Chairman of the Australian Competition and Consumer Commission, Mr Rod Sims, provided the inaugural SMART Dinner address on Thursday 23 February 2012 and made some strong comments on infrastructure regulation.

Mr Sims gave his presentation entitled, “Infrastructure: why, when and how to regulate”, before an audience including the federal parliamentarians, Sharon Bird MP and Stephen Jones MP, the UOW Vice Chancellor Professor Paul Wellings and infrastructure leaders from across the private and public sectors.

Appointed as Chairman of the ACCC in August 2011, Mr Sims is a leading Australian economist with expertise in advising on the competitive dynamics of industries across the economy. He is highly regarded for the breadth of his work and leadership in both the private and public sectors.

Mr Sims indicated he developed his address on the topic because, “The SMART Facility is examining the impact and interdependencies of national infrastructure investments. An important issue for infrastructure is the issue of regulation”. Mr Sims went on to say that regulation is necessary where competition is not possible or efficient, or where there is a monopoly.

He also noted that price and access regulation of infrastructure in Australia by an independent agency does not have a long history.

Mr Sims stated that the answer to why we regulate infrastructure in the real world is for equity reasons and to view the regulatory task as the administration of a long-term contract between the asset owner and their customers. It explains why regulators have historically focused on ensuring price stability, on ensuring that prices reflect long-run costs, and why regulators have historically not accepted forms of price discrimination.

On the question of “when” infrastructure should be regulated Mr Sims had some key observations.

He is concerned that the Productivity Commission’s (PC) recent draft report on urban water advocates removal of independent price regulation of urban water utilities. He asserts that it is not clear how this works in practice.

His main concern on the issue is that the PC’s proposal represents a move back in time, where Ministers and government departments were in effect the price regulators of government-owned utilities, and it was not a success.

Mr Sims cites the lack of transparency, rigour and consultation in price setting and conflicts of interest for the government for why it did not work.

Importantly he noted that the scheduled Productivity Commission review later this year to the National Access Regime, including Part IIIA of the legislation, is a key opportunity for an examination of whether it is achieving what was intended. That is, providing for efficient investment in, use of, and operation of monopoly services – and to promote competition and efficient investment in markets that depend on those services.