorities and understanding.
- ▼ IPART has to assess the effectiveness of different engagement options as well as the costs involved.
- ▼ Stakeholders believe that IPART should engage with them very early in the price review. It would be useful to have a public hearing before the price proposal is submitted to IPART. This should include the utilities so that they can explain their submissions to customers.
- ▼ Stakeholders mentioned that councils consult with their communities on a 10-year strategic plan, so why can't utilities do the same?
- ▼ The right of consumers to appeal regulatory decisions may provide a strong incentive for consumers to engage early in the price-setting process. Stakeholders agreed with this but commented that the appeals process in jurisdictions where this is possible tends to be very expensive.
- ▼ Some participants viewed constructive engagement as a significant deviation from our present process because of the empowerment it provides consumers.
- ▼ Cost of engagement is an issue. Therefore the engagement undertaken must provide something worthwhile - "materiality issue".

D Government agencies customer engagement workshop outcomes

Communication

- ▼ Stakeholders identified a need for IPART to better raise the community's awareness of the main cost drivers of a price review prior to announcing price changes.
- ▼ IPART should create a document highlighting significant issues or key drivers of price changes to simplify the arguments for stakeholders. Technical information should be provided separately.

Process

- ▼ Stakeholders raised the question of what role State elections play in the consumer engagement process.
- ▼ Transport for NSW has a dedicated customer experience division.
- ▼ Stakeholders commented that IPART and government agencies already get the views of the 20% to 30 % of the less advantaged members of society. The question is, how do we engage with the other 70% to 80%?
- ▼ Transport for NSW commented that when IPART increases fares, all other things being equal, the government is paying more.
- ▼ This raises the question of IPART's role in finding out how much the government is willing to subsidise essential services.
- ▼ If the government is to be considered a customer in some industries, IPART may need to engage more with government in its price reviews.
- ▼ The Division of Resources and Energy (NSW Department of Trade and Investment, Regional Infrastructure and Services) asked whether information flows from government would bias IPART's processes.
- ▼ Stakeholders commented that they believe that it may take a number of determinations before the community's preferences are known, with the community learning with each engagement process undertaken.
- ▼ How will the effectiveness of the different engagement options be measured?

E Customer engagement for various IPART processes

Table E.1 Customer engagement undertaken in different industries

Industry Team	Driver of expenditure	Responsibility for standards	Type of consumer engagement	Customer involvement	Influence
Local government	Varies by council. There are prescribed functions that a council must undertake. The <i>Local Government Act 1993</i> has a broad list and functions usually vary depending on local circumstances.	Different laws apply. Councils set their service standards.	We do not undertake public consultation. Councils are required to engage their customers (eg, fact sheets, open houses, focus groups, public meetings, citizen advisory committees etc).	Low. Direct involvement in special variation setting with us, but significant involvement with councils directly.	High. Councils are required to demonstrate that they have adequately consulted with their communities.
Transport (Trains, Buses & Ferries)	The main drivers of expenditure are capital, as directed by government policy or by the service provider's scheduling of timetabled services. Labour costs are also extensive.	The government (Transport for NSW) is responsible for service standards for trains. Buses and Ferries have explicit contracts with Transport for NSW setting out service standards.	Issues papers and public hearings. CityRail in particular undertakes extensive customer engagement (eg, stated preference modelling but do not provide it to us as part of fare reviews).	High, however, mainly concerned with service standards (crowding, comfort, on-time) and less with fare changes.	A City Rail review received over 100 submissions (complaints) but issues about affordability were not based on the terms of reference. May require extensive capacity building for individuals.

