

Dear Energy Security Board

Shell Australia would like to put forward the following comments on the Energy Security Board's Consultation Paper on the ACCC's Retail Electricity Pricing Inquiry Recommendation 41.

We understand the submission process has just closed for this, but grateful if you could take on board the general comments below.

Please don't hesitate to contact me should you wish to discuss further.

[Email Signature]

<b>ESB Question</b>	<b>Shell Response</b>
Are there existing constraints on the AER's information gathering powers that could be removed to allow it to effectively monitor the contract markets in both gas and electricity?	No specific comment. ESB's analysis seems reasonable that AER's powers do not current extend to explicitly monitoring the contract market. We assume that was not considered necessary in the establishment in the National Electricity and National Gas Rules.
Should restrictions imposed under section 18D of the National Electricity Law (NEL) on information gathered under section 28 the NEL, relating to wholesale market monitoring, be removed or amended? Similarly, should the National Electricity Law be amended to allow a regulatory information notice or order to be issued to market participants other than network businesses?	Refer to response below
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How can the AER's role be designed to be effective while avoiding overlap with the role of the Australian Securities and Investment Commission in contract markets for gas and electricity?	<p>We are unclear of other markets where both the spot and contract markets are oversighted by two separate regulators. We do not believe the ESB nor the ACCC have made a sufficiently convincing case as to why the power and gas markets pose greater risks of market manipulation due to the existence of spot and contract markets than other traded commodities or instruments.</p> <p>Furthermore, the dual regulator arrangement could also be confusing for businesses as the regulators could take differing approaches to market monitoring and enforcement (we do not the two organisations take different approaches).</p> <p>Another matter is whether there is information sharing between the two regulators regarding</p>

	any findings and if this is appropriate. Shell does not believe this should be case.
Is an OTC trade repository required for the AER to access the information it requires to effectively undertake its wholesale market monitoring function?	We do not support introducing an OTC trade repository reporting requirement for OTC electricity derivatives. Options such as enhancing the AFMA survey should be consider first given the compliance burden and risks. We believe that high frequency reporting such as daily is unnecessary given the issues under investigation by the AER. This differs from G20 derivative reporting which is designed to detect financial contagion and uphold the integrity of the financial market.
If a repository is established, should it be a specific purpose repository for reporting energy OTC contracts, or could an existing trade repository be used?	It should be an existing repository to minimise burden on industry and allow existing reporting structures to be extended. We note there are fees attached to reporting and could substantially increase the costs. We believe there should be at least some cost sharing across the AER and industry.
Should the AER also be able to access data on exchange traded contracts (ASX and other) to a similar level of detail to that which would be reported in a trade repository?	No specific comment. If the proposal proceeds, then it seems reasonable to also capture the ASX data as it provides the full portfolio position.
Are there other measures which could be implemented instead of an OTC trade repository (e.g. enhanced industry survey such as the AFMA survey) that would enable the AER to effectively undertake its wholesale market monitoring function?	See response above.