

Questions & Answers

WHAT IS THE LATEST ON THE PRDE?

As at 11 September 2015, the PRDE is nearing the end of the ACCC authorisation process. The ACCC sought public submissions earlier in the year, and following the submission process issued a supportive draft authorisation. Once the draft was issued, the ACCC commenced a second opportunity for public submission. The second public submission process has finished. As part of the second round of public submissions, the ACCC offered ARCA an opportunity to respond to the issues raised. Today, ARCA lodged its response to the public submissions. The ACCC now has the role of considering all of the matters raised and making a final determination.

PRDE FAQ 15 is the first issue of the series which focusses on Principle 5. This edition will provide an overview on the various stages in the dispute process.

HOW ARE DISPUTES RESOLVED?

Principle Five of the PRDE is designed to provide a robust mechanism to enable the monitoring, reporting and compliance requirements of the framework. The framework works in a multi-staged way.

- Stage One – A report of non-compliance.
- Stage Two – Referral to the PRDE Administrator.
- Stage Three – Referral to the Industry Determination Group.
- Dispute Decision – Referral to an Eminent Person.

WHAT ARE SOME OF THE KEY PARTS OF THE DISPUTE RESOLUTION PROCESS?

- Non-Compliant Conduct: Conduct is non-compliant where it doesn't comply with the requirements or obligations of the PRDE.
- Rectification Plan: The plan is a proposal agreed to by parties to a dispute outlining a way to resolve the dispute. Materials to assist with a report of non-compliance will be made available by the PRDE Administrator.
- Industry Determination Group: The IDG is a representative industry group established to review, conciliate and, where necessary, issue recommendations in disputes arising under the PRDE.
- Eminent Person: An Eminent Person is the final arbiter of a dispute. Only where an IDG recommendation is not accepted will signatories refer compliance issues to an Eminent Person. The PRDE Administrator will have a list of senior legally trained people to fill this role as required.

WHAT IS A 'STAGE ONE – REPORT OF NON-COMPLIANCE' AND HOW DOES IT WORK?

Where a signatory Credit Provider (CP) or Credit Reporting Body (CRB) forms an opinion that another signatory to the PRDE is engaging in non-compliant conduct, it is a requirement that they issue them with a notice on the details of this suspected non-compliance. Once a non-compliance notice has been received by the responding signatory, it has 30 calendar days to confer, respond to the non-compliance report (including providing any information to support its response), agree on an outcome that solves the non-compliant conduct, and then develop and implement a Rectification Plan that satisfies both parties.

If the issue is resolved between the parties within the 30 calendar days then the matter is closed and the Administrator will not be notified.

WHAT IS A 'STAGE TWO – REFERRAL TO THE PRDE ADMINISTRATOR'?

If a Stage One Rectification Plan has been entered into but not completed within the 30 calendar day timeframe, both parties are required to provide that plan to the Administrator. The plan should be provided to the Administrator within 3 business days after the expiry of the Stage One 30 day period. Once the Administrator receives notification from the two parties of a Rectification Plan that has not been completed within 30 days, the Administrator will publish it to PRDE signatories. Once the PRDE signatories have a copy of the Rectification Plan, they have a right to object to that plan within 7 days by notifying the two initial parties involved in the dispute and the Administrator. If an objection is lodged, the Stage Two process is repeated with the objector effectively making the complaint and the two initial parties providing the response.

WHAT IS A 'STAGE THREE – REFERRAL TO THE INDUSTRY DETERMINATION GROUP'?

If during the Stage One process, the parties do not agree on a Rectification Plan, the matter becomes a Stage Three dispute. The two parties in dispute are required to notify the Administrator within 3 business days after the expiry of the Stage One 30 day period. Once the Administrator has been notified of the dispute they have three business days to prepare a report, that contains no identifying information, and provide it to PRDE signatories. Additionally, within those same 3 business days the Administrator must provide a report, which is identifiable, to the Industry Determination Group.

***The next FAQ will include a summary of how the Industry Determination Group works.*

WHAT IS A DISPUTE 'DECISION'? – REFERRAL TO AN EMINENT PERSON.

An outcome of the Industry Determination Group is that it issues a recommendation. Further information on the IDG processes and outcomes will be published in the next FAQ on Principle 5. Once the parties in dispute receive a recommendation from the IDG they have 14 calendar days to accept or reject the recommendation. If the parties do not respond, they will be deemed to have accepted the recommendation. If either party reject the recommendation, the matter is referred to an Eminent Person for review and decision. The decision of the Eminent Person is binding and final.

The next FAQ in this series will include further information on how the Eminent Person process works.

WHAT IS A 'SELF REPORTING OF NON-COMPLIANCE'?

A CP or a CRB can report their activity to the Administrator, if they are of the opinion that it is breach of the PRDE. For example, this may occur in relation to the transition timing requirements outlined in Principle 4 of the PRDE. If a signatory lodges a self-report, that will trigger the Stage One dispute process and they have 30 days to lodge a Rectification Plan in relation to the matter they self-report. Where a complaint is self-reported, the other party in the dispute will be the Administrator.

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