



Mike Smart, Consulting Director, LECG

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BIO

Mike Smart, a consulting director based in LECG's Sydney office, works primarily in the fields of competition, pricing and business strategy, focusing on infrastructure and other networked businesses. He applies empirical economics to valuation, costing, corporate strategy, regulatory and competition policy issues. Mike has advised the Australian industry leaders in rail, telecommunications, logistics, gas, mining, electricity and aviation, among other private and public sector organisations. His advice includes the preparation of reports, submissions, board papers, financial models, and testimony. Mike has given expert evidence in the Federal Court of Australia and the Australian Competition Tribunal.

Prior to joining LECG in March 2008, Mike was a vice president of CRA International and an executive director of the Network Economics Consulting Group (NECG). Before joining NECG, Mike was the manager of corporate strategy for the Rail Access Corporation of NSW during its corporatisation and first three years of operation. That role encompassed commercial and regulatory challenges including development of an access pricing strategy and negotiating access contracts, as well as a significant contribution to the development of the NSW Rail Access Regime.

Prior to that role, Mike advised the Public Accounts Committee of the NSW Parliament, worked as engineering manager in a data acquisition and machine vision firm, and consulted, in California, to the airline and electric power industries.

Mike is a member of the Trade Practices Committee of the Business Law Section of the Law Council of Australia.

QUALIFICATIONS

BA Magna Cum Laude (Astrophysics), Harvard University 1979

PRESENT POSITION

LECG Limited, Consulting Director, 2008

PROFESSIONAL EXPERIENCE

Litigation

- Briefed counsel for the Australian Pipeline Trust in a High Court challenge to the Australian Competition & Consumer Commission's (ACCC) final decision on the access arrangements for the Moomba–Sydney Pipeline. Decision handed down Sept. 2007.

- Authored an expert report in the matter of an application by East Australian Pipeline Limited [2005] ACompT 1, heard by the Australian Competition Tribunal, Sydney.
- Conducted a series of imputation tests used in expert testimony in the s46 case brought against Baxter by the ACCC in the federal court in Sydney (2005).
- Assisted in the preparation of expert testimony called by Pacific National in a federal court case concerning disputed management and occupancy of the Acacia Ridge rail terminal in Brisbane (decision 2005).
- Testified before the Australian Competition Tribunal in the matter of an Application by Virgin Blue Airlines Pty Limited, No 1 of 2004, Sydney.
- Testified before the Federal Court of Australia in the matter of *Australian Gas Light Company v. Australian Competition & Consumer Commission* (No 3) [2003] FCA 1525, Melbourne.
- Assisted in the preparation of expert testimony on behalf of the Coal Compensation Board with respect to a disputed compensation claim in the Coal Compensation Tribunal (2002).
- Assisted in the preparation of expert testimony on behalf of Duke Energy with respect to their successful action before the Australian Competition Tribunal to have the Eastern Gas Pipeline unregulated (2001).

Consulting

- Undertook a quantitative assessment of the external benefits generated by Sydney bus services and the socially optimal level of government subsidy (2008).
- Performed an empirical estimate of CityRail's marginal costs (Nov 2008) used in IPART's review of Sydney urban rail fares for 2009–2012.
- Prepared sections of an application by the Australian Pipeline Trust to have light handed regulation applied to the Moomba-Sydney Pipeline. Approved in Nov. 2008, this application was the first of its kind under the new National Gas Law.
- Authored a series of expert reports concerning Telstra's applications for exemption from declaration of various Domestic Transmission Capacity Services (December 2007–October 2008). The sought exemptions were partially granted.
- Prepared a quantitative assessment of the external benefits generated by urban rail transport in Sydney and the socially optimal level of government subsidy (June 2008).
- Assisted NSW competition regulator IPART in its inquiry into the Port Botany land transport interface (Final report published March 2008).
- Co-authored, with Professor George Hay, an expert report concerning competition impacts of a merger in the plastic bottle industry (2007).
- Assisted FOXTEL in obtaining ACCC approval (granted March 2007) for its special access undertaking for its digital set top units.
- Advised IPART on its ongoing review process for actual coal rail access revenues against the statutory ceiling.
- Led a team analysing the regulatory test hurdles for a proposed reinforcement investment in the electricity transmission network for WesternPower (2007).
- Provided economic reports in support of the asset valuation for the Roma-Brisbane Pipeline in the 2006-2007 Access Arrangement round.
- Assisted AGL to obtain regulatory approval for the acquisition of certain Queensland retail energy business assets (2006-07).
- Advised a New Zealand firm on potential damages arising from alleged collusive pricing (2006-07).