Industry Team	Driver of expenditure	Responsibility for standards	Type of consumer engagement	Customer involvement	Influence
Electricity and gas (Retail)	The main drivers of price changes have been network charges and government green schemes. These cost components contributed 88% of the 17% rise in residential and small business bills in the most recent electricity determination.	The principal standards setter for retail energy is the government and will be the Australian Energy Regulator.	We undertake a consultative process which includes a draft report and public hearings. Standard retailers are required under the <i>Electricity Supply Act 1995</i> to appoint a customer consultative group. There are similar requirements for standard gas retailers under the Gas Supply (Natural Gas Retail Competition) Regulation 2001.	High. Submissions are mainly concerned with price changes but are not directly related to the expenditure and service standards which may drive them.	It is difficult for residential consumers to influence the outcome, especially since the main drivers of any price change are outside their discretion.
Water (metro water)	The main drivers for residential water expenditure include: Metro/Hunter Water plans, Environmental Protection Licences and government policy (eg, the sewage priority program).	The responsible department for metro water and other state agencies, such as environment and health, impose most of the conditions requiring capital expenditure.	Public and targeted consultation (licensing only). Utilities have consultative forums, but membership is an issue. More recently they have recruited councillors.	High, but unlikely to be well informed. Some advocacy groups make submissions but focus on outcomes, not the expenditure that drives the price change.	Minimal contribution to price setting due to the technical nature of expenditure proposed.
Water (bulk water)	Service standards set by NOW and by a consultative process with various stakeholders.	Regulators.	State Water has a consultative committee.	High. State Water consults regularly with its customers.	Customers consulted extensively before the price proposal is submitted.

Source: Personal communication with IPART sector teams.

F Legislative requirements

When conducting reviews under the IPART Act, IPART is to have regard to a broad range of matters. In addition to any other matters IPART considers relevant, IPART is to have regard to the following section 15(1) factors:

- ▼ the cost of providing the services concerned
- ▼ the protection of consumers from abuses of monopoly power in terms of prices, pricing policies and standard of services
- ▼ the appropriate rate of return on public sector assets, including appropriate payment of dividends to the government for the benefit of the people of NSW
- ▼ the effect of general price inflation over the medium term
- ▼ the need for greater efficiency in the supply of services so as to reduce costs for the benefit of consumers and taxpayers
- ▼ the need to maintain ecologically sustainable development (within the meaning of section 6 of the *Protection of the Environment Administration Act 1991*) by appropriate pricing policies that take account of all the feasible options available to protect the environment
- ▼ the impact on pricing policies of borrowing, capital and dividend requirements of the government agency concerned and, in particular, the impact of any need to renew or increase relevant assets
- ▼ the impact on pricing policies of any arrangements that the government agency concerned has entered into for the exercise of its functions by some other person or body
- ▼ the need to promote competition in the supply of the services concerned
- ▼ considerations of demand management (including levels of demand) and least cost planning
- ▼ the social impact of the determinations and recommendations
- ▼ standards of quality, reliability and safety of the services concerned (whether those standards are specified by legislation, agreement or otherwise).

While the relevant legislation requires IPART to have regard to certain factors, the weight that IPART gives any matter in the context of a price review is for IPART to decide.

The matters which IPART considers in making price reviews depend on the type of review being conducted. Most pricing reviews are conducted under the IPART Act. Some price reviews are conducted:

- ▼ under the *Public Transport Act 1990* (PTA), for example, rural and regional buses
- ▼ under terms of reference from the relevant Minister, for example, pricing determinations of regulated retail electricity tariffs under the *Electricity Supply Act 1995* (ESA) or the services of declared monopoly suppliers under the *Water Industry Competition Act 2006*.

The sections below set out legislative requirements relevant to the different industries we are regulating.

Electricity

Service standards are set out in:

- ▼ The *Electricity Supply Act 1995* (ESA) and the *Electricity Supply (General) Regulation 2001* (Electricity Regulation).
- ▼ Conditions of distribution network service provider licences and retail supplier licences, as imposed by the Minister for Resources and Energy under the ESA. The conditions include reliability standards.
- ▼ Customer connection contracts and customer supply contracts. Under the ESA and the Electricity Regulation, standard form customer connection contracts and customer supply contracts must include certain matters, such as guaranteed customer service standards.

The Minister for Resources and Energy must consult with the Minister for the Environment before granting a licence or imposing or varying licence conditions. There is a requirement to engage in public consultation before granting a licence.

The ESA makes it a condition of a standard retail supplier's licence that the supplier notify any relevant customer consultative group, and have due regard to its comments, before completing preparation of a standard form customer supply contract.

Gas

For the gas industry, service standards are set out in:

- ▼ the *Gas Supply Act 1996* (GSA) and the *Gas Supply (Natural Gas Retail Competition) Regulation 2001* (Gas Regulation)
- ▼ supplier's authorisation and reticulator's authorisation conditions, as imposed by the Minister for Resources and Energy
- ▼ customer supply contracts (including guaranteed customer service standards).

Under the GSA, the standard supplier must notify any relevant customer council, and have due regard to its comments, before completing preparation of a standard form customer supply contract.

Under the Gas Regulation, before varying the guaranteed customer service standards, the gas supplier must seek directions from the Minister regarding which people or organisations it should consult about the proposed changes. The gas supplier must consult with them plus the gas industry ombudsman and any relevant customer council.

Water

For the major urban water utilities, Sydney Water Corporation and Hunter Water Corporation, service standards are set out in the respective corporation's governing Acts and operating licences.

Both the Sydney Water 2010 to 2015 operating licence and the Hunter Water 2007 to 2012 operating licence:

- ▼ set out terms and conditions for provision of services, including standards for water quality, environmental performance and infrastructure management
- ▼ attach a consumer contract, which regulates the standards of service which consumers can expect from the water utility, including in relation to drinking water pressure and service interruptions.

The licence standards are set by the Minister for Finance and Services. IPART makes recommendations to the Minister in relation to the amendment of licences.⁶ Under both licences, IPART is required to conduct an end-of-licence-term review and consult publicly as part of that review process.

There are also some requirements on Sydney Water and Hunter Water to engage in public consultation. These include the following:

- ▼ Sydney Water must, under the *Sydney Water Act 1994* and its operating licence, have in place and regularly consult with a customer council to enable community involvement in issues relevant to the performance of Sydney Water's obligations under the licence and the customer contract. The operating licence provides that the customer council must include a representative of a number of groups, including low income households and environmental groups.
- ▼ Hunter Water must, under the *Hunter Water Act 1991* and its operating licence, have in place and regularly consult with a consultative forum to enable community involvement in issues relevant to its performance licence obligations.

The *Sydney Water Act 1994* and the Sydney Water Corporation 2010 to 2015 operating licence also require Sydney Water to enter separate memoranda of understanding

⁶ Section 28(2) of the *Sydney Water Act 1994*.

with certain regulatory agencies, including the Office of Environment and Heritage and the Director-General of NSW Health, for the term of the licence.

Under Hunter Water's operating licence, it must use its best endeavours to maintain a memorandum of understanding with NSW Health for the term of the licence.

Transport

For transport, the main service standards are set out in:

- ▼ the PTA and the Passenger Transport Regulation 2007
- ▼ service contracts for regular passenger services
- ▼ taxi accreditations and licences.

There are also additional legislative requirements, for example, the operation of a railway passenger service by RailCorp is subject to the requirements of the *Rail Safety Act 2008*.

Under the PTA, performance standards are to be included in the service contract for:

- ▼ regular ferry services
- ▼ regular bus services
- ▼ rail services.

In relation to setting performance standards for regular bus services, Transport for NSW must consult with each of the following before approving a standard:

- ▼ the Transport Advisory Group constituted under the *Transport Administration Act 1988* the Bus and Coach Association of NSW
- ▼ such other people or bodies as the Minister directs.

Generally the performance standards for regular ferry services and rail services are set by Transport for NSW and there is no consultation requirement.

For taxis, there are certain statutory conditions regarding service standards under the PTA as determined by Transport for NSW.