



Mark Soper
Strategy and Corporate

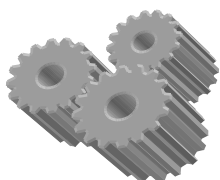
Nicole MacFarlane
General Counsel

Bas Walker
Senior Adviser

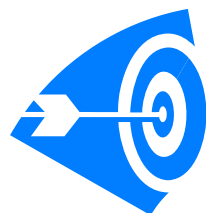
Approach to Co-Regulation

11 October 2007

Overview



Process Framework



Industry Agreements



Cost Allocation



Cost Benefit Analysis



Consultation Timeframes



Process framework



Context

- Gas Industry Co is a creature of statute
- Gas Act, GPS, Companies Act and company constitution provide the framework within which we are required to operate
- GPS sets out Government's priority areas for action



Good policy design necessitates focus on outcomes not outputs

Policy outcomes

- Gas Act amendments & GPS set out overall policy outcome:
 - To ensure that gas is delivered to existing and new customers in a safe, efficient, fair, reliable, and environmentally sustainable manner

Policy outcomes (cont.)

- Other policy outcomes include:
 - Contribute to climate change objectives
 - Effective operation of markets
 - Promoting competition
 - Downward pressure on prices
 - Security of supply

Process requirements

- Before recommending rules or regulations we must:
 - "... seek to identify all reasonably practicable options..."
 - "... assess those options...and consider the benefits and costs of each "
 - "... ensure that the objective ... is unlikely to be satisfactorily achieved by any reasonably practicable means other than the making of the regulation (for example, by education, information or voluntary compliance)"
 - " consult with persons...that are representative of the interests of persons likely to be substantially affected..."

Policy approach

Problem Definition
and Issues Review



Clarify Policy
Objective



Identify "reasonably
practicable" options
that meet policy
objective



Assess those
"reasonably
practicable" options



Most Practicable
Option



Rules and Regulations

- *Statement of proposal*
- *Recommendation to Minister*

Industry Agreement

- *Recommendation to Minister*
- *Signed agreement*



Industry agreements



Overview

A range of policy instruments
available to be considered



voluntary
guidelines

codes of
practice

industry
agreements

rules/regulations

Gas Industry Co required to
determine which will best achieve
the regulatory objective



Industry often expresses
preference for non-regulatory
arrangements...



...but all require agreement from
participants...

Prefer industry agreements but....

Two recent examples

Standardising disconnection practices

- Gas Industry Co developed solution in December 2006
- Last chance for agreement by 31 October 2007

Gas processing information disclosure

- Unable to obtain agreement by extended deadline
- Regulated solution now proposed

Difficulties and barriers observed

- Commercial interest vs NZ Inc
- Risk of “hold-out”
- Corporate approval requirements
- Follow the leader
- Existing contractual constraints
- Natural monopolies vs competitive entities
- Commerce Act implications
- Perception of free-riding
- Ability to change and add new parties
- Asymmetry of information

Outcome

Experience to date suggests that industry arrangements are only suitable where:



- voluntary compliance is sufficient
- strong commitment across all parties
- existing contractual situation is simple
- scope is defined and contained

Gas Industry Co required to consider industry arrangements as one of the range of policy instruments available to it but.....

Conclusion

***Industry agreements need
you!***



Cost allocation



Cost Allocation

- Regulatory processes have costs external to industry participants – development/ongoing.
- Cost itself needs to be clear and justifiable.
- Cost to be allocated on basis of transparent, logical and comprehensive principles.

Gas Industry Co approach

General principles:

- Economic efficiency
- User/causer pays
- Rationality
- Simplicity
- Equity
- Revenue sufficiency

Approach

- Application on a case by case basis

↳ But end result must be robust against external scrutiny



Cost benefit analysis



Cost benefit analysis

Essential part of policy development process
For formal Rules/Regulations is required by
s43N(1)

A standard policy:

- 
- A thick, dark red curved arrow pointing from the left towards the list items.
- ensure comprehensive/consistent approach
 - provide platform for ongoing improvement.

CBA policy – costs and benefits

- Marginal not average values
- Use national economic perspective



Costs should cover:

- policy process
- development cost of chosen option
- operating and maintenance costs

Benefits should cover:

- competitive benefits
- reduced operating cost
- improved efficiency
- improved information.


CBA policy – risk and uncertainty

Distinguish between risk and uncertainty:

- scenario analysis (preferred);
- sensitivity analysis; or
- combination of both.

CBA policy – overall assessment

Data/information deficiencies a common problem

- 
- quantitative analysis if data sufficient
 - qualitative analysis, where data insufficient.

Quantitative

- Calculation of NPV at 6%, 10% and 12% discount rates.
- Analytical period up to 10 years reflecting economic life of solution.

Qualitative

- Rigour of analysis maintained but using words not \$.
- Use standard set of descriptors to characterise.

CBA policy - conclusions

- Critical importance of high quality CBA recognised by policy
- Will assist industry input of necessary information



Consultation timeframes



Consultation – case law

- Relevant information to be provided
- Sufficient time for submissions
- Party obliged to consult, while entitled to have a working plan already in mind, must keep its mind open
- You must take due notice of submissions (no early decisions)
- Although views can be modified during the consultation process, if a significant or fundamental change is proposed, there is an obligation to consult further with affected parties



The consultation must be a reality, not a charade

Consultation - approach

- The only formal “consultation” requirement under the Gas Act is to consult before making any recommendation to the Minister for approval of gas governance regulations or rules
- However, we are committed to ongoing engagement

↳ This has invariably meant the release of multiple discussion papers before the formal consultation document is released.

Consultation - timeframes

- The Board has adopted a policy of a **four-week** period for consultation
- This is in line with timeframes typically allowed by agencies such as the Electricity Commission, Commerce Commission and Ministry of Economic Development
- Internal planning has been done on this basis

Experience to date

- Longer consultation periods have been granted where the Board considers it warranted



recent example is the statement of
proposal on transmission access (7 weeks)

- Consultation periods have varied from 2 weeks to 8 weeks, but the median is 6 weeks
- The average number of submissions is 7
- The average proportion of late submissions is about 40%

Proposal for discussion today

- **4 week period for consultation on “discussion papers”**
- **6 week period for consultation on “statements of proposal”**
- **Extensions only in exceptional circumstances**



Questions? Comments?