- Worked in a team modelling the competition impacts of the (now approved) merger between Toll Limited and Patrick Corporation (2006).
- Prepared reports submitted to the National Competition Council on behalf of BHP Billiton Iron Ore concerning the Part IIIA application by Fortescue Metals Group to have the Mt Newman railway line declared (2005).
- Worked closely with the Australian Stock Exchange to develop and test options for the strategic review of trading, clearing and settlement prices, culminating in the December 2005 announcement of significant restructuring of prices.
- Prepared a pricing strategy for Airservices Australia concerning the intellectual property embedded in its published aeronautical data (2004-05).
- Assisted the Australian Pipeline Trust by preparing numerous submissions in regard to its campaign to have regulatory coverage of the Moomba-Sydney Pipeline revoked (2000–2003). Regulation was eventually revoked for the Western portion of the pipeline.
- Provided a detailed avoidable cost analysis for an Australian firm responding to allegations of predatory pricing. The ACCC ultimately did not proceed with the case.
- Helped the Australian Stock Exchange to design and establish pricing for a new data service (2002).
- Prepared due diligence report on regulatory risk for one of the underbidders for Sydney Airport in 2002.
- Prepared revenue forecasts and other due diligence reports for Toll Holdings and Patrick Corporation on access prices in their successful bid to acquire Pacific National (2001-02).
- Advised the ACCC on a method for valuing the land under Sydney Airport. The recommendations were adopted by the ACCC in the 2000 Sydney Airport decision on aeronautical charges.
- Prepared a number of economic reports regarding merger authorisations, declarations under Part IIIA of the Trade Practices Act, matters involving misuse of market power, commercial pricing strategies, and regulatory pricing decisions.

OTHER POSITIONS HELD

2005–2008	Vice President, CRA International
2000–2005	Executive Director, NECT, Australia
1996–2000	Manager, Corporate Strategy and Manager of Systems, Rail Access Corporation of NSW, Australia
1993–1996	Director, Smart & Kay Pty Ltd, Australia
1989–1993	Independent Consultant, Australia
1986–1989	Engineering Manager, Science & Computing Applications P/L, Australia
1984–1985	Associate, Decision Focus Inc, Los Altos, CA (USA)
1980–1983	Professional Officer, University of NSW, Australia

PUBLICATIONS

An empirical estimate of CityRail's marginal costs and externalities, Mike Smart, Report commissioned by the Independent Pricing and Regulatory Tribunal of NSW, November 2008.

<http://www.ipart.nsw.gov.au/files/Consultancy%20Report%20-%20LECG%20Report%20CityRail%20externalities%20and%20marginal%20costs%20final%20-%2020%20November%202008%20-%20WEBSITE%20DOCUMENT.PDF>

Value of CityRail externalities and optimal Government subsidy, Mike Smart, Report commissioned by the Independent Pricing and Regulatory Tribunal of NSW, June 2008. <http://www.ipart.nsw.gov.au/files/CRAI%20report%20-%20CityRail%20Externalities%20-%2006%20June%202008.PDF>

Transport demand and spatial equilibria, Mike Smart, *Journal of Transport Economics and Policy*, Volume 42, Part 2, May 2008, pp. 323-343.

The Prime Minister's Export Infrastructure Task Force: Two years on—has anything changed?, AusIntermodal conference, Sydney, 28 November 2007.

