

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Competition and Consumer Amendment (Australian Energy Regulator Separation) Bill 2025

Agency: Australian Competition and Consumer Commission
Question No: [Click here to enter text.](#)
Topic: Reviews
Reference: Spoken p.2_ (12 August 2025)
Senator: Senator Dean Smith

Question:

- Senator DEAN SMITH: In your submission, you identify the Vertigan review, the Finkel review and the review of the Energy Security Board operator done by Mr Edwards. Did any of those reviews provide any caveats or qualifications to their support for the separation of the AER from the ACCC function?
- Ms Proudfoot: I'll begin there but then refer to Ms Ross. The Vertigan review, for example, noted that the AER should have full management and financial autonomy and felt that was most effectively achieved by reestablishing as a standalone body but, I think, was open to other measures. Dr Finkel's review looked at the highly technical and sector-specific regulatory responsibilities of the AER and noted, also, the particular focus on that of key stakeholders being concerned around it and really framed it as a decision on structural separation being resolved. Ms Ross: I don't have anything.
- Ms Proudfoot: We could come back to you on notice with further detail, if that's helpful.
- Senator DEAN SMITH: Yes, please. If you could also provide on notice why it was that the alternative scenarios that Dr Vertigan might have proposed weren't, in the end, adopted, for full clarity about why we've got to this particular solution.
- Ms Proudfoot: That may also be a question for the energy department, given it's a policy question.

Answer:

Vertigan Review

The *Review of Governance Arrangements for Australian Energy Markets Final Report* (Vertigan Review) was published in October 2015 and found that the AER's performance could be strengthened by establishing it as an independent organisation, separating it from the Australian Competition and Consumer Commission (ACCC). The Vertigan Review also found that separation should be attended by periodic external performance reviews of the AER every three to five years (p.8). A range of other changes that might accompany separation were also expressed including: (1) a review of funding mechanisms so that the AER is funded by all jurisdictions that are members of the COAG Energy Council; (3) increases to Board structure from 3 to up to 5 Board members.¹

The ACCC notes the increase in AER Board members has occurred.

¹ See: [Review of Governance Arrangements for Australian Energy Markets](#), October 2015

Finkel Review

The [*Independent Review into the Future Security of the National Electricity Market - Blueprint for the Future*](#) (Finkel Review) was published in June 2017 and reached the same conclusion as the Vertigan Review.

The AER's role is highly technical and sector specific. While the ACCC also carries other sector-specific regulatory responsibilities, the AER as a separate energy agency would reflect the energy-specific responsibilities of the other energy market bodies and energy regulators in similar countries. The structure, governance and funding arrangements of the AER are a longstanding concern for key stakeholders, and a decision on structural separation should be resolved, but not without clarity on a sustainable funding arrangement. (p.180)

The Finkel Review explicitly noted that, in the context of structural separation of the AER, careful consideration would need to be given to preserving the relationship between the ACCC and AER through good information sharing, liaison and cooperation. The Finkel Review also pointed to the need to review the structure, governance and funding arrangements of the AER and a sustainable funding arrangement should accompany clarity on structural separation. (p.180)

Energy Security Board Review by Mr Edwards

The *Review of the Energy Security Board* conducted by Rhys Edwards in 2020 noted that many participants raised issues of wider energy market governance including structural separation of the AER from ACCC. While structural separation is referred to in this report, no caveats or qualifications are applied to structural separation by the author.

Alternative scenarios

On the alternative scenarios that Dr Vertigan might have proposed for the ACCC and AER and why they weren't in the end adopted, the Vertigan Review considered that the 'national energy policy objectives are not as well served as they might be by the status quo because of skills, expertise and cultural issues.' Alternative structural models considered were: (1) greater business separation of AER, directed at cultural, resourcing and staffing issues, including at board and senior staff levels; (2) a standalone AER as purely energy regulator; (3) separation from the ACCC but as part of access and pricing regulatory activities in other sectors, as proposed by the Competition Policy Review (the Harper Review).

Option (1) was effectively adopted and greater business separation of the AER has occurred over time with the growth of the AER and changes to the Executive and Board arrangements; (2) is currently under consideration; and (3) the recommendation to create a single national Access and Pricing Regulator, including the transfer of telecommunications, price regulation functions of the ACCC to the NCC was not implemented by the government. Rather, as stated in the response to the Harper Review, the government indicated that it would continue discussions with states and territories on how a new national framework could be developed between the commonwealth, states and territories to promote economic growth, including the most appropriate institutional architecture to support reform.²

The matter of why other alternative scenarios were not adopted was a matter for Government.

² See: [Government response to the Competition Policy Review | Treasury.gov.au](#)