

ACCC CALLS FOR OVERHAUL OF GOVERNANCE, TRADING RULES AND REGULATION OF MURRAY–DARLING BASIN AND ITS WATER MARKETS

The Australian Competition and Consumer Commission (ACCC) has released its Interim Report for its Murray-Darling Basin Water Markets Inquiry. The Interim Report sets out the ACCC's findings that the current markets' rules are deficient, enforcement is inconsistent and limited, and overall governance of water trade within the Basin is 'troubled'. The ACCC is seeking feedback on its Interim Report, including options presented for reform, by 28 August 2020.

On 7 August 2019 the Commonwealth Government announced that it would direct the Australian Competition and Consumer Commission (ACCC) to conduct an inquiry into markets for tradeable water rights in the Murray–Darling Basin.

On 30 July 2020, the ACCC publicly released its 544-page Interim Report for its Murray–Darling Basin Water Markets Inquiry.

The Interim Report's publication follows an Issues Paper, a series of ten public forums, and extensive industry consultation (including over 130 submissions in response to that Issues Paper), carried out by the ACCC throughout late-2019 and early-2020.

In the ACCC's view, the current markets' rules are deficient and enforcement of them is inconsistent and limited. It described the overall governance within the Basin's water trade as 'troubled'.

The ACCC has asked for feedback on its Interim Report by 28 August 2020, ahead of it completing its Inquiry and providing a Final Report to the Treasurer by 30 November 2020.

Stakeholders should give careful attention to the ACCC's Interim Report and take the opportunity now to provide feedback to the ACCC on the issues raised in the Interim Report (including via industry and representative bodies).

KEY TAKEAWAY FROM THE ACCC'S INTERIM REPORT

The ACCC is concerned that maintaining the "status quo" is inappropriate and strongly recommends that comprehensive change is implemented to address the markets' problems and allow the full benefits of water trading to be harnessed.

Despite that recommendation for an overhaul of governance and regulation regarding the Murray–Darling Basin, the ACCC does not consider it to be viable to either entirely or substantially dismantle the existing water markets, or to make them much more restricted. It was also expressly opposed to proposals calling for a return to a system where water is "tied" to land.

FURTHER CONSIDERATIONS

The ACCC has also found that:

- / intermediaries are operating in a mostly unregulated environment;
- / there are scant rules to discourage misconduct and a lack of regulatory oversight of broker practices;
- / there are information failures and asymmetries (which favour larger, more sophisticated market participants and cause distrust in the market for water users including farmers);
- / there is a disconnect between the rules of the trading system and the physical characteristics of the river system; and
- / there is regulatory fragmentation between the different jurisdictions and governing bodies within the Murray–Darling Basin

The ACCC also stated that it will continue to examine the conduct of investors and other market participants, including the adequacy of regulation of these parties.

SUBMISSIONS SOUGHT

Importantly, in its Interim Report, the ACCC has not yet identified or recommended specific solutions to the problems it has identified. Instead, it seeks feedback in relation to the options presented, or suggestions as to alternative options to address the concerns identified.

In this respect, you should consider whether the proposals may impact on your business and whether you would like to make submissions in response to the ACCC's Interim Report.

[Submissions to this Interim Report](#) are requested by 28 August 2020.

CONTACT DETAILS

If you have questions regarding the Murray-Darling Basin Water Markets Inquiry, the ACCC's Interim Report or if you would like assistance with a review of your contracts or your submission to the ACCC, please contact:



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