The role of economic regulation in reducing bottlenecks, conference on economic regulation in transport and logistics, Lloyds List DCN, Melbourne, 6 June 2007.

The economic value created by the emergence of a national gas pipeline network, paper presented at the Australian Pipeline Industry Association's Annual Pipeline Convention 2006, Alice Springs, 16 October 2006.

Track access and regulation, presented to a course organised by the Australasian Railway Association in Melbourne, August 30-31, 2006.

The relative competitiveness of road and rail haulage, presentation to a conference at the National Library on challenges in achieving efficient pricing in freight infrastructure, Canberra, April 28, 2006.

Two case studies on road vs rail freight costs, Mike Smart and Simon Game, submission to the Productivity Commission inquiry into freight infrastructure pricing, May 25, 2006.

Safety fears could derail years of reform, *Sydney Morning Herald*, 23 April 2003, p. 13.

Sydney Airport Revised Draft Aeronautical Pricing Proposal. Final report prepared for the ACCC, December 2000.

Land and Easement Valuation in Pricing for Networked Businesses – A Critical Appraisal. Henry Ergas and Mike Smart, Conference on Asset Valuation, ACCC, Melbourne, 16 June 2000.

Practical Aspects of Rail Access Implementation. Published in the Proceedings: Current Issues in Access. Business Law Education Centre, Sydney, 29 October 1999.

Solving the Riddle of Combinatorial Logic. Published in the Proceedings 23rd Australian Transport Research Forum, Perth, 30 September 1999. pp. 789-803.

Understanding Life Cycle Costing and Applying Life Cycle Analysis. Published in the Proceedings: Advanced Asset Management. IIR Conference, Sydney, 28 September 1998.

Application of Valuation Policies for Infrastructure Assets. Published in the Proceedings: Strategic Asset Management in the Public Sector. IIR Conference, Sydney, 24 November 1997.

(Consultant responsible for drafting Parliamentary committee report) *Inquiry into Financing of Urban Infrastructure -- Report on European Inspection Tour*. Public Accounts Committee, Parliament of New South Wales. Report No. 67. December, 1992. ISBN 0 7240 9554 3.

(Consultant responsible for drafting Parliamentary committee report) *Report on the National Parks and Wildlife Service*. Public Accounts Committee, Parliament of New South Wales. Report No. 59. December, 1991. ISBN 0 7240 8806 7.

(Consultant responsible for drafting Parliamentary committee report) *Report on Payment Performance*. Public Accounts Committee, Parliament of New South Wales. Report No. 55. April, 1991. ISBN 0 7240 8797 4.

(Consultant responsible for drafting Parliamentary committee report) *Report on the Forestry Commission*. Public Accounts Committee, Parliament of New South Wales. Report No. 52. December, 1990. ISBN 0 7240 8786 9.

ASYST Applications. The First Australian Forth Symposium: University of Technology, Sydney, May 1988.

Measuring Solar and Electric Heating Contributions in Occupied Houses. Smart and Ballinger. Energy and Buildings 9. 213-219 (1986).

Fourier-synthesized Weather Data for Building Energy Use Estimation. Smart and Ballinger. Building and Environment Vol.19 No.1. 41-48 (1984).

An Economic View of Passive Solar Design in an Australian Context. Ballinger and Smart. Published in the Proceedings: Solar World Congress, Perth, August 1983.

Tracking Mirror Beam Sunlighting for Deep Interior Spaces. Smart and Ballinger. Solar Energy Vol.30 No.6. 527-536 (1983).

An Empirical Study of Problem Heat Flow Paths in Simulation Models. Smart and Ballinger. Chapter 6 in Predictive Methods for the Energy-Conserving Design of Buildings. H.J. Cowan Ed. Pergammon, Sydney (1983).

Propagation of Magnetically Guided Acoustic Shocks in the Solar Chromosphere. Foukal and Smart. Solar Physics 69. 15-25 (1981).