

Legislative review of the effectiveness of the Prohibited Energy Market Misconduct Act: Submissions Template

Assessment Framework and General Questions	
1.	Do you agree with the framework for assessing the effectiveness of the PEMM Act?
2.	How can the review assess the impact of the PEMM Act against the market performance criteria, including: <ul style="list-style-type: none"> • market efficiency; • equity; • reliability; • affordability; • emissions reduction; and • investment outcomes.
3.	Are there any other criteria in addition to those above the review should consider? If so, what are they, and how can they be assessed?
4.	Have regulatory changes in the market since the introduction of the PEMM Act influenced its effectiveness?

5.	Are there particular data sources or other forms of evidence the review should consider in making its assessment? If so, what are these and why should the review consider them in making its assessment?
6.	How have broader market conditions, such as the COVID-19 pandemic and the energy crisis, affected the PEMM Act's operation in the market?
Retail Market Prohibition Questions	
<p>When providing feedback on the questions in this section above you may wish to comment on:</p> <ul style="list-style-type: none"> • Broader market conditions which have affected the behaviour and pricing strategies of electricity retailers. • Whether the requirements of the PEMM Act have created barriers to entry into the electricity retail market. • How market conduct affects vulnerable and disengaged customers, and customers on legacy contracts. • Whether the PEMM Act fails to regulate conduct that should otherwise be regulated 	
7.	Has the retail prohibition in the PEMM Act affected electricity market performance? If so, how?
8.	Has the retail prohibition resulted in consumer prices better reflecting the underlying costs of procuring electricity? If so, how?

9.	Has the retail prohibition influenced retailer pricing strategies in the market, observed or otherwise?
10.	Are the remedies that are available in relation to the retail prohibition under the <i>Competition and Consumer Act 2010</i> (CCA) appropriate and effective?
11.	How has retailer behaviour changed as a result of the prohibitions set out in s.153E having regard to the way in which misconduct is defined?
<h3>Contract Market Prohibition Questions</h3>	
<p>When providing feedback on the questions in this section you may wish to comment on:</p> <ul style="list-style-type: none"> • Broader market conditions which have affected the behaviour of electricity generators offering financial contracts. • If the requirements of the contract prohibition have created barriers to entry for new potential suppliers of generation. • How the requirements of the contract prohibition may have affected the way new and existing generators design their generation infrastructure. • Whether the PEMM Act fails to regulate conduct that should otherwise be regulated. 	
12.	Has the electricity financial contract liquidity prohibition in the PEMM Act impacted electricity market performance? If so, how?

13.	Have retailers, particularly small standalone retailers, observed improved access to financial contracts? If not, why?
14.	How important is it for retailers to access Australian Stock Exchange (ASX) traded contracts, or other types of financial contracts for risk management, and how does this impact the underlying costs of procuring electricity?
15.	Have the remedies available under the electricity financial contract liquidity prohibition impacted investment decisions by generators? If so, how?
16.	Are the remedies available in the <i>Competition and Consumer Act 2010</i> (CCA) – including contracting orders under the PEMM Act – appropriate and effective in addressing electricity financial contract liquidity misconduct?
17.	How has generator behaviour changed as a result of the prohibition set out in s.153F having regard to the way in which misconduct is defined?

Spot Market Prohibition Questions

When providing feedback on the questions in this section you may wish to comment on:

- Broader market conditions which have affected the behaviour of electricity generators, for example, the global energy crisis, supply chain constraints, and coal plant outages.
- If the prohibitions of the PEMM Act have interfered with behaviour which is genuine commercial behaviour as intended by the design of the electricity spot market.
 - This includes strategies undertaken by generators to optimise their operation and economic rationing of capacity.
- Whether the PEMM Act fails to regulate conduct that should otherwise be regulated.

18.	Have the electricity spot market prohibitions in the PEMM Act impacted electricity market performance? If so, how?
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19.	Do electricity spot market bidding provisions in the PEMM Act and bidding and rebidding provisions in s 3.8.22A of the National Electricity Rules (NER) overlap or address different generator behaviours? If so, how?
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20.	Has generator bidding behaviour changed as a result of the electricity spot market prohibitions? If so, how?
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21.	Have the remedies for the electricity spot market prohibitions affected investment decisions by generators? If so, how?
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22.	Are the remedies in the <i>Competition and Consumer Act 2010</i> (CCA) and the PEMM Act appropriate and proportionate to address electricity spot market misconduct?
23.	How has generator behaviour changed as a result of the prohibition set out in ss. 153G and 153H having regard to the way in which misconduct is defined?
ACCC NEM Inquiry Function Questions	
24.	Does the NEM Inquiry support improved outcomes for customers?
25.	Does the NEM Inquiry provide value beyond supporting monitoring and compliance with the PEMM Act provisions? If so, how?
26.	Is the scope and the types of information gathered through the current NEM Inquiry appropriate? If not, how?

Are there any other comments you would like to make?