

Review of upstream competition and timelines of supply: Issues Paper

Attachment 1: Response template due 15 October 2021

Stakeholder name: Damian Dwyer, Deputy Chief Executive, Australian Petroleum Production & Exploration Association (APPEA)

	Questions	Feedback
Box 3.1: Questions on government processes		
1.	Are there any other government processes that may affect the degree of upstream competition and/or the timeliness of supply? If so, please set out what they are and the effect that they may have on competition or supply.	Please see the attached submission.
2.	Should governments explicitly consider diversity and efficiency, or the potential impacts on competition, when awarding acreage? If not, please explain why not.	Please see the attached submission.
3.	Should governments employ a more proactive approach when: <ul style="list-style-type: none"> (a) specifying the timeframes for exploration, appraisal and/or production and/or approving exploration or retention permit renewals where they have the discretion to do so? <ul style="list-style-type: none"> • If so, what is this likely to entail? • If not, please explain why not. (b) approving, monitoring and enforcing compliance with work programs? <ul style="list-style-type: none"> • If so, what is this likely to entail? • If not, please explain why not. 	Please see the attached submission.
4.	What other ways could state, territory or Commonwealth governments	Please see the attached submission.



	Questions	Feedback
	encourage: <ul style="list-style-type: none">• greater diversity in the upstream segment of the market?• more timely supply of gas to market?	
Box 3.2: Questions on barriers faced by producers		
5.	Are there any other barriers that producers face when developing tenements that have not been identified in section 3.2 (for example, access to drilling or other appraisal related services) that may affect upstream competition and/or the timeliness of supply? If so, please explain what these barriers are and the effect that they can have on upstream competition and/or the timeliness of supply?	Please see the attached submission.
6.	Are there any effective ways to reduce the following barriers: <ul style="list-style-type: none">• land access, environmental and other regulatory approvals?• access to capital and other commercial barriers?• access to infrastructure?	Please see the attached submission.
7.	Should the owners of upstream infrastructure (e.g. gathering pipelines, gas processing facilities and/or water processing facilities) that have spare capacity be required to provide third party access on reasonable terms?	Please see the attached submission.
8.	Are there other ways to improve third party access to upstream infrastructure on reasonable terms?	Please see the attached submission.
9.	Would third party access to any other infrastructure (e.g. LNG processing facilities, storage facilities etc.) facilitate more upstream competition and/or the more timely development of supply into the domestic market? If so, please identify the infrastructure and the benefits that third party access would provide.	Please see the attached submission.



	Questions	Feedback
Box 4.1: Questions on JV arrangements		
10.	Are there any aspects of JV arrangements not identified in section 4.1 that may adversely affect upstream competition and/or the timeliness of supply? If so, please explain what they are and how they may affect upstream competition and/or the timeliness of supply.	Please see the attached submission.
11.	Are there any measures that could be put in place to address the potentially negative aspects of JVs identified in section 4.1 or in your response to question 10?	Please see the attached submission.
12.	Are there provisions in the contractual arrangements that underpin JVs that can adversely affect competition and/or the timeliness of supply? If so, how could this be addressed? Is there, for example, a best practice JV arrangement that would prevent this occurring?	Please see the attached submission.
13.	Are there any approaches (either in place, or that could be put in place) designed to help level the playing field between larger and smaller producers in the same JV? Please explain how these approaches work.	Please see the attached submission.
14.	Do you consider that proposals by larger producers to enter into JV arrangements (or farm into existing JV arrangements) should be subject to mandatory notification requirements and ACCC consideration? Please explain your response to this question.	Please see the attached submission.
15.	Is any other form of oversight of JV arrangements required?	Please see the attached submission.
Box 4.2: Questions on mergers and acquisitions		
16.	Section 4.2 sets out how mergers and acquisitions of individual tenements can affect competition and/or the timeliness of supply. Are there any other ways in which mergers and acquisitions could affect competition and/or the timeliness of supply that have not been identified? If so, please explain what they are and the effect that they can have on	Please see the attached submission.



	Questions	Feedback
	upstream competition and/or the timeliness of supply?	
17.	Do you think the current merger regime has been working effectively to date? If not, please explain why not.	Please see the attached submission.
18.	Do you think the current merger regime can work effectively in the highly concentrated upstream market? If not, please explain what changes you think are required?	Please see the attached submission.
Box 4.3: Questions on joint and separate marketing		
19.	Are there any aspects of joint marketing by unincorporated JVs not identified in section 4.3 that may adversely affect upstream competition and/or the timeliness of supply? If so, please explain (with examples if possible): <ul style="list-style-type: none"> • what they are • how they may effect upstream competition and/or the timeliness of supply • any measures that may be able to address them. 	Please see the attached submission.
20.	What are the factors that may make establishing balancing arrangements difficult in one case, and easier in another? How has this changed over time? Please provide examples if possible.	Please see the attached submission.
21.	In what circumstances do you consider allowing producers to jointly market gas would be beneficial? Please provide examples of current producers that are jointly marketing their gas and what you consider the likely impact would be on competition or the timeliness of supply if they were to separately market.	Please see the attached submission.
22.	Do you consider the current competition laws are sufficient to respond to the issues around joint marketing by unincorporated JVs?	Please see the attached submission.



	Questions	Feedback
	Please explain your answer including, if relevant, any changes you think may be required.	
23.	<p>Are there any aspects of the arrangements relating to the sale of gas by incorporated JVs that may affect upstream competition and/or the timeliness of supply? If so, please explain (with examples if possible):</p> <ul style="list-style-type: none">• what they are• how they may effect upstream competition and/or the timeliness of supply• any measures that may be able to address them.	Please see the attached submission.
24.	<p>Do you consider the current competition laws are sufficient to respond to the issues around the arrangements relating to the sale of gas by incorporated JVs?</p> <p>Please explain your answer including, if relevant, any changes you think may be required.</p>	Please see the attached submission.
Box 4.4: Questions on exclusivity provisions		
25.	<p>Section 4.4 describes how exclusivity provisions in GSAs between producers may restrict upstream competition.</p> <ul style="list-style-type: none">• Are there any other ways that these provisions might restrict competition? If so, please explain what they are.• Are there any competition or efficiency benefits associated with these types of provisions?	Please see the attached submission.
26.	If exclusivity provisions are restricting competition, how should this be addressed?	Please see the attached submission.
27.	<p>Should producers only be allowed to enter into exclusivity arrangements if they have sought and obtained authorisation from the ACCC before doing so?</p> <p>Please explain your reasons.</p>	Please see the attached submission.



	Questions	Feedback
Box 4.5: Questions on decisions on when to develop new sources		
28.	Section 4.5 sets out some of the technical, commercial and strategic factors that may affect producers' decisions about when to develop new sources of supply and the timeliness with which gas is brought to market. Are there any other factors that may influence these decisions?	Please see the attached submission.
29.	Section 4.5 also outlines some of the reasons why larger producers may want to 'bank' or 'warehouse' gas. Are there any other reasons why they may want to withhold supply in this manner?	Please see the attached submission.
30.	If gas is being 'banked' or 'warehoused' how do you think this should be addressed?	Please see the attached submission